



# Environment Protection and Biodiversity Conservation Regulations 2000

**Statutory Rules 2000 No. 181 as amended**

made under the

*Environment Protection and Biodiversity Conservation  
Act 1999*

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## **Part 1                      Preliminary**

### **1.01      Name of Regulations** [see Note 1]

These Regulations are the *Environment Protection and Biodiversity Conservation Regulations 2000*.

### **1.02      Commencement**

These Regulations commence on 16 July 2000.

### **1.03      Definitions — the dictionary**

- (1) The dictionary at the end of these Regulations defines certain words and expressions, and includes references to certain words and expressions that are defined in the Act or elsewhere in these Regulations (*signpost definitions*).

*Example*

The signpost definition ‘*aircraft* — see Act, section 528’ means that the expression *aircraft* is defined in section 528 of the Act.

- (2) The dictionary is part of these Regulations.
- (3) A definition in these Regulations applies to each use of the word or expression in these Regulations, unless the contrary intention appears.

**Regulation 2.01**

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**Part 2**                      **Matters of national  
environmental significance****2.01**      **Nuclear action (Act s 22 (1))**

For paragraph (g) of the definition of *nuclear action* in subsection 22 (1) of the Act, a nuclear action includes establishing, significantly modifying, decommissioning or rehabilitating a facility where radioactive materials at or above the activity level mentioned in regulation 2.02 are, were, or are proposed to be used or stored.

**2.02**      **Nuclear activity level (Act s 22 (1))**

- (1) For paragraphs (c) and (d) of the definition of *nuclear installation* in subsection 22 (1) of the Act, the activity level is:
  - (a) if the installation contains only 1 type of nuclide and all sources of that nuclide are sealed sources —  $10^9$  times the activity mentioned for the nuclide in column 4 of Part 2 of Schedule 2 to the ARPNS Regulations; or
  - (b) if the installation contains only 1 type of nuclide and all sources of that nuclide are unsealed sources —  $10^6$  times the activity mentioned in column 4 of Part 2 of Schedule 2 to the ARPNS Regulations for the nuclide at or above the activity concentration mentioned in column 3 of Part 2 of that Schedule for the nuclide; or
  - (c) in any other case — a level for which a mixture of sealed and unsealed sources of nuclides is excessive.
- (2) A mixture is excessive if:
  - (a) the sealed source activity value is greater than  $10^9$ ; or
  - (b) the unsealed source activity value is greater than  $10^6$  and the unsealed source activity concentration value is greater than 1; or



**Regulation 2.03**

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- (c) both:
- (i) the sum of the sealed source activity value divided by  $10^9$  and the unsealed source activity value divided by  $10^6$  is greater than 1; and
  - (ii) the unsealed source activity concentration value is greater than 1.

- (3) In this regulation:

*sealed source activity value* means the sum of the fractions calculated for each nuclide by dividing the activity of the nuclide in the mixture in sealed sources by the activity mentioned in column 4 of Part 2 of Schedule 2 to the ARPNS Regulations for the nuclide.

*unsealed source activity concentration value* means the sum of the fractions calculated for each nuclide by dividing the activity concentration for each nuclide in the mixture by the activity concentration mentioned in column 3 of Part 2 of Schedule 2 to the ARPNS Regulations for the nuclide.

*unsealed source activity value* means the sum of the fractions calculated for each nuclide by dividing the activity of each nuclide in the mixture in unsealed sources by the activity mentioned in column 4 of Part 2 of Schedule 2 to the ARPNS Regulations for the nuclide.

**2.03 Large-scale disposal facility (Act s 22 (2))**

For the definition of *large-scale disposal facility* in subsection 22 (2) of the Act, a facility used for the disposal of radioactive materials at or above the activity level mentioned in regulation 2.02 is prescribed.

**Regulation 2A.01**

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**Part 2A                    Actions covered by Ministerial  
declarations****2A.01    Criteria for accreditation of management plans for  
Commonwealth managed fisheries**

- (1) This regulation applies in relation to a decision by the Minister to accredit a management plan that applies to a fishery for the purposes of a declaration under section 33 of the Act.
- (2) For paragraph 33 (3) (a) of the Act, the criteria that must be met by the management plan and the law under which it is in force, or is to be in force, are as follows:
  - (a) the law under which the management plan is in force, or is to be in force, must be the *Fisheries Management Act 1991* or the *Torres Strait Fisheries Act 1984*;
  - (b) the management plan must be endorsed by the Minister under an agreement made under section 146 of the Act;
  - (c) the management plan must be in the form in which it was endorsed.
- (3) In this regulation:  
*fishery* means a fishery to which the *Fisheries Management Act 1991* or the *Torres Strait Fisheries Act 1984* applies.

## Part 2B                      Bilaterally accredited management plans

*Note* Under section 45 of the Act, the Minister may enter into a bilateral agreement with a State or self-governing Territory in relation to 1 or more of the following:

- protecting the environment;
- promoting the conservation and ecologically sustainable use of natural resources;
- ensuring an efficient, timely and effective process for environmental assessment and approval of actions;
- minimising duplication in the environmental assessment and approval process through Commonwealth accreditation of the processes of the State or Territory (or vice versa).

Such an agreement may declare that actions in a specified class of actions approved in accordance with a management plan accredited in accordance with subsection 46 (3) of the Act do not require approval under Part 9 of the Act for the purposes of a specified provision of Part 3 (see the Act, subsection 46 (1)).

### 2B.01      **Criteria for accreditation of management plans for World Heritage properties and National Heritage places**

- (1) This regulation concerns the accreditation of a management plan for:
  - (a) a declared, or proposed, World Heritage property; or
  - (b) a National Heritage place.

*Note* A bilaterally accredited management plan may allow for the declaration of actions that do not then need approval under Part 9 of the Act for the purposes of a specified provision of Part 3 — see subsection 46 (1) of the Act. The relevant provisions of Part 3 in relation to a World Heritage property are sections 12 and 15A, and in relation to a National Heritage place, sections 15B and 15C.

#### *Criteria for management plan*

- (2) For paragraph 46 (3) (a) of the Act, the criteria set out in subregulations (3) to (5) are prescribed in relation to the management plan.

**Regulation 2B.01**

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- (3) Development of the management plan must have included consultation with:
- (a) the Australian community generally; and
  - (b) any particular groups having a special interest in the property or place, or likely to be especially affected by a management plan for the property or place.
- (4) The public consultation mentioned in subregulation (3) must have included the release of a draft management plan for public comment and the allowing of at least 20 business days for the receipt of comment by the State or Territory organisation that is responsible for developing the plan.

*Note* Subsections 46 (2), 51 (2) and 51A (2) of the Act also set out requirements about accreditation of management plans.

***Content of the management plan***

- (5) A management plan for a declared or proposed World Heritage property or a National Heritage place:
- (a) must outline the process of public consultation that was undertaken in the development of the plan; and
  - (b) must state the law under which the plan is in force; and
  - (c) must include a description of the property or place, including its boundary and the relevant World Heritage or National Heritage values; and
  - (d) must state what must be done to ensure that the relevant World Heritage or National Heritage values are identified, conserved, protected, presented and transmitted to future generations and, if appropriate, rehabilitated; and
  - (e) must set out the means by which risk management of the property or place will be addressed, including:
    - (i) identifying the risks to the relevant World Heritage or National Heritage values; and
    - (ii) providing an analysis of the potential effect of each identified risk on the relevant World Heritage or National Heritage values, including an estimation of the nature, extent and likelihood of the risk; and
    - (iii) setting out risk management strategies to protect and conserve the relevant World Heritage or National Heritage values; and

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- (f) must provide that adequate assessment of the impacts, on the relevant World Heritage or National Heritage values, of any proposed actions provided for under the plan, or that may arise during the life of the plan, has been, or will be, undertaken by means specified in the plan; and
- (g) must set out the means, any legislation other than the plan, and the processes, that:
  - (i) were used in assessing the impacts of actions that are provided for under the plan; and
  - (ii) are to be used in assessing the impacts of actions that may arise during the life of the plan; and
- (h) must require that the impacts of any actions likely to have a significant impact on the relevant World Heritage or National Heritage values have been, or will be, assessed by means that provide environmental assessment processes that meet the recommendations of regulations 3.03 and 3.04 and Schedule 1; and
- (i) must provide that actions in relation to the property or place may be approved only in accordance with the plan; and
- (j) must require a decision-maker to take account of the precautionary principle in making a decision in relation to the property or place; and
- (k) must set out the means, and any legislation other than the plan, that:
  - (i) enable the setting of enforceable conditions to ensure that the relevant World Heritage or National Heritage values are conserved, protected, presented and transmitted to future generations and, if appropriate, rehabilitated; and
  - (ii) provide for any subsequent monitoring, auditing and enforcement of approvals and any conditions attached to an approval; and
- (l) must set out means by which the plan will seek to prevent, or minimise the impacts of, any actions likely to degrade the relevant World Heritage or National Heritage values, including actions leading to cumulative degradation; and
- (m) must state that actions that will have unacceptable or unsustainable impacts (in particular, actions that will have

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- a significant impact on the relevant World Heritage or National Heritage values) are inconsistent with the plan and cannot be approved; and
- (n) must set out means for the plan to be enforced, including, in appropriate circumstances, the imposition of penalties upon a person taking an action that is inconsistent with the plan; and
  - (o) must ensure that management actions for values that are not the relevant World Heritage or National Heritage values are consistent with the management of the relevant World Heritage or National Heritage values; and
  - (p) must promote the integration of Commonwealth, State or Territory, and local government responsibilities for the property or place; and
  - (q) must provide for continuing monitoring and reporting on the state of the relevant World Heritage or National Heritage values; and
  - (r) must provide that the plan is to be reviewed at intervals of not more than 5 years.

*Criterion for law of State or Territory*

- (6) For paragraph 46 (3) (a) of the Act, the criterion that the law of the State or Territory under which the management plan is in force (or is to be in force) must be capable of providing protection for the relevant World Heritage or National Heritage values of the property or place is prescribed in relation to that law of the State or Territory.

## **Part 3                      Bilateral agreements to which s 47 (1) of the Act apply**

### **Division 3.1              Preliminary**

#### **3.01              Application of Part 3**

For paragraph 50 (b) of the Act, this Part sets out the requirements that the Minister must be satisfied are met by a bilateral agreement that includes a declaration under subsection 47 (1) of the Act before the Minister enters into the agreement.

### **Division 3.2              General requirements**

#### **3.02              Classification of assessment approaches**

The bilateral agreement must:

- (a) identify each assessment approach used in the manner of assessment specified in the agreement; and
- (b) for each assessment approach, state that it is taken to correspond to assessment:
  - (i) on preliminary documentation under Division 4 of Part 8 of the Act; or
  - (ii) by public environment report under Division 5 of Part 8 of the Act; or
  - (iii) by environmental impact statement under Division 6 of Part 8 of the Act; or
  - (iv) by inquiry under Division 7 of Part 8 of the Act.

#### **3.03              Public access to assessment documentation**

- (1) The bilateral agreement must provide that documentation about each assessment made under the manner of assessment specified in the agreement must be made available to the public.

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- (2) However, the bilateral agreement may provide that access to relevant documents may be restricted if it would not be available if the action to which the bilateral agreement applies had been assessed under Part 8 of the Act by the Commonwealth.

*Note* Information is not available on the grounds of national security, if it is advice to the Minister or if it is commercial-in-confidence. See, for example, the Act, section 95.

**3.04      Public comment — particular needs groups**

The bilateral agreement must provide that special arrangements should be made, if appropriate, to ensure that affected groups with particular communication needs have adequate opportunity to comment on actions to be assessed under the manner of assessment specified in the agreement.

**Division 3.3                Classes of actions not needing assessment**

**3.05      Application of Division 3.3**

This Division applies to each manner of assessment specified in an agreement described in subsection 47 (1) of the Act.

**3.06      Manner of assessment**

The bilateral agreement may make a declaration in accordance with subsection 47 (1) of the Act only if the specified manner of assessment meets the criteria mentioned in Schedule 1.



## **Part 4                      Referral of proposals to take action**

### **4.01        Purpose of Part 4**

For section 72 of the Act, this Part sets out:

- (a) how to refer a proposal to take an action; and
- (b) what information such a referral must include.

### **4.02        The way referrals must be made**

A referral must:

- (a) be given to the Department; and
- (b) be made in writing or electronically; and
- (c) be of a length, size and form that can readily be:
  - (i) understood by the public; and
  - (ii) published on the internet.

### **4.03        Information that must be included in referrals**

- (1) A referral must include the information mentioned in Schedule 2.
- (2) However, information does not have to be included if it would, in all the circumstances, be unreasonable to expect the information to be included.

*Example of information that does not have to be included*

Information of a kind that could only reasonably be obtained by preparing an environmental impact statement.

*Note 1* If the Minister believes on reasonable grounds that not enough information has been given for the Minister to decide whether the action is a controlled action, the Minister may ask for more information to be given — see Act, section 76.

*Note 2* It is an offence to be reckless or negligent as to whether information provided under this regulation is false or misleading in a material particular — see Act, section 489.

**Regulation 5.01**

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**Part 5                      Assessing impact of  
                                    controlled actions**

**Division 5.1              Preliminary information for  
                                    assessment**

**5.01              Purpose of Division 5.1**

For section 86 of the Act, this Division sets out:

- (a) what information the designated proponent of an action, or a person proposing to take an action, must give to the Minister; and
- (b) how the information is to be given.

**5.02              How preliminary information must be given**

The information must:

- (a) be given to the Department; and
- (b) be given in writing or electronically; and
- (c) be of a length, size and form that can readily be:
  - (i) understood by the public; and
  - (ii) published on the internet.

**5.03              What preliminary information must be given**

- (1) The information that must be given to the Minister is the information mentioned in:
  - (a) for information that must be given because of the operation of section 162 of the Act — Part 2 of Schedule 3; and
  - (b) in any other case — Part 1 of Schedule 3.
- (2) Information may be given by reference to information given:
  - (a) under regulation 4.03 in the referral of the proposal to take an action; or

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- (b) under regulation 17.02 in an application for a permit in relation to whales, dolphins or porpoises.
- (3) However, information, including information mentioned in item 8 of Part 1 of Schedule 3, does not have to be included if, in all the circumstances, it would be unreasonable to expect the information to be included.

*Example of information that does not have to be included*

Information of a kind that could only reasonably be obtained by preparing an environmental impact statement.

*Note 1* If the Minister believes on reasonable grounds that not enough information has been given for the Minister to decide whether the action is a controlled action, the Minister may ask for more information to be given — see Act, section 89.

*Note 2* It is an offence to be reckless or negligent as to whether information provided under this regulation is false or misleading in a material particular — see Act, section 489.

- (4) Information given under this Division must state:
- (a) the source of the information; and
  - (b) how recent the information is; and
  - (c) how the reliability of the information was tested; and
  - (d) what uncertainties (if any) are in the information.

**Division 5.2                    Matters to be addressed by draft  
public environment report and  
environmental impact statement**

**5.04                    Matters that must be addressed in draft public  
environment report and environmental impact  
statement**

For paragraphs 97 (2) (b) and 102 (2) (b) of the Act, the Minister must seek to ensure a draft public environment report or environmental impact statement addresses the matters mentioned in Schedule 4.

**Regulation 6.01**

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## **Part 6**                      **Minister's advice on authorising actions**

### **6.01**            **Actions for which Minister's advice must be obtained**

For paragraph 160 (2) (d) of the Act, each of the following actions, if it has, will have or is likely to have a significant impact on the environment, is prescribed:

- (a) an action authorised by a permit under the *Environment Protection (Sea Dumping) Act 1981*;
- (b) an action authorised by a Basel permit, or by a variation of a Basel permit, under the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*;
- (c) an action authorised by a grant, renewal or variation of a permit or the grant of an exemption certificate under the *Sea Installations Act 1987*;
- (d) an action authorised by a permit or authority under the *Wildlife Protection (Regulation of Exports and Imports) Act 1982*;
- (e) an action authorised by a permit or authority (however described) under the *Great Barrier Reef Marine Park Act 1975* or the *Great Barrier Reef Marine Park Regulations 1983*.

### **6.02**            **Content of referral of proposal to the Minister**

For subsection 161 (4) of the Act, a referral must include the following information:

- (a) the name, address and telephone number of:
  - (i) the Commonwealth agency or employee of the Commonwealth making the referral; and
  - (ii) the person proposing to take the action; and
  - (iii) the person nominated by the Commonwealth agency or employee of the Commonwealth as the designated proponent;

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- (b) the kind of authorisation of the action that the Commonwealth agency or employee proposes to give;
- (c) a general description of the location of the action;
- (d) the timeframe in which the action is proposed to be taken.

**Regulation 7.01**

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**Part 7 Species and communities**

**Division 7.1 Listing**

**7.01 Criteria for listing threatened species**

For section 179 of the Act, a native species is in the critically endangered, endangered or vulnerable category if it meets any of the criteria for the category mentioned in the following table:

Item	Criterion	Category		
		Critically endangered	Endangered	Vulnerable
1	It has undergone, is suspected to have undergone or is likely to undergo in the immediate future:	a very severe reduction in numbers	a severe reduction in numbers	a substantial reduction in numbers
2	Its geographic distribution is precarious for the survival of the species and is:	very restricted	restricted	limited
3	The estimated total number of mature individuals is: and:	very low	low	limited
	(a) evidence suggests that the number will continue to decline at:	a very high rate	a high rate	a substantial rate
	or			
	(b) the number is likely to continue to decline and its geographic distribution is:	precarious for its survival	precarious for its survival	precarious for its survival

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Item	Criterion	Category		
		Critically endangered	Endangered	Vulnerable
4	The estimated total number of mature individuals is:	extremely low	very low	low
5	The probability of its extinction in the wild is at least:	50% in the immediate future	20% in the near future	10% in the medium-term future

*Note* The Scientific Committee is to advise the Minister on the amendment and updating of the list of critically endangered, endangered or vulnerable species — see Act, paragraph 503 (b).

**7.02 Criteria for listing threatened ecological communities**

For section 182 of the Act, an ecological community is in the critically endangered, endangered or vulnerable category if it meets any of the criteria for the category mentioned in the following table:

Item	Criterion	Category		
		Critically endangered	Endangered	Vulnerable
1	Its decline in geographic distribution is:	very severe	severe	substantial
2	Its geographic distribution is:  and the nature of its distribution makes it likely that the action of a threatening process could cause it to be lost in:	very restricted  the immediate future	restricted  the near future	limited  the medium-term future

**Regulation 7.02**

Item	Criterion	Category		
		Critically endangered	Endangered	Vulnerable
3	For a population of a native species that is likely to play a major role in the community, there is a:  to the extent that restoration of the community is not likely to be possible in:	very severe decline	severe decline	substantial decline
4	The reduction in its integrity across most of its geographic distribution is:  as indicated by degradation of the community or its habitat, or disruption of important community processes, that is:	very severe	severe	substantial
5	Its rate of continuing detrimental change is: as indicated by: (a) a rate of continuing decline in its geographic distribution, or a population of a native species that is believed to play a major role in the community, that is:  or (b) intensification, across most of its geographic distribution, in degradation, or disruption of important community processes, that is:	very severe	severe	substantial
		very severe	severe	serious
		very severe	severe	serious



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Item	Criterion	Category		
		Critically endangered	Endangered	Vulnerable
6	A quantitative analysis shows that its probability of extinction, or extreme degradation over all of its geographic distribution, is:	at least 50% in the immediate future	at least 20% in the near future	at least 10% in the medium-term future

*Note* The Scientific Committee is to advise the Minister on the amendment and updating of the list of critically endangered, endangered or vulnerable ecological communities — see Act, paragraph 503 (b).

## **Division 7.2 Nominations for listing**

### **7.03 Purpose of Division 7.2**

For subsection 191 (1) of the Act, this Division sets out how a nomination to the Minister must be made.

*Note* A person may nominate a native species, an ecological community or a threatening process to be included in a list or a particular category of a list — see Act, section 191.

### **7.04 Form of nomination — general**

A nomination must:

- (a) be in writing or electronic form; and
- (b) include the full name, signature, address, telephone number and e-mail address (if any) of each person making the nomination.

### **7.05 Nomination for native species**

- (1) This regulation applies to a nomination for a native species to be included in a particular category of the list referred to in section 178 of the Act.
- (2) The nomination must include the following information:
  - (a) the scientific name (if any) of the species;
  - (b) any common name, or names by which the species is known to a person making the nomination;

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- (c) if the species is not conventionally accepted:
    - (i) a taxonomic description of the species in a form suitable for publication in conventional scientific literature; or
    - (ii) if a description for subparagraph (i) is not available, evidence that a scientific institution has a specimen of the species and a written statement, signed by a person who is a taxonomist and has relevant expertise, that the person thinks the species is a new species;
  - (d) the category for which the species is nominated;
  - (e) why a person making the nomination thinks that the species comes within the definition of the category for which it is nominated;
  - (f) if a species is nominated for a category mentioned in subsection 179 (3), (4) or (5) of the Act, why a person making the nomination thinks that the species meets the criteria mentioned in regulation 7.01 for the category.
- (3) For subparagraph (2) (c) (ii), a person has *relevant expertise* if the person has worked, or is a published author, on the class of species nominated.

**7.06 Nomination for ecological communities**

- (1) This regulation applies to a nomination for an ecological community to be included in a particular category of the list referred to in section 181 of the Act.
- (2) The nomination must include the following information:
  - (a) the generally accepted name (if any) of the ecological community;
  - (b) a description of the ecological community that distinguishes it from any other ecological community by reference to:
    - (i) its biological and non-biological components; and
    - (ii) the processes by which those components interact (if known); and
    - (iii) its known natural distribution, including the bioregions where it occurs;

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- (c) why a person making the nomination thinks that the ecological community meets the criteria mentioned in regulation 7.02 for the category for which it is nominated.

**7.07 Nomination for key threatening processes**

- (1) This regulation applies to a nomination for a threatening process to be included in the list mentioned in section 183 of the Act.
- (2) The nomination must include the following information:
  - (a) a description of the threatening process that distinguishes it from any other threatening process by reference to:
    - (i) its biological and non-biological components; and
    - (ii) the processes by which those components interact (if known);
  - (b) a name for the threatening process;
  - (c) any species listed in a category of the list referred to in section 178 of the Act, or ecological community listed in a category of the list mentioned in section 181 of the Act, that is considered by a person making the nomination to be adversely affected by the threatening process;
  - (d) any species or ecological community, other than those listed in a category of the lists mentioned in section 178 or 181 of the Act, that could become eligible for listing in 1 of those categories because of the threatening process;
  - (e) why a person making the nomination thinks that the process is eligible to be treated as a key threatening process under subsection 188 (4) of the Act.

**Division 7.3 Notification of action**

**7.08 Particulars to be notified**

- (1) This regulation sets out the particulars of an action of which a person must notify the Secretary under the following provisions of the Act:
  - (a) paragraph 199 (2) (b);
  - (b) paragraph 214 (2) (b);

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- (c) paragraph 232 (2) (b);
  - (d) paragraph 256 (2) (b).
- (2) The particulars are:
- (a) the time and place of the action; and
  - (b) the circumstances that led to the action; and
  - (c) the number of members of each species affected by the action; and
  - (d) the consequences of the action.

**Division 7.4 Register of critical habitat**

**7.09 Identification of critical habitat**

- (1) For subsection 207A (1) of the Act, the Minister may, in identifying habitat, take into account the following matters:
- (a) whether the habitat is used during periods of stress;  
*Examples of period of stress*  
Flood, drought or fire.
  - (b) whether the habitat is used to meet essential life cycle requirements;  
*Examples*  
Foraging, breeding, nesting, roosting, social behaviour patterns or seed dispersal processes.
  - (c) the extent to which the habitat is used by important populations;
  - (d) whether the habitat is necessary to maintain genetic diversity and long-term evolutionary development;
  - (e) whether the habitat is necessary for use as corridors to allow the species to move freely between sites used to meet essential life cycle requirements;
  - (f) whether the habitat is necessary to ensure the long-term future of the species or ecological community through reintroduction or re-colonisation;
  - (g) any other way in which habitat may be critical to the survival of a listed threatened species or a listed threatened ecological community.

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- (2) The Minister must, when making or adopting a recovery plan, consider whether to list habitat that is identified in the recovery plan as being critical to the survival of the species or ecological community for which the recovery plan is made or adopted.
- (3) Before listing habitat in the register, the Minister must:
  - (a) consider any advice from the Scientific Committee about whether the habitat is critical to the survival of a listed threatened species or listed threatened community; and
  - (b) if the habitat is not in a Commonwealth area, be satisfied that reasonable steps have been taken to consult with the owner of the property where the habitat is located.

**7.10 Requirements for register of critical habitat**

- (1) For subsection 207A (1) of the Act, a description of habitat listed in the register must include:
  - (a) enough information to identify the habitat, including its location and extent; and
  - (b) the reasons the habitat was identified as critical habitat.
- (2) A copy of the register must be available for public inspection at an office of the Department and an appropriate location on the internet.
- (3) However, information on the register is not to be made available for public inspection if the Minister believes that it is necessary to keep the information confidential to protect:
  - (a) the species or ecological community or the habitat; or
  - (b) the interests of relevant landholders.

**Division 7.5 Recovery plans and threat abatement plans**

**7.11 Content of recovery plans**

- (1) For paragraph 270 (2) (j) of the Act, a recovery plan must describe to the extent practicable, with spatial information:
  - (a) the location of species or ecological communities for which it is made; and

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- (b) areas of habitat that are critical to the survival of the species or ecological communities; and
  - (c) important populations of the species or ecological communities that are necessary for their long-term survival and recovery; and
  - (d) any areas that are affected by a threatening process.
- (2) A recovery plan should state:
- (a) what must be done to stop the decline of, and support the recovery and survival of, the species or ecological community, including action:
    - (i) to protect important populations; and
    - (ii) to protect and restore habitat; and
    - (iii) to manage and reduce threatening processes; and
  - (b) to the extent possible, what management practices are necessary to avoid a significant adverse impact on the species or ecological community.
- (3) For paragraph 270 (2) (d) of the Act, the criteria mentioned in regulation 7.09 must be considered in identifying habitat that is critical to the survival of the species or community concerned.

**7.12 Content of threat abatement plans**

For paragraph 271 (2) (g) of the Act, a threat abatement plan must state:

- (a) any of the following that may be adversely affected by the key threatening process concerned:
  - (i) listed threatened species or listed threatened ecological communities;
  - (ii) areas of habitat listed in the register of critical habitat kept under section 207A of the Act;
  - (iii) any other native species or ecological community that is likely to become threatened if the process continues; and
- (b) in what areas the actions specified in the plan most need to be taken for threat abatement.

## **Division 7.6      Conservation agreements**

### **7.13      Variation and termination of conservation agreements**

For subsection 308 (6) of the Act, the Minister must cause a copy of an order terminating or varying a conservation agreement to be laid before each House of the Parliament within 20 sitting days after publication of the order.

**Regulation 8.01**

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## **Part 8 Interacting with cetaceans and whale watching**

### **8.1 Interacting with cetaceans**

#### **8.01 Purpose of Division 8.1**

For paragraph 247 (d) of the Act, this Division provides for the protection and conservation of cetaceans.

#### **8.01A Interpretation**

For this Division:

*cetacean* does not include a part of a cetacean or product of a cetacean.

#### **8.02 Application of Division 8.1**

This Division applies in the Australian Whale Sanctuary, except in the coastal waters, or a part of the coastal waters, of a State, or the Northern Territory, if a declaration under section 228 of the Act is in force for the coastal waters or part of those waters.

#### **8.03 Offences in this Division**

- (1) A person does not contravene a provision of this Division only because the person is undertaking:
  - (a) an activity mentioned in paragraph 231 (c), (d), (e) or (f) of the Act; or
  - (b) an activity mentioned in paragraph 231 (a), (b) or (h) of the Act and the activity could not be undertaken at a time or in a way to avoid contravening the provision.
- (2) A person in the Great Barrier Reef Marine Park does not contravene a provision of this Division if the person to whom the provision would apply has an exemption, in force at the time, issued to the person by the Great Barrier Reef Marine



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Park Authority under regulation 117K of the *Great Barrier Reef Marine Park Regulations 1983*.

**8.04 Prohibited vessel**

- (1) This regulation applies to a person who is operating a prohibited vessel.
- (2) A prohibited vessel must not approach closer than 300 metres to a cetacean.
- (3) A prohibited vessel must move, at a constant slow speed, away from a cetacean that is approaching so that the vessel remains at least 300 metres away from the cetacean.
- (4) If a prohibited vessel is operated in a way that contravenes subregulation (2) or (3), the person operating the vessel is guilty of an offence.

Penalty: 50 penalty units.

- (5) An offence under subregulation (4) is an offence of strict liability.

*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

**8.05 Other craft — adult cetaceans**

- (1) This regulation applies:
  - (a) to a person who is operating a vessel that is not a prohibited vessel; and
  - (b) in relation to cetaceans other than calves.

*Note* Regulation 8.06 contains special provisions for calves.

- (2) Within the caution zone for a cetacean to which this regulation applies, the person must:
  - (a) operate the vessel at a constant slow speed and minimise noise; and
  - (b) make sure the vessel does not drift or approach closer to the cetacean than:
    - (i) for a dolphin — 50 metres; or
    - (ii) for a whale — 100 metres; and

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- (c) if the cetacean shows signs of being disturbed, immediately withdraw the vessel from the caution zone at a constant slow speed; and
- (d) if there is more than 1 person on the vessel, post a lookout for cetaceans; and
- (e) subject to paragraph (b), approach the cetacean only:
  - (i) from the rear, no closer than 30 degrees to its observed direction of travel; or
  - (ii) by positioning the vessel ahead of the cetacean at more than 30 degrees from its observed direction of travel; and
- (f) make sure the vessel does not restrict the path of the cetacean; and
- (g) make sure the vessel is not used to pursue the cetacean.

Penalty: 50 penalty units.

*Note* If a cetacean approaches a vessel or comes within the limits mentioned in paragraph (2) (b), subregulations (4) and (5) apply.

- (3) The person must not enter the caution zone of a cetacean to whom this regulation applies if there are already 3 vessels in the caution zone.

Penalty: 50 penalty units.

- (4) If a whale (other than a calf) approaches the vessel or comes within the limits mentioned in paragraph (2) (b), the person must:
  - (a) disengage the gears and let the whale approach; or
  - (b) reduce the speed of the vessel and continue on a course away from the whale.

Penalty: 50 penalty units.

- (5) If a dolphin (other than a calf) approaches the vessel or comes within the limits mentioned in paragraph (2) (b), the person must not change the course or speed of the vessel suddenly.

Penalty: 50 penalty units.

- (6) It is a defence to an offence against paragraph (2) (b) that the cetacean has approached the vessel.

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- (7) An offence under subregulation (2), (3), (4) or (5) is an offence of strict liability.

*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

**8.06 Other craft — calves**

- (1) This regulation applies to a person who is operating a vessel that is not a prohibited vessel.
- (2) The person must not allow the vessel to enter the caution zone of a calf.

Penalty: 50 penalty units.

- (3) If a calf appears within an area that means the vessel is then within the caution zone of the calf, the person:
- (a) must immediately stop the vessel; and
- (b) must:
- (i) turn off the vessel's engines; or
- (ii) disengage the gears; or
- (iii) withdraw the vessel from the caution zone at a constant slow speed.

Penalty: 50 penalty units.

- (4) It is a defence to an offence against subregulation (2) that the calf has approached the vessel.
- (5) An offence under subregulation (2) or (3) is an offence of strict liability.

*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

**8.07 Aircraft**

- (1) This regulation applies to a person who is operating an aircraft.
- (2) The person:
- (a) must not operate the aircraft (other than a helicopter or gyrocopter) at a height lower than 1 000 feet within a horizontal radius of 300 metres of a cetacean; and

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- (b) must not operate a helicopter or gyrocopter at a height lower than 1 650 feet or within a horizontal radius of 500 metres of a cetacean; and
- (c) must not allow the aircraft to approach a cetacean from head on; and
- (d) if the aircraft can land on water, must not land the aircraft on water so that the aircraft comes within the radius of a cetacean mentioned in paragraph (b).

Penalty: 50 penalty units.

- (3) An offence under subregulation (2) is an offence of strict liability.

*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

**8.08 Feeding**

- (1) A person must not feed, or attempt to feed, a cetacean.

Penalty: 50 penalty units.

- (2) An offence under subregulation (1) is an offence of strict liability.

*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) Subregulation (1) does not apply to the routine discarding of bycatch by a commercial fisher if he or she makes reasonable efforts to avoid discarding bycatch near a cetacean.
- (4) For subregulation (1), *feed* includes to throw food or rubbish into the water near a cetacean.

**8.09 Touching and sudden movements**

- (1) A person must not:
  - (a) touch a cetacean; or
  - (b) make sudden movements within 2 metres of a cetacean.

Penalty: 50 penalty units.

- (2) An offence under subregulation (1) is an offence of strict liability.

**Regulation 8.11**

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*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

**8.09A Swimming with cetaceans**

- (1) This regulation applies to a person who is entering the water, or in the water.
- (2) The person must not enter the water within 100 metres of a whale or within 50 metres of a dolphin.  
Penalty: 50 penalty units.
- (3) The person must not, while in the water, approach within 30 metres of a cetacean.  
Penalty: 50 penalty units.
- (4) If a cetacean comes within 30 metres of a person in the water, the person:
  - (a) must move slowly to avoid startling the cetacean; and
  - (b) must not touch the cetacean or swim towards it.Penalty: 50 penalty units.
- (5) An offence under subregulation (3) or (4) is an offence of strict liability.

*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

**Division 8.2 Whale watching**

**8.10 Purpose of Division 8.2**

For paragraph 238 (3) (c) of the Act, this Division sets out how whale watching must be carried out.

**8.11 Application of Division 8.2**

This Division applies in the Australian Whale Sanctuary, except in the coastal waters, or a part of the coastal waters, of a State, or the Northern Territory, if a declaration under section 228 of the Act is in force for the coastal waters or part of those waters.

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**8.12 How whale watching is to be carried out**

- (1) A prohibited vessel must not be used for whale watching.
- (2) A person who operates a vessel for whale watching must operate it in accordance with regulation 8.05.
- (3) A person who operates an aircraft for whale watching must operate it in accordance with regulation 8.07.
- (4) A person who takes part in whale watching must comply with regulations 8.08, 8.09 and 8.09A.

**Division 8.3 Export and import of parts of cetaceans**

**8.13 Export of parts of cetaceans**

For subparagraph 238 (3) (d) (ii) of the Act, the export of a part of a cetacean is taken to be an export of a personal item if the Minister is satisfied that:

- (a) the export is not of a kind mentioned in subparagraph 3 (a) or (b) of Article VII of CITES; and
- (b) the part was previously imported as a personal item; and
- (c) the part was given as a gift in a ceremony or as personal recognition; and
- (d) the part is an element of an indigenous tradition; and
- (e) the part is not part of a cetacean taken under a permit issued under Article VIII of the International Convention for the Regulation of Whaling done at Washington on 2 December 1946.

**8.14 Import of parts of cetaceans**

For subparagraph 238 (3) (e) (ii) of the Act, the import of a part of a cetacean is taken to be an import of a personal item if the Minister is satisfied that:

- (a) the import is not of a kind mentioned in subparagraph 3 (a) or (b) of Article VII of CITES; and

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- (b) the part was given as a gift in a ceremony or as personal recognition; and
- (c) the part is an element of an indigenous tradition; and
- (d) the part is not part of a cetacean taken under a permit issued under Article VIII of the International Convention for the Regulation of Whaling done at Washington on 2 December 1946.

**Regulation 8A.01**

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**Part 8A Access to biological resources in Commonwealth areas**

**Division 8A.1 Preliminary**

**8A.01 Purpose of Part 8A**

For section 301 of the Act, the purpose of this Part is to provide for the control of access to biological resources in Commonwealth areas to which this Part applies by:

- (a) promoting the conservation of biological resources in those Commonwealth areas, including the ecologically sustainable use of those biological resources; and
- (b) ensuring the equitable sharing of the benefits arising from the use of biological resources in those Commonwealth areas; and
- (c) recognising the special knowledge held by indigenous persons about biological resources; and
- (d) establishing an access regime designed to provide certainty, and minimise administrative cost, for people seeking access to biological resources; and
- (e) seeking to ensure that the social, economic and environmental benefits arising from the use of biological resources in those Commonwealth areas accrue to Australia; and
- (f) contributing to a nationally consistent approach to access to Australia's biological resources.

*Note* For the meaning of *Commonwealth area*, see the Act, section 525.

**8A.02 Application of Part 8A to Commonwealth areas**

This Part applies to Commonwealth areas but does not apply to land leased by the Commonwealth or a Commonwealth agency unless the Commonwealth or the Commonwealth agency that holds the lease also holds a usage right in relation to the land



that entitles the lessee to control access to the biological resources in and on the land.

*Note 1* For the meaning of *Commonwealth area*, see the Act, section 525.

*Note 2* Access to biological resources in Commonwealth reserves must be in accord with provisions of the Act and these Regulations dealing with Commonwealth reserves.

### **8A.03 Meaning of access to biological resources**

(1) In this Part:

*access to biological resources* means the taking of biological resources of native species for research and development on any genetic resources, or biochemical compounds, comprising or contained in the biological resources (other than an activity mentioned in subregulation (3)).

*Examples*

Examples of *access to biological resources* include collecting living material or analysing and sampling stored material, for various purposes including taxonomic research, other research and potential commercial product development.

*Note* For the meaning of *biological resources*, *genetic resources* and *native species*, see the Act, section 528.

- (2) A person is taken to have access to biological resources if there is a reasonable prospect that biological resources taken by the person will be subject to research and development on any genetic resources, or biochemical compounds, comprising or contained in the biological resources.
- (3) The definition, *access to biological resources*, in subregulation (1) does not include the following activities:
- (a) the taking of biological resources by indigenous persons:
    - (i) for a purpose other than a purpose mentioned in subregulation (1); or
    - (ii) in the exercise of their native title rights and interests;
  - (b) access to human remains;
  - (c) the taking of biological resources that have been cultivated or tended for a purpose other than a purpose mentioned in subregulation (1);

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- (d) the taking of public resources for a purpose other than a purpose mentioned in subregulation (1);
  - (e) the taking of a biological resource that is:
    - (i) a genetically modified organism for the purposes of section 10 of the *Gene Technology Act 2000*; or
    - (ii) a plant variety for which a Plant Breeder's Right has been granted under section 44 of the *Plant Breeder's Rights Act 1994*;
  - (f) access to biological resources specified in a declaration under regulation 8A.05.
- (4) For paragraph (3) (d), ***taking of public resources*** includes the following activities:
- (a) fishing for commerce or recreation, game or charter fishing or collecting broodstock for aquaculture;
  - (b) harvesting wildflowers;
  - (c) taking wild animals or plants for food;
  - (d) collecting peat or firewood;
  - (e) taking essential oils from wild plants;
  - (f) collecting plant reproductive material for propagation;
  - (g) commercial forestry.

**8A.04 Meaning of *access provider***

- (1) In this Part:
- access provider***, for biological resources in a Commonwealth area to which this Part applies, means the following:
- (a) if the area is land owned by the Commonwealth — the Commonwealth;
  - (b) if the area is land owned by a Commonwealth agency — the Commonwealth agency;
  - (c) if the area is land held under lease by the Commonwealth or a Commonwealth agency and is indigenous people's land — the owner of the land;
  - (d) if the area is land held under lease by the Commonwealth and is not indigenous people's land — the Commonwealth;

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- (e) if the area is land held under lease by a Commonwealth agency and is not indigenous people's land — the Commonwealth agency;
- (f) if the area is land in an external Territory (except Norfolk Island) or in the Jervis Bay Territory, and is not land to which paragraph (a), (b), (c), (d) or (e) applies — the Commonwealth;
- (g) if the area is a Commonwealth marine area — the Commonwealth;
- (h) if the area is any other area of land, sea or seabed that is included in a Commonwealth reserve — the Commonwealth;
- (i) if native title exists in relation to the area — the native title holders for the area.

*Note* There may be more than one access provider for biological resources. For example, if native title exists in relation to a Commonwealth area, the Commonwealth (or Commonwealth agency) and the native title holders are both access providers.

- (2) A reference to land in subregulation (1) includes a reference to airspace over the land.

*Note* A Commonwealth marine area includes areas of airspace and seabed relating to the area — see the definition of *Commonwealth marine area* in section 24 of the Act.

**8A.05 Exemption for specified biological resources or collections**

- (1) The Minister may declare that this Part does not apply to specified biological resources or a specified collection of biological resources (including future additions to the collection) if:
  - (a) the resources are held as specimens away from their natural environment (whether in a collection or otherwise) by a Commonwealth Department or Commonwealth agency and there are reasonable grounds to believe that access to the biological resources is administered by the Department or agency in a manner that is consistent with the purpose of this Part; or

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- (b) there are reasonable grounds to believe that:
  - (i) access to the resources is controlled by another Commonwealth, self-governing Territory or State law; and
  - (ii) if the declaration is made — access to the resources would be in a manner that is consistent with the purpose of this Part; or
- (c) use of the resources is required to be controlled under any international agreement to which Australia is a party.

*Example* The International Treaty on Plant Genetic Resources for Food and Agriculture, to which Australia is a signatory, obliges signatories to control access to the genetic resources of some foods in some circumstances.

- (2) A holder of biological resources to which paragraph (1) (a) applies may request the Minister, in writing, to make a declaration under subregulation (1).
- (3) A declaration under paragraph (1) (b) or (c) may provide that this Part does not apply to the biological resources in specified circumstances.
- (4) A declaration under subregulation (1) must be published in the *Gazette*.

**8A.06 Access to biological resources requires permit**

- (1) A person may have access to biological resources in a Commonwealth area to which this Part applies only in accordance with a permit in force under Part 17.

Penalty: 50 penalty units.

*Note* The Minister may issue a permit only if the applicant has given the Minister a copy of each benefit-sharing agreement required in relation to the application — see paragraph 17.03A (6) (a).

- (2) Subregulation (1) does not apply to a person in relation to biological resources that are in a Commonwealth area for which the person is an access provider.

## **Division 8A.2      Access to biological resources for commercial purposes or potential commercial purposes**

### **8A.07      Benefit-sharing agreement required**

- (1) An applicant for a permit for access to biological resources for commercial purposes or potential commercial purposes in a Commonwealth area to which this Part applies must enter into a benefit-sharing agreement with each access provider for the resources.

*Note 1* There may be more than one access provider for biological resources — see subregulation 8A.04 (1).

*Note 2* Since benefit-sharing agreements under this Division may purport to affect native title rights and interests in relation to land or water, applicants need to be aware of the provisions of the *Native Title Act 1993* and the availability of indigenous land use agreements under Division 3 of Part 2 of that Act as a means to validate actions that may otherwise be construed to be invalid future acts by that Act.

- (2) If an access provider is the Commonwealth, the Secretary of the Commonwealth Department with administrative responsibility for the Commonwealth area may, on behalf of the Commonwealth, enter into the benefit-sharing agreement.
- (3) An agreement may be both a benefit-sharing agreement, if it complies with this Division, and an indigenous land use agreement within the meaning of the *Native Title Act 1993*.
- (4) The Minister may publish in the *Gazette* a model benefit-sharing agreement as a guide for applicants.

### **8A.08      Benefit-sharing agreements**

A benefit-sharing agreement must provide for reasonable benefit-sharing arrangements, including protection for, recognition of and valuing of any indigenous people's knowledge to be used, and must include the following:

- (a) full details of the parties to the agreement;
- (b) details regarding the time and frequency of entry to the area that has been agreed to be granted;

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- (c) the resources (including the name of the species, or lowest level of taxon, to which the resources belong, if known) to which access has been agreed to be granted and the quantity of the resources that has been agreed can be collected;
- (d) the quantity of the resources that has been agreed can be removed from the area;
- (e) the purpose of the access, as disclosed to the access provider;
- (f) a statement setting out the proposed means of labelling samples;
- (g) the agreed disposition of ownership in the samples, including details of any proposed transmission of samples to third parties;
- (h) a statement regarding any use of indigenous people's knowledge, including details of the source of the knowledge, such as, for example, whether the knowledge was obtained from scientific or other public documents, from the access provider or from another group of indigenous persons;
- (i) a statement regarding benefits to be provided or any agreed commitments given in return for the use of the indigenous people's knowledge;
- (j) if any indigenous people's knowledge of the access provider, or other group of indigenous persons, is to be used, a copy of the agreement regarding use of the knowledge (if there is a written document), or the terms of any oral agreement, regarding the use of the knowledge;
- (k) the details of any proposals of the applicant to benefit biodiversity conservation in the area if access is granted;
- (l) details of the benefits that the access provider will receive for having granted access.

**8A.09 Consultation with owners of leased land**

If the land, or part of the land, that is the subject of an application for access to biological resources is land held under lease by the Commonwealth or a Commonwealth agency (including land leased in Norfolk Island by the Commonwealth

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or a Commonwealth agency), each access provider must consult with the owner of that land before entering into a benefit-sharing agreement.

**8A.10 Informed consent**

- (1) If the biological resources to which access is sought are in an area that is indigenous people's land and an access provider for the resources is the owner of the land or a native title holder for the land, the owner or native title holder must give informed consent to a benefit-sharing agreement concerning access to the biological resources.
- (2) In considering whether an access provider has given informed consent to a benefit-sharing agreement, the Minister must consider the following matters:
  - (a) whether the access provider had adequate knowledge of these Regulations and was able to engage in reasonable negotiations with the applicant for the permit about the benefit-sharing agreement;
  - (b) whether the access provider was given adequate time:
    - (i) to consider the application for the permit, including time to consult with relevant people; and
    - (ii) if the biological resources are in an area that is indigenous people's land and an access provider for the resources is the owner of the land, to consult with the traditional owners of the land; and
    - (iii) to negotiate the benefit-sharing agreement;
  - (c) if the biological resources are in an area that is indigenous people's land and an access provider for the resources is an owner of the land and is represented by a land council — whether the views of the land council about the matters mentioned in paragraphs (a) and (b) have been sought;
  - (d) if access is sought to the biological resources of an area in relation to which native title exists — the views of any representative Aboriginal/Torres Strait Islander body or any body performing the functions of a representative body, within the meaning of the *Native Title Act 1993*, for

**Regulation 8A.11**

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- the area about the matters mentioned in paragraphs (a) and (b);
- (e) whether the access provider has received independent legal advice about the application and the requirements of these Regulations.
- (3) The Minister may be satisfied that informed consent has been given by any native title holders who may be affected by the issue of a permit if the benefit-sharing agreement:
- (a) is a registered indigenous land use agreement, under the *Native Title Act 1993*, for the area; and
- (b) authorises the action proposed to be taken under the permit; and
- (c) sets out the native title holders' consent to the issue of the permit.

*Note* The requirements relating to indigenous land use agreements are set out in Part 2, Division 3 of the *Native Title Act 1993*.

**8A.11 Requirement for permit**

A benefit-sharing agreement takes effect only if a permit for the proposed access is issued under Part 17.

**Division 8A.3 Access to biological resources for non-commercial purposes**

**8A.12 Written permission of access provider required**

- (1) An applicant for a permit for access to biological resources for non-commercial purposes in a Commonwealth area to which this Part applies must obtain the written permission of each access provider for the resources to:
- (a) enter the Commonwealth area; and
- (b) take samples from the biological resources of the area; and
- (c) remove samples from the area.

*Note 1* There may be more than one access provider for biological resources — see subregulation 8A.04 (1).



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*Note 2* Since a written permission of the kind mentioned in this regulation may purport to affect native title rights and interests in relation to land or water, applicants need to be aware of the provisions of the *Native Title Act 1993* and the availability of indigenous land use agreements under Division 3 of Part 2 of that Act as a means to validate actions that may otherwise be construed to be invalid future acts by that Act.

- (2) If an access provider is the Commonwealth, the Secretary of the Commonwealth Department with administrative responsibility for the Commonwealth area may, on behalf of the Commonwealth, give the written permission required under subregulation (1).
- (3) A written permission may be both a permission under subregulation (1), if it complies with this Division, and an indigenous land use agreement within the meaning of the *Native Title Act 1993*.

**8A.13 Statutory declaration**

An applicant for a permit for access to biological resources for non-commercial purposes in a Commonwealth area to which this Part applies must provide a copy of a statutory declaration given to each access provider declaring that the applicant:

- (a) does not intend to use the biological resources, to which the application relates, for commercial purposes; and
- (b) undertakes to give a written report on the results of any research on the biological resources to each access provider; and
- (c) undertakes to offer, on behalf of each access provider, a taxonomic duplicate of each sample taken to an Australian public institution that is a repository of taxonomic specimens of the same order or genus as those collected for permanent loan; and
- (d) undertakes not to give a sample to any person, other than an institution referred to in paragraph (c), without permission of each access provider; and
- (e) undertakes not to carry out, or allow others to carry out, research or development for commercial purposes on any genetic resources or biochemical compounds comprising or contained in the biological resources unless a

**Regulation 8A.14**

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benefit-sharing agreement has been entered into, in accordance with Division 8A.2, with each access provider.

**8A.14 Requirement for permit**

A written permission given under subregulation 8A.12 (1) takes effect only if a permit for the proposed access is issued under Part 17.

**Division 8A.4 Assessment of applications**

**8A.15 Assessment by Minister**

- (1) In assessing an application for a permit, the Minister may consult any Commonwealth Department, any Commonwealth agency or any other person that may have information relevant to the application.
- (2) If the application is for access to biological resources for commercial purposes, the Minister:
  - (a) must take into account the extent to which the requirements of regulation 8A.08 have been met by the benefit-sharing agreement; and
  - (b) must consider whether all the other requirements of Division 8A.2 have been met.
- (3) If the application is for access to biological resources for non-commercial purposes, the Minister must consider whether the requirements of Division 8A.3 have been met.

**8A.16 Assessment of environmental impact**

- (1) This regulation applies to an application for a permit to which paragraph 17.01 (ab) applies if the proposed access is not a controlled action.

*Note* For the meaning of *controlled action*, see the Act, section 67.

- (2) The application must be assessed by public notice if the Minister believes, on reasonable grounds, that the proposed access to biological resources is likely to have more than negligible environmental impact.

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- (3) After all the documents required to consider an application have been received by the Minister and the application is required to be assessed by public notice:
  - (a) the Minister must tell the applicant, within 20 business days after receiving all the required documents, that the application is required to be assessed by public notice; and
  - (b) the applicant must give the Minister a summary of the likely environmental impacts of the proposed access; and
  - (c) within 10 business days after receiving the summary, the Minister must:
    - (i) publish on the Internet a notice inviting any person to comment on the likely environmental impacts of the proposed access within a specified time (which must be at least 10 business days); and
    - (ii) invite each person registered under regulation 8A.17 to give comments to the Minister within a specified time (which must be at least 10 business days); and
    - (iii) publish on the Internet any documents relevant to public consideration of the proposed access and its environmental impact; and
  - (d) within 5 business days after the end of the period allowed by the invitation for comments, the Minister must give the applicant a copy of any comments received by the Minister.
- (4) The applicant must give the Minister a copy of any response the applicant wishes to make to any comments received.

**8A.17 Register for consultation when assessment by public notice is required**

- (1) At intervals of not more than 12 months, the Minister must publish a notice inviting applications from persons who want to be registered, for a specified period of at least 12 months, to be told of applications to which subregulation 8A.16 (2) applies.
- (2) The notice must be published:
  - (a) in the *Gazette*; and
  - (b) on the Department's website, [www.deh.gov.au](http://www.deh.gov.au); and
  - (c) in a daily newspaper that circulates throughout Australia.

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- (3) The Minister must register any person who applies in writing for registration.
- (4) Registration has effect for the period specified in the notice.

**Division 8A.5 Register of permits**

**8A.18 Register of permits**

- (1) The Minister must keep a register of information about permits issued for this Part.

*Note* The Register may be viewed on the Department's website, [www.deh.gov.au](http://www.deh.gov.au).

- (2) Information is not to be included in the register if the Minister believes that the information:
  - (a) is culturally sensitive; or
  - (b) if disclosed, could:
    - (i) damage a person's commercial interests; or
    - (ii) result in a risk to the environment; or
    - (iii) harm the national interest.

**Division 8A.6 Records and samples**

**8A.19 Permit holder to keep records**

- (1) A person issued a permit for access to biological resources under Part 17 must keep the following records for each sample taken:
  - (a) for each record about a sample, a unique identifier for the sample that is also on a label attached to the sample or its container;
  - (b) the date the sample was taken;
  - (c) the place from which the sample was taken;
  - (d) an appropriate indication of the quantity or size of the sample (for example, weight or physical dimension of the sample);
  - (e) the scientific name of, or given to, the sample;

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- (f) the location of the sample when first entered in the record;
  - (g) the details about any subsequent disposition of the sample, including the names and addresses of others having possession of the sample or a part of the sample.
- (2) A copy of the records mentioned in subregulation (1) must be sent to each access provider and the Department within a reasonable period after the sample is taken.
  - (3) A record mentioned in subregulation (1) for a sample must be retained by the permit holder while the sample is in the holder's possession.

**8A.20 Disposal of samples**

- (1) If a permit holder does not propose to keep a sample for which he or she has a record of the type mentioned in subregulation 8A.19 (1), the permit holder must offer the sample and record to each access provider.
- (2) If no access provider agrees to take the sample and record in the circumstances mentioned in subregulation (1), the permit holder may dispose of the sample and, at that time, must send the record and details of the disposal of the sample to the Department.

**Regulation 9.01**

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**Part 9 Conservation of biodiversity  
in Commonwealth areas****9.01 Purpose of Part 9**

- (1) For subsection 303 (1) of the Act, this Part provides for the conservation of biodiversity in Commonwealth areas.
- (2) In particular, this Part provides for prohibiting and regulating actions affecting members of native species in Commonwealth areas.

**9.02 Application of Part 9**

- (1) This Part applies to:
  - (a) the Coral Sea Islands Territory; and
  - (b) the Territory of Christmas Island; and
  - (c) the Territory of Cocos (Keeling) Islands.
- (2) However, this Part does not apply to a Commonwealth reserve.

*Note* For Commonwealth reserves — see Part 11.

**9.03 Offences in relation to protected species**

- (1) A person must not kill, injure or take a member of a protected species.  
Penalty: 50 penalty units.
- (2) An offence against subregulation (1) is a strict liability offence.
- (3) A person must not damage or destroy a nest or dwelling place of a member of a protected species.  
Penalty: 50 penalty units.
- (4) However, this regulation does not apply to an action that:
  - (a) is authorised by a permit in force under Part 17; or

**Regulation 9.04**

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- (b) is provided for by, and taken in accordance with, a declaration by the Director to which regulation 20.03 applies; or
- (c) is provided for by, and taken in accordance with, a management plan that is approved by the Minister in accordance with the criterion mentioned in regulation 9.04; or
- (d) is approved under Part 9 of the Act for subsection 23 (1) or (2), 24A (1), (2), (3) or (4), 26 (1) or (2) or 27A (1), (2), (3) or (4) of the Act; or
- (e) is:
  - (i) in a class of actions declared by the Minister under section 33 of the Act not to require approval under Part 9 of the Act for subsection 23 (1) or (2), 24A (1), (2), (3) or (4), 26 (1) or (2) or 27A (1), (2), (3) or (4) of the Act; and
  - (ii) is taken in accordance with a management plan that is an accredited management plan for the purposes of the declaration; or
- (f) is taken in a humane manner and is reasonably necessary to relieve or prevent suffering; or
- (g) is reasonably necessary to prevent a risk to human health; or
- (h) is taken by a Commonwealth agency, or an agency of a State or of a self-governing Territory and is reasonably necessary for law enforcement; or
- (i) is reasonably necessary to deal with an emergency involving a serious threat to human life or property; or
- (j) occurs because of an unavoidable accident, other than an accident caused by negligent or reckless behaviour.

**9.04 Approved management plan**

For paragraph 9.03 (4) (c), a management plan must not, or not be likely to, adversely affect the conservation status of a protected species or a population of a protected species.

**Regulation 9A.01**

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**Part 9A                      International movement of  
wildlife specimens****9A.01    Exchange of specimens**

- (1) For subsections 303CC (3), 303CD (5) and 303DD (4) of the Act, the Minister may determine that an export or import of a specimen is part of a registered, non-commercial exchange of scientific specimens between scientific organisations only if:
  - (a) the specimen is lent, given or exchanged without monetary compensation; and
  - (b) the specimen is not a live animal; and
  - (c) the specimen was legally obtained; and
  - (d) for a CITES specimen:
    - (i) each scientific organisation is registered with a relevant CITES authority; and
    - (ii) if one of the scientific organisations is in a country that is not a party to CITES — the CITES Secretariat certifies that the organisation meets the standards for registration with a relevant CITES authority; and
  - (e) the specimen is identified by a label, attached to the package containing the specimen, that sets out the following information:
    - (i) the name and address of each scientific organisation;
    - (ii) the registration codes, given by a relevant CITES authority or the Department, for each scientific organisation;
    - (iii) the scientific name, common name and a description of the specimen;
    - (iv) for a CITES specimen — the Appendix to CITES in which the species to which the specimen belongs is mentioned; and
  - (f) each organisation, other than an organisation mentioned in paragraph (d):



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- (i) meets the standards mentioned in subregulation (2) or is listed in the Index Herbariorum; and
  - (ii) has given to the Minister a statement certifying that it complies with subparagraph (i); and
- (g) the scientific organisation that exports the specimen is based in the country from which the specimen is exported.

*Note* The Index Herbariorum is a joint project of the International Association for Plant Taxonomy and The New York Botanical Garden. It can be searched on the Internet at <http://websun.nybg.org/bsci/ih/>.

- (2) For subparagraph (1) (f) (i), the standards are the following:
- (a) its collections of animal or plant specimens, and records of them, are permanently housed and professionally curated;
  - (b) its specimens are accessible to all qualified users, including those from other institutions;
  - (c) its accessions are properly recorded in a permanent catalogue;
  - (d) it keeps permanent records for loans and transfers of specimens to other institutions;
  - (e) it acquires specimens primarily for research that is to be reported in scientific publications;
  - (f) its specimens are prepared, and collections are arranged, in a way that ensures their utility;
  - (g) it keeps accurate data on specimen labels, permanent catalogues and other records;
  - (h) it acquires and keeps specimens in accordance with the laws of the jurisdiction in which it operates;
  - (i) its specimens of species mentioned in Appendix I to CITES are permanently and centrally housed under its direct control and managed in a way that prevents the use of the specimens for decoration, trophies or other purposes incompatible with the principles of CITES.

**9A.02 Export of personal or household effects**

For subsection 303CC (6) of the Act, an export of a specimen mentioned in Schedule 4A is taken to be an export of a personal or household effect if:

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- (a) the export is not of a kind mentioned in subparagraph 3 (a) or (b) of Article VII of CITES; and
- (b) trade in that kind of specimen will not have an adverse effect on the conservation status of a species or ecosystem; and
- (c) the specimen is for the personal use of the exporter; and
- (d) the export is reasonably appropriate for the purpose of the exporter's journey.

**9A.03 Import of personal or household effects**

For subsection 303CD (3) of the Act, an import of a specimen mentioned in Schedule 4B is taken to be an import of a personal or household effect if:

- (a) the import is not of a kind mentioned in subparagraph 3 (a) or (b) of Article VII of CITES; and
- (b) no export permit is required in the country where the specimen was taken from the wild; and
- (c) the specimen is personally owned by the importer; and
- (d) the import of the specimen is reasonably appropriate for the purpose of the importer's journey.

**9A.04 Import of CITES II specimens**

For paragraph 303CD (4) (c) of the Act:

- (a) all species, mentioned in Appendix II to CITES, in the following taxa are specified:
  - (i) Order Falconiformes (birds of prey);
  - (ii) Order Strigiformes (birds of prey);
  - (iii) Sub-family Lutrinae (otters);
  - (iv) Family Felidae (cats);
  - (v) Family Ursidae (bears);
  - (vi) Genus *Arctocephalus* (seals); and
- (b) the following species are specified:
  - (i) *Ammotragus lervia* (Barbary sheep);
  - (ii) *Bison bison athabasca* (wood bison);
  - (iii) *Cephalophus jentinki* (Jentink's duiker);

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- (iv) *Equus zebra hartmannae* (Hartmann's mountain zebra);
- (v) *Hippopotamus amphibius* (hippopotamus);
- (vi) *Kobus leche* (lechwe);
- (vii) *Ovis canadensis* (bighorn or mountain sheep).

**9A.05 Welfare of live specimens**

- (1) This regulation sets out conditions for the following paragraphs of the Act:
  - (a) 303CG (3) (c);
  - (b) 303DG (4) (b);
  - (c) 303EN (3) (e);
  - (d) 303FN (3) (c);
  - (e) 303FO (3) (f).
- (2) This regulation applies to a live animal of a species in the following classes:
  - (a) Mammalia (mammals);
  - (b) Amphibia (amphibians);
  - (c) Reptilia (reptiles);
  - (d) Aves (birds).
- (3) For paragraphs 303CG (3) (c), 303DG (4) (b) and 303EN (3) (e), the conditions are as follows:
  - (a) the animal is prepared and transported in a way that is known to result in minimal stress, risk of injury and adverse effect on the health of the animal;
  - (b) the person receiving the animal is suitably equipped to manage, confine and care for the animal, including meeting the behavioural and biological needs of the animal.
- (4) For paragraphs 303FN (3) (c) and 303FO (3) (f) of the Act, the conditions are as follows:
  - (a) the animal is taken, transported and held in a way that is known to result in minimal stress and risk of injury to the animal;

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- (b) if the animal is killed, it is done in a way that is generally accepted to minimise pain and suffering.

*Note 1 Code of Practice for the Humane Shooting of Kangaroos*, second edition, 1990, published by Environment Australia, applies to the shooting of an animal of a species in the Macropodidae family.

*Note 2 Code of Practice for Capture, Handling, Transport and Slaughter of Brush Possums (Trichosurus vulpecula)*, 1997, published by the Animal Welfare Advisory Committee, Tasmania, applies to live trappings of brush possums in Tasmania.

**9A.06 Register of applications and decisions**

- (1) For paragraphs 303CK (1) (a), 303DJ (1) (a) and 303EQ (1) (a) of the Act, the prescribed particulars of applications, for each specimen for which an application is made, are:
- (a) a description of the specimen; and
  - (b) if a category mentioned in subsection 178 (1) of the Act applies to the specimen — that category; and
  - (c) if the specimen is a member of a species mentioned in an Appendix to CITES — that Appendix; and
  - (d) whether the specimen is to be imported or exported; and
  - (e) whether the specimen is alive or dead.
- (2) For paragraphs 303CK (1) (b), 303DJ (1) (b) and 303EQ (1) (b) of the Act, the prescribed particulars are:
- (a) the sections of the Act under which the decisions are made; and
  - (b) what the decisions are.

**9A.07 Application for amendment of list of specimens suitable for live import**

For subsection 303EE (1) of the Act, an application must:

- (a) be in writing; and
- (b) be in the form, if any, approved by the Minister; and
- (c) identify the taxon to which the specimen belongs.

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**9A.08 Publication of specifications**

For paragraph 303EG (2) (b) of the Act, a specification must be published on the Internet on the Department's website.

**9A.09 Export or import for the purposes of research**

For paragraphs 303FC (1) (d) and (2) (d) of the Act, the following conditions are specified:

- (a) the research is done by a person or institution that has sufficient resources and qualifications;
- (b) the researcher publishes, or makes available for inspection, the results of the research in the country where the research is done;
- (c) if asked by the Minister, the researcher gives to the Minister written information about the progress and results of the research;
- (d) during and after the research, the researcher does not allow the specimen, or progeny or products of the specimen, to be used for commercial purposes;
- (e) for research involving a live animal, the animal is held in a way that is known to result in minimal stress and risk of injury to the animal;
- (f) in the case of research in which an animal is killed, the killing is done in a way that is generally accepted to minimise pain and suffering;
- (g) the number of specimens to be imported or exported is appropriate to the needs of the research;
- (h) if possible, the specimen comes from a captive animal or artificially propagated plant.

**9A.10 Export or import for the purposes of education**

For paragraphs 303FD (1) (c) and (2) (c) of the Act, the following conditions are specified:

- (a) the specimen will be used for education or training by a private or public institution that has a primary function of educating or training enrolled or registered participants;

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- (b) the specimen will not be used for commercial purposes after it is no longer needed for education or training by the institution;
- (c) the specimen is not needed for conservation breeding or propagation by the exporting country;
- (d) if possible, the specimen comes from a captive animal or an artificially propagated plant;
- (e) for education or training involving a live animal, the animal is held in a way that is known to result in minimal stress and risk of injury to the animal;
- (f) in the case of education or training in which an animal is killed, the killing is done in a way that is generally accepted to minimise pain and suffering;
- (g) for a live export of a koala, platypus, wombat or Tasmanian devil, or an animal of an eligible listed threatened species, the exporter, the importer and the Department enter into an agreement about the treatment and disposal of the animal and any progeny of the animal.

**9A.11 Export or import for the purposes of exhibition**

For paragraphs 303FE (1) (c) and (2) (c) of the Act, the following conditions are specified:

- (a) the exhibition presents information with a cultural, scientific or conservation content;
- (b) if the specimen is a live animal, it does not belong to a CITES I species;
- (c) the specimen is not used for commercial purposes after it is no longer needed for an exhibition by the institution;
- (d) the specimen is not needed for conservation breeding or propagation by the exporting country;
- (e) if possible, the specimen comes from a captive animal or artificially propagated plant;
- (f) for a live export of a koala, platypus, wombat or Tasmanian devil, or an animal of an eligible listed threatened species, the exporter, the importer and the Department enter into an agreement about the treatment and disposal of the animal and any progeny of the animal.

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**9A.12 Export or import for conservation breeding or propagation**

- (1) For paragraphs 303FF (1) (c) and (2) (c) of the Act, a program is taken to be an approved cooperative conservation program if the Minister tells a participant in the program in writing that the Minister is satisfied that:
- (a) the program's objectives are based on the conservation status and conservation needs of the species of which the specimen is a member; and
  - (b) it is operated in a way that:
    - (i) applies best practice to the management of husbandry, genetics, biology and behavioural needs of the species to which the specimen belongs; and
    - (ii) is not detrimental to the survival of the species in the wild; and
  - (c) it is operated with the intent of conserving the species (in the wild or in captivity, or both); and
  - (d) it does not allow a specimen, used in the program, to be used for commercial purposes; and
  - (e) it takes into account the conservation breeding or propagation needs of each country from which specimens are imported; and
  - (f) a specimen is removed from the program only in accordance with the program's objectives; and
  - (g) a specimen is not moved between institutions within the program, or out of the program, in a way that is detrimental to other conservation programs or activities; and
  - (h) for a live export of a koala, platypus, wombat or Tasmanian devil, or an animal of an eligible listed threatened species, the exporter, the importer and the Department enter into an agreement about the treatment and disposal of the animal and any progeny of the animal.
- (2) A participant in a breeding or propagation program may apply to the Minister in writing for a decision under subregulation (1), and must include with the application enough information for the Minister to decide whether the program has taken into account the views of:

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- (a) authorities in the States, Territories or countries where the relevant species occurs naturally; and
  - (b) international organisations that are concerned with the conservation status and needs of that species.
- (3) For the purpose of deciding whether a program's objectives are based on the conservation status and conservation needs of a species, the Minister may take into account the views of bodies mentioned in paragraphs (2) (a) and (b).
- (4) If the Minister ceases to be satisfied of any of the matters mentioned in subregulation (1):
- (a) the Minister must tell the person who applied under subregulation (2) in relation to the program, or any other person nominated by the person who so applied, in writing, of that fact; and
  - (b) at that time the program ceases to be an approved cooperative conservation program.

**9A.13 Export or import of household pets**

- (1) For paragraphs 303FG (1) (c) and (2) (d) of the Act, the conditions are that:
- (a) the exporter:
    - (i) has owned and kept the animal as a household pet; and
    - (ii) is leaving Australia or an external Territory with the intention of taking up permanent residence in another country; and
    - (iii) has been ordinarily resident in Australia or an external Territory; and
  - (b) if the animal is mentioned in the list established under subsection 303FG (4) of the Act, other than *Melopsittacus undulatus* (budgerigars) and *Nymphicus hollandicus* (cockatiels), not more than 3 animals are being exported.
- (2) For paragraph 303FG (3) (a) of the Act, the importer must have owned and kept the animal as a household pet.



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**9A.14 Export or import of personal items**

For paragraphs 303FH (1) (c) and (2) (c) of the Act, the conditions are that the specimen:

- (a) is not:
  - (i) a CITES I specimen; or
  - (ii) an object of trade; and
- (b) for an export — is personally owned by the exporter; and
- (c) for an import — is personally owned by the importer.

**9A.15 Export or import for the purposes of a travelling exhibition**

For paragraphs 303FI (1) (b) and (2) (b) of the Act, the conditions are that:

- (a) the travelling exhibition presents information with a cultural, scientific or conservation content; and
- (b) if the specimen is a live animal, it is not a CITES I specimen; and
- (c) if the specimen was imported for the purposes of a travelling exhibition, it and any progeny produced after the import are subsequently exported; and
- (d) if the specimen was exported for the purposes of a travelling exhibition, it and any progeny produced after the export are subsequently imported.

**9A.16 Approved captive breeding programs**

- (1) For subsection 303FK (1) of the Act, a program is taken to be an approved captive breeding program if the Minister tells the operator of the program in writing that the Minister is satisfied that each animal bred under the program is bred in captivity.
- (2) A person may apply in writing to the Minister to make a decision for subregulation (1) about a program.
- (3) The application must include enough information for the Minister to decide whether each live animal bred under the program is bred in captivity.

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- (4) The Minister may:
  - (a) ask the applicant for more information; and
  - (b) refuse to consider the application until the Minister receives the information requested.
- (5) If the Minister decides that he or she is satisfied that each animal bred under the program is bred in captivity, the applicant must allow the Minister to inspect the breeding records for the program and any other information about the program that the Minister considers to be relevant to deciding whether live animals are bred in captivity under the program.
- (6) If the Minister ceases to be satisfied that each animal bred under the program is bred in captivity:
  - (a) the Minister may tell the operator in writing of that fact; and
  - (b) if the Minister does so, at that time the program ceases to be taken to be an approved captive breeding program.

**9A.17 Approved CITES-registered captive breeding programs**

- (1) For subsections 303FK (2) and (3) of the Act, a program is taken to be an approved CITES-registered captive breeding program if it is registered with the CITES Secretariat as a captive breeding program.
- (2) A person may apply in writing to the Minister for the Minister to apply to the CITES Secretariat to register an Australian-based captive breeding program.
- (3) The application must include enough information for the Minister to decide whether:
  - (a) each live animal bred under the program is bred in captivity; and
  - (b) the program meets the CITES requirements for a CITES-registered captive breeding program.
- (4) If the Minister is satisfied that the criteria mentioned in subregulation (3) are met, the Minister may apply to the CITES Secretariat to register the program.

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- (5) The Minister must tell the applicant in writing about:
  - (a) any decision by the Minister not to apply to the CITES Secretariat to register the program; and
  - (b) any decision, of which the CITES Secretariat tells the Minister, about whether to register the program.
- (6) If the CITES Secretariat registers the program, the applicant must allow the Minister to inspect the breeding records for the program and any other information about the program that the Minister considers to be relevant to deciding whether the program continues to meet the CITES requirements for a CITES-registered captive breeding program.
- (7) If the Minister thinks that a program no longer meets the requirements for a CITES-registered captive breeding program, the Minister may ask the CITES Secretariat to cancel the registration.

**9A.18 Approved artificial propagation programs**

- (1) For section 303FL of the Act, a program is taken to be an approved artificial propagation program if the Minister tells the operator of the program in writing that the Minister is satisfied that each live plant propagated under the program is artificially propagated.
- (2) A person may apply in writing to the Minister to make a decision for subregulation (1) about a program.
- (3) The application must include enough information for the Minister to decide whether each live plant propagated under the program is artificially propagated.
- (4) The Minister may:
  - (a) ask the applicant for more information; and
  - (b) refuse to consider the application until the Minister receives the information requested.
- (5) If the Minister decides that he or she is satisfied that each live plant propagated under the program is artificially propagated, the applicant must allow the Minister to inspect the propagation records for the program and any other information

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about the program that the Minister considers to be relevant to deciding whether live plants are artificially propagated under the program.

- (6) If the Minister ceases to be satisfied that each live plant propagated under the program is artificially propagated:
  - (a) the Minister may tell the operator in writing of that fact; and
  - (b) if the Minister does so, at that time the program ceases to be taken to be an approved artificial propagation program.

**9A.19 Approved aquaculture programs**

- (1) For section 303FM of the Act, a program is taken to be an approved aquaculture program if the Minister is satisfied that, under the program:
  - (a) no further environmental authorisation, within the meaning given by subsection 43A (2) of the Act, is necessary to allow the action to be taken lawfully; and
  - (b) collection, for breeding, of aquaculture species will not have an adverse effect on the conservation status of a species or ecosystem; and
  - (c) environmental impacts are considered before aquaculture specimens may be released.
- (2) If the Minister is satisfied about the matters mentioned in subregulation (1) for a program, the Minister must tell the operator of the program in writing.
- (3) If the Minister ceases to be satisfied about any of those matters:
  - (a) the Minister may tell the operator in writing of that fact; and
  - (b) if the Minister does so, at that time the program ceases to be taken to be an approved aquaculture program.

**9A.20 Wildlife trade operations and management plans**

- (1) For paragraph 303FN (10) (a) of the Act, an operation is taken to be a market-testing operation if:
  - (a) the number of specimens to be exported is restricted; and

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- (b) the markets to be tested are clearly defined; and
  - (c) the means of measuring success of the market testing is explained; and
  - (d) it is reasonably likely that the market could be supplied without adversely affecting the conservation status of the taxon concerned.
- (2) For paragraph 303FN (10) (b) of the Act, an operation is taken to be a small-scale operation if it has a low impact on the survival or conservation status of a taxon to which the operation relates, particularly because, for the taxon:
- (a) a small area is harvested; or
  - (b) the number of participants is small; or
  - (c) the number of specimens harvested is small.
- (3) For paragraph 303FN (10) (c) of the Act, an operation is taken to be a developmental operation if:
- (a) it is not a market-testing operation; and
  - (b) it:
    - (i) is not a small-scale operation; or
    - (ii) is planned to expand beyond a small-scale operation; and
  - (c) it collects data and develops monitoring programs for the development of a wildlife trade management plan; and
  - (d) the industry to which the plan relates does not, or is not likely to, adversely affect the conservation status of the taxon to which the operation relates.
- (4) For paragraph 303FN (10) (f) of the Act, an existing stocks operation is specified.
- (5) For subregulation (4), an ***existing stocks operation*** is an operation that has the following characteristics:
- (a) the relevant specimens were taken from the wild before the applicant sought approval of the operation as an approved wildlife trade operation;
  - (b) the taking of the specimens was lawful at the time it happened;

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- (c) the areas from which the specimens were taken are areas from which an approved wildlife trade operation or an approved or accredited wildlife trade management plan permits the taking of specimens of the same kind;
- (d) the operation will not contribute to trade that is detrimental to the conservation of the taxon concerned.

**9A.21 Approved commercial import programs**

- (1) For section 303FU of the Act, a program is taken to be an approved commercial import program if the Minister is satisfied that:
    - (a) the trade in specimens of the kind imported is not detrimental to the survival of the taxon to which the specimen belongs; and
    - (b) appropriate levels of management are in place to monitor and manage the trade.
  - (2) In making a decision under subregulation (1), the Minister must consider:
    - (a) any advice given under subparagraph 2 (a) of Article IV of CITES; and
    - (b) whether the program ensures that:
      - (i) there is reasonable control over the amount of harvesting and trading, for example by setting limits or quotas; and
      - (ii) illegal trade is detected and minimised; and
      - (iii) population and trade are monitored.
- Note for paragraph (a)*
- Subparagraph 2 (a) of Article IV of CITES provides for a scientific authority to advise that the export of a specimen of a species will not be detrimental to the survival of the species.
- (3) The Minister must keep a register of approved commercial import programs and make it available for inspection on the Internet on the Department's website.

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**9A.22 Records**

For paragraph 303GR (1) (a) of the Act, a record of the change in possession of a thing seized under the Act must be:

- (a) in writing; and
- (b) dated; and
- (c) signed by an inspector.

**9A.23 Forms**

For section 303GU of the Act, a person arriving in Australia or an external Territory must complete a form that includes the following information:

- (a) flight number of the aircraft or name of the ship on which the person arrived;
- (b) date of arrival;
- (c) whether the persons covered by the form have wildlife products in their possession or within their baggage;
- (d) the person's signature.

**9A.24 Breeding in captivity**

- (1) For section 527B of the Act, a live animal is taken to have been bred in captivity if:
  - (a) for an animal that is reproduced sexually — its parents transferred gametes, by mating or otherwise, in a controlled environment; and
  - (b) for an animal that is reproduced asexually — its parents were in a controlled environment when the animal began to develop; and
  - (c) the breeding stock from which the animal is bred:
    - (i) is established in a way that is not detrimental to the survival of the species in the wild; and
    - (ii) is maintained without the introduction of specimens (including eggs or gametes) from the wild, other than to ensure ongoing genetic viability or to dispose of animals that have been confiscated, seized, rescued or removed from the wild for public health or safety; and

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- (iii) has produced offspring of at least the second generation, or is managed in a way that has been demonstrated to be capable of reliably producing second-generation offspring in a controlled environment.

*Example for subparagraph (c) (ii)*

Large crocodile taken from a populated area.

- (2) For this regulation, a ***controlled environment*** is an environment that:
  - (a) is managed to produce animals of a particular species; and
  - (b) has boundaries that are designed to prevent animals, eggs or gametes of the species from entering or leaving; and
  - (c) provides for artificial life support that may include, for example, artificial housing, temperature control, waste removal, health care, protection from predators and artificially supplied food.

**9A.25 Artificial propagation**

- (1) For section 527C of the Act, the circumstances mentioned in this regulation are those in which propagation constitutes artificial propagation.
- (2) A live plant is artificially propagated if it is grown from a seed, cutting, division, callus or other plant tissue, spore or other propagule under controlled conditions.
- (3) The parental stock of the plant must be:
  - (a) established in a way that is not detrimental to the survival of the species in the wild; and
  - (b) managed in a way that ensures its long-term genetic viability.
- (4) A seed is artificially propagated if:
  - (a) the specimen from which the seed is taken was artificially propagated; or
  - (b) it is taken from parental stock that is grown under controlled conditions.



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- (5) A part or derivative of a live plant is artificially propagated only if it is taken from a live plant that is artificially propagated in accordance with this regulation.
- (6) A grafted plant is artificially propagated only if the root-stock and the graft are artificially propagated in accordance with this regulation.
- (7) In this regulation:
  - controlled conditions* means an artificial environment that:
    - (a) is intensively managed by human intervention, for example by tillage, fertilisation, weed control, irrigation, or nursery operations such as potting, bedding or protection from weather; and
    - (b) produces selected species or hybrids.

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**Part 10 Protected areas (other than Commonwealth reserves)**

**Division 1 Australian World Heritage properties**

**10.01 Australian World Heritage management principles**

For subsection 323 (1) of the Act, the Australian World Heritage management principles for the management of natural heritage and cultural heritage are set out in Schedule 5.

**Division 2 Managing National Heritage places**

**10.01A National Heritage criteria (Act s 324D)**

- (1) For section 324D of the Act, subregulation (2) prescribes the National Heritage criteria for the following:
  - (a) natural heritage values of places;
  - (b) indigenous heritage values of places;
  - (c) historic heritage values of places.
- (2) The National Heritage criteria for a place are any or all of the following:
  - (a) the place has outstanding heritage value to the nation because of the place's importance in the course, or pattern, of Australia's natural or cultural history;
  - (b) the place has outstanding heritage value to the nation because of the place's possession of uncommon, rare or endangered aspects of Australia's natural or cultural history;
  - (c) the place has outstanding heritage value to the nation because of the place's potential to yield information that will contribute to an understanding of Australia's natural or cultural history;

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- (d) the place has outstanding heritage value to the nation because of the place's importance in demonstrating the principal characteristics of:
    - (i) a class of Australia's natural or cultural places; or
    - (ii) a class of Australia's natural or cultural environments;
  - (e) the place has outstanding heritage value to the nation because of the place's importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;
  - (f) the place has outstanding heritage value to the nation because of the place's importance in demonstrating a high degree of creative or technical achievement at a particular period;
  - (g) the place has outstanding heritage value to the nation because of the place's strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
  - (h) the place has outstanding heritage value to the nation because of the place's special association with the life or works of a person, or group of persons, of importance in Australia's natural or cultural history;
  - (i) the place has outstanding heritage value to the nation because of the place's importance as part of indigenous tradition.
- (3) For subregulation (2), the *cultural* aspect of a criterion means the indigenous cultural aspect, the non-indigenous cultural aspect, or both.

**10.01B Nomination of places for National Heritage List  
(Act s 324E)**

- (1) For subsection 324E (1) of the Act, a person nominates a place by making the nomination on a form approved by the Minister.
- (2) For subsection 324E (9) of the Act, the Minister's notice may specify a 3 month period during which nominations are to be made.

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**10.01C Matters to be addressed in management plan for National Heritage place (Act s 324S)**

A plan for a National Heritage place, made under section 324S of the Act, must address the matters set out in Schedule 5A.

**10.01D Publication of notice about management plan for National Heritage places (Act s 324S)**

For subsection 324S (6), the Minister must seek comments by publishing a notice that:

- (a) includes a statement that the Minister has prepared:
  - (i) a draft management plan; or
  - (ii) a draft amendment of a management plan; or
  - (iii) a draft replacement management plan; and
- (b) states how a copy of the draft can be obtained; and
- (c) invites comments on the draft from:
  - (i) members of the public; and
  - (ii) indigenous people with rights and interests in the relevant place; and
  - (iii) if the place is in a State or self-governing Territory — the responsible agency (if any) of the State or Territory; and
- (d) specifies the address to which comments may be sent; and
- (e) specifies a date (at least 20 days after the last day on which the notice is published) by which comments must be sent.

*Note* A notice mentioned in this regulation must be published in accordance with subregulation 16.05A (5).

**10.01E National Heritage management principles (Act s 324Y)**

For subsection 324Y (1) of the Act, the National Heritage management principles are set out in Schedule 5B.

### **Division 3                    Managing wetlands of international importance**

#### **10.02    Australian Ramsar management principles**

For subsection 335 (1) of the Act, the Australian Ramsar management principles for the management of wetlands included in the List of Wetlands of International Importance kept under the Ramsar Convention are set out in Schedule 6.

### **Division 4                    Managing Biosphere reserves**

#### **10.03    Australian Biosphere reserve management principles**

For subsection 340 (1) of the Act, the Australian Biosphere reserve management principles for the management of Biosphere reserves are set out in Schedule 7.

### **Division 5                    Managing Commonwealth Heritage places**

#### **10.03A   Commonwealth Heritage criteria (Act s 341D)**

- (1) For section 341D of the Act, subregulation (2) prescribes the Commonwealth Heritage criteria for the following:
  - (a) natural heritage values of places;
  - (b) indigenous heritage values of places;
  - (c) historic heritage values of places.
- (2) The Commonwealth Heritage criteria for a place are any or all of the following:
  - (a) the place has significant heritage value because of the place's importance in the course, or pattern, of Australia's natural or cultural history;
  - (b) the place has significant heritage value because of the place's possession of uncommon, rare or endangered aspects of Australia's natural or cultural history;

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- (c) the place has significant heritage value because of the place's potential to yield information that will contribute to an understanding of Australia's natural or cultural history;
  - (d) the place has significant heritage value because of the place's importance in demonstrating the principal characteristics of:
    - (i) a class of Australia's natural or cultural places; or
    - (ii) a class of Australia's natural or cultural environments;
  - (e) the place has significant heritage value because of the place's importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;
  - (f) the place has significant heritage value because of the place's importance in demonstrating a high degree of creative or technical achievement at a particular period;
  - (g) the place has significant heritage value because of the place's strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
  - (h) the place has significant heritage value because of the place's special association with the life or works of a person, or group of persons, of importance in Australia's natural or cultural history;
  - (i) the place has significant heritage value because of the place's importance as part of indigenous tradition.
- (3) For subregulation (2), the *cultural* aspect of a criterion means the indigenous cultural aspect, the non-indigenous cultural aspect, or both.

**10.03B Matters to be addressed in plan for Commonwealth Heritage place (Act s 341S)**

A plan for a Commonwealth Heritage place, made under section 341S of the Act, must address the matters set out in Schedule 7A.

**10.03C Publication of notice about management plan for Commonwealth Heritage places (Act s 341S)**

For paragraph 341S (6) (b) of the Act, the agency must seek comments by publishing a notice that:

- (a) includes a statement that the agency has prepared:
  - (i) a draft management plan; or
  - (ii) a draft amendment of a management plan; or
  - (iii) a draft replacement management plan; and
- (b) states how the draft can be obtained; and
- (c) invites comments on the draft from:
  - (i) members of the public; and
  - (ii) indigenous people with rights and interests in the place; and
  - (iii) if the place is in a State or self-governing Territory — the responsible agency (if any) of the State or Territory; and
- (d) specifies the address to which comments may be sent; and
- (e) specifies a date (at least 20 days after the last day on which the notice is published) by which comments must be sent.

*Note* A notice mentioned in this regulation must be published in accordance with subregulation 16.05A (5).

**10.03D Commonwealth Heritage management principles (Act s 341Y)**

For subsection 341Y (1) of the Act, the Commonwealth Heritage management principles are set out in Schedule 7B.

**10.03E Heritage strategies (Act s 341ZA)**

For paragraph 341ZA (3) (c) of the Act, a heritage strategy made by a Commonwealth agency must address the matters set out in Schedule 7C.

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**10.03F Report about review of heritage strategy  
(Act s 341ZA)**

For subsection 341ZA (6) of the Act, a report about the review of a Commonwealth agency heritage strategy must include the following:

- (a) an outline of consultation undertaken with relevant stakeholders in the review process;
- (b) a summary of the agency's achievements against its objectives for management of its heritage places;
- (c) an evaluation of the success of each of the matters included in a Commonwealth agency heritage strategy in achieving the identification, protection, conservation and presentation of Commonwealth Heritage values;
- (d) an update on the extent to which the identification and assessment of Commonwealth Heritage values of all agency property has been achieved, and the values included in an agency's heritage places register;
- (e) an update on the progress and timeliness of the preparation of management plans for Commonwealth Heritage places;
- (f) an outline of any physical and management changes that have occurred to the agency's Commonwealth Heritage places since the last strategy was prepared, and of any expected changes;
- (g) an update on progress with Commonwealth Heritage training programs;
- (h) a specification of the time-frame for updating the Heritage Strategy following the review;
- (i) an update on other heritage issues relevant to the agency's management of Commonwealth Heritage places in accordance with the Commonwealth Heritage Management Principles.

**10.03G Heritage assessments and registers (Act s 341ZB)**

- (1) For paragraph 341ZB (2) (a) of the Act, Commonwealth heritage values for a place may be identified by:
  - (a) considering all natural and cultural heritage values, recognising indigenous people as the primary source of information on the significance of their heritage and their



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- participation as necessary to identify and assess indigenous heritage values; and
- (b) identifying values against the Commonwealth heritage criteria; and
  - (c) using expert heritage advice to ensure that levels of documentary and field research are appropriate to best practice assessment and management of heritage values; and
  - (d) using a comparative and thematic approach; and
  - (e) consulting widely, as appropriate, with government agencies, stakeholders and the community.
- (2) For paragraph 341ZB (2) (b) of the Act, matters a register must include are the following:
- (a) a comprehensive description, and a clear plan showing the name and location, of each place that has Commonwealth Heritage values;
  - (b) a discrete heritage place identification number for each place;
  - (c) details of ownership, leases, licences, rental or other tenure arrangements, as applicable;
  - (d) a summary description of the significant physical characteristics and elements of the place;
  - (e) a sequential summary of the use of the place;
  - (f) a statement of significance for the place, identifying its heritage values and specifying any that are Commonwealth Heritage values;
  - (g) a record of any other heritage listings, providing relevant register numbers;
  - (h) a record of the date and nature of any works, maintenance or other activity at the place that is relevant to conservation of its heritage values;
  - (i) a specification of any property or information access restrictions or requirements;
  - (j) an outline of any consultation requirements relating to the place;
  - (k) a list of relevant conservation documents or references;
  - (l) a record of when information has been updated;

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- (m) cross references to:
  - (i) agency place records of any objects that are significant by association with the place, indicating their current location; and
  - (ii) archived records of particular importance to the heritage values of the place.
- (3) For paragraph 341ZB (2) (c) of the Act, a report to the Minister must include the following:
  - (a) an outline of the identification program;
  - (b) details of any surveys conducted, or expert advice obtained by, the agency to identify the Commonwealth Heritage values;
  - (c) a summary of the work undertaken with respect to each of the matters included in these Regulations for the identification and assessment of Commonwealth Heritage values.

**Division 6 Australian IUCN reserves**

**10.04 Australian IUCN reserve management principles**

For subsection 348 (1) of the Act, the IUCN reserve management principles for each IUCN category are:

- (a) the general administrative principles set out in Part 1 of Schedule 8; and
- (b) the principles set out for the category in Part 2 of Schedule 8.

## **Part 11 Commonwealth reserves**

### **Division 11.1 Application**

#### **11.01 Application of Part 11**

This Part applies to Commonwealth reserves.

### **Division 11.2 Boards for Commonwealth reserves on indigenous people's land**

#### **11.02 Disclosure of interests**

- (1) A member of a Board who has a direct or indirect pecuniary 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 member's knowledge, disclose the nature of that interest at a meeting of the Board.
- (2) A disclosure under subregulation (1) must be recorded in the minutes of the meeting of the Board.

#### **11.03 Deputy members**

- (1) If, under subsection 377 (4) of the Act, a majority of the members of a Board must be nominated by the traditional owners of indigenous people's land situated in the reserve, the traditional owners may nominate another indigenous person, as the deputy of each member so nominated.
- (2) A member of a Board who was not nominated by the traditional owners of indigenous people's land in the reserve may, with the Minister's approval, nominate, as the deputy of the member, a person who is qualified to be a member.

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- (3) A person who is nominated to be the deputy of a member of a Board may, if the member is absent from a meeting of the Board, attend the meeting and, when attending, is taken to be a member of the Board.
- (4) However, a person who is nominated to be the deputy of a member of a Board must not preside at a meeting of the Board.
- (5) If the traditional owners of indigenous people's land in the reserve for which a Board is established nominate a person under subregulation (1) to be the deputy of a member of the Board, the traditional owners may revoke the nomination.
- (6) A member of a Board who was not nominated by the traditional owners of indigenous people's land situated in the reserve for which the Board is established may, with the Minister's approval, revoke a nomination made by the member under subregulation (2).
- (7) A deficiency or irregularity in the selection or nomination of a person as the deputy of a member of a Board does not invalidate the actions of the person as the deputy of a member of the Board.

**11.04 Presiding members**

- (1) A Board may, by resolution, appoint a member of the Board to be the presiding member of the Board.
- (2) A member appointed to be presiding member of a Board holds office for the period determined by the Board at the time of the member's appointment to the office.
- (3) However, a member of a Board ceases to hold office as presiding member of the Board if:
  - (a) the member resigns the office; or
  - (b) the Board revokes the member's appointment to the office;  
or
  - (c) the member ceases to be a member of the Board.

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**11.05 Meetings**

- (1) Meetings of a Board must be held at the times and places determined by the Board from time to time.
- (2) The presiding member of a Board may at any time, and, if directed by the Minister, must, convene a meeting of the Board.
- (3) A Board must determine its procedures and determine which persons are to be permitted to attend or participate in meetings of the Board.
- (4) At a meeting of a Board, a number of members greater than half the number of persons who constitute the Board constitute a quorum.
- (5) However, a meeting of the Board must neither be held nor continue unless:
  - (a) at least 1 of the members of the Board present at the meeting is a member nominated by someone other than the traditional owners of indigenous people's land in the reserve for which the Board is established; and
  - (b) the majority of the members of the Board present at the meeting are members nominated by the traditional owners of the indigenous people's land.
- (6) The presiding member of a Board must preside at all meetings of the Board.
- (7) However, if the presiding member of a Board is absent from a meeting of the Board, the members of the Board who are present must elect 1 of their number to preside at the meeting.
- (8) Decisions of a Board must be determined by a majority of the members of the Board present and voting.
- (9) The member of a Board who is presiding at a meeting of the Board has a deliberative vote and, if votes are tied, also has a casting vote.

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**Division 11.3 Special rules for some Commonwealth reserves in the Northern Territory and Jervis Bay Territory**

**Subdivision 11.3.1 Prescribed routes and activities for mining operations**

**11.06 Transportation routes in Kakadu National Park**

For paragraph 387 (2) (b) of the Act, the routes mentioned in Part 1 of Schedule 9 are prescribed.

**11.07 Pipeline and power line routes in Kakadu National Park**

For paragraph 387 (2) (c) of the Act, the routes mentioned in Part 2 of Schedule 9 are prescribed.

**11.08 Activities in Kakadu National Park**

For paragraph 387 (2) (e) of the Act, the non-destructive monitoring of the environment is a prescribed activity.

**Subdivision 11.3.2 Town plans**

**11.09 Purpose of Subdivision 11.3.2**

For subparagraph 388 (1) (b) (iii) and subsection 389 (5) of the Act, this Subdivision sets out the requirements for preparing, approving, revoking and amending a town plan.

**11.10 Approval of town plan by Director**

- (1) If a management plan for a Commonwealth reserve provides for the establishment or development of a township, a person proposing to establish or develop the township must give a town plan to the Director.

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- (2) The Director must, within 1 month after the plan is given to him or her, make a decision:
  - (a) approving or rejecting the plan; or
  - (b) requiring the plan to be amended.
- (3) Before making a decision under subregulation (2), the Director must tell the Minister what action he or she proposes to take.
- (4) The Director must tell the person in writing of the decision and, if the plan is required to be amended, give details of the amendments required.
- (5) If the Director requires a plan to be amended:
  - (a) the person may give the amended plan to the Director; and
  - (b) the Director must, within 1 month after receiving the amended plan, make a decision:
    - (i) approving or rejecting the amended plan; or
    - (ii) requiring the plan to be further amended; and
  - (c) the Director must tell the person in writing of the decision and, if the plan is required to be further amended, give details of the amendments required.
- (6) Before making a decision under paragraph (5) (b), the Director must tell the Minister what action he or she proposes to take.
- (7) The Director may require an amended plan to be further amended as often as the Director considers necessary.

**11.11 Director may prepare plan**

- (1) The Director may cause a town plan to be prepared if:
  - (a) both:
    - (i) a management plan for a Commonwealth reserve provides for a township to be established or developed on land held under lease from the Director; and
    - (ii) no notice of intention to give a town plan to the Director is received by the Director within 6 months after the day when the management plan comes into operation; or

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- (b) a management plan for a Commonwealth reserve provides for a township to be established or developed by the Director.
- (2) The Director must give a plan prepared under subregulation (1) to the Minister for the Minister's approval.

**11.12 Amending approved plan**

- (1) If a person amends a town plan that has been approved under regulation 11.10, the person must give the approved plan as amended to the Director.
- (2) Regulation 11.10 applies to amendments of an approved town plan as if references in that regulation to a town plan were references to an approved town plan as amended.

**11.13 Revocation of town plan**

- (1) The Director may revoke a town plan that has been approved under regulation 11.10 (an *approved town plan*) if:
  - (a) the management plan for the Commonwealth reserve no longer provides for an approved town plan; or
  - (b) because of changed circumstances, an approved town plan is no longer necessary.
- (2) Before revoking an approved town plan, the Director must:
  - (a) by notice published in a newspaper circulating in the area affected by the approved town plan, invite interested persons to make representations about the proposed revocation by the date specified in the notice; and
  - (b) give due consideration to any representations made; and
  - (c) tell the Minister about the proposed revocation and give the Minister any representations made.



## **Part 12                    Activities in Commonwealth reserves**

### **Division 12.1           Preliminary**

#### **12.01    Purpose of Part 12**

For section 356 of the Act, this Part provides for controlling activities relating to Commonwealth reserves.

#### **12.02    Application of Part 12**

This Part applies to Commonwealth reserves.

#### **12.03    Determinations by the Director**

In making a determination under this Part to control an activity in a Commonwealth reserve, the Director may take into account whether the activity might:

- (a) endanger public safety; or
- (b) interfere with the protection or conservation of biodiversity or heritage; or
- (c) interfere with the protection of features or facilities in the reserve; or
- (d) interfere with the privacy of a cultural event to be held in the reserve by the traditional owners of indigenous people's land; or
- (e) interfere with the continuing cultural use of the reserve, including residence, by the traditional owners of indigenous people's land; or
- (f) interfere with the privacy of other persons.

#### **12.04    Specifying time by reference to events**

For this Part, time may be measured by reference to events, including the following:

- (a) the rising or setting of the sun;

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- (b) forecast or actual meteorological conditions including temperature, wind, rainfall or fire danger;
- (c) the ebb or flow of tides;
- (d) fire, flood, earthquake, storm or other natural disasters;
- (e) seasons;
- (f) the arrival or departure of migratory species;
- (g) the occurrence or duration of a cultural event.

**12.05    Publication requirement**

For this Part, if an instrument must be published and the way of publication is not stated, it must be published in the *Gazette*.

**Division 12.2            Regulatory provisions**

**Subdivision 12.2.1    Preliminary**

**12.06    Activities that are not offences under Division 12.2**

- (1) An offence provision in this Division does not apply to an activity that:
  - (a) is provided for by, and carried out in accordance with, a management plan in force for the reserve; or
  - (b) is carried out by the Director, a ranger, warden or inspector; or
  - (c) is authorised by a permit in force under subregulation (2); or
  - (d) is carried out by an indigenous person in accordance with conditions mentioned in regulation 12.08; or
  - (e) is carried out on indigenous people's land in a jointly managed reserve:
    - (i) by a traditional owner of the land and is a traditional use of the land; or
    - (ii) by an indigenous person who is entitled by Aboriginal tradition to use or occupy the land, whether or not the entitlement is qualified as to place, time, circumstance, purpose or permission, and is a traditional use of the land; or

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- (f) is approved under Part 9 of the Act for subsection 23 (1) or (2), 24A (1), (2), (3) or (4), 26 (1) or (2) or 27A (1), (2), (3) or (4) of the Act; or
- (g) is:
  - (i) in a class of actions declared by the Minister not to require approval under Part 9 of the Act for subsection 23 (1) or (2), 24A (1), (2), (3) or (4), 26 (1) or (2) or 27A (1), (2), (3) or (4) of the Act; and
  - (ii) is taken in accordance with a management plan that is an accredited management plan for the purposes of the declaration; or
- (h) is provided for by, and carried out in accordance with, a wildlife conservation plan, a recovery plan or a threat abatement plan in force under Division 5 of Part 13 of the Act; or
- (i) is carried out by a Commonwealth agency, or an agency of a State or of a self-governing Territory and is reasonably necessary for law enforcement; or
- (j) is reasonably necessary to deal with an emergency involving a serious threat to human life or property; or
- (k) occurs because of an unavoidable accident, other than an accident caused by negligent or reckless behaviour; or
- (l) is carried out in accordance with a lease or licence granted by the Director; or
- (m) is carried out by a person who is complying with a direction given to the person by:
  - (i) the Director; or
  - (ii) a ranger or warden; or
  - (iii) a police officer or an emergency services officer in the performance of his or her duties.

*Note 1* By operation of other provisions of law, certain activities may also be carried out without breaching the offence provisions under this Part. See, for example, section 359A of the Act, section 211 of the *Native Title Act 1993*, the *Aboriginal Land Rights (Northern Territory) Act 1976* and the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986*.

*Note 2* For acts that a person must not do in a Commonwealth reserve except in accordance with a management plan in operation for the reserve — see Act, subsection 354 (1).

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- (2) The Director may issue a permit, in accordance with Part 17, authorising a person to carry out an activity that is prohibited under this Division.

**12.07 Regulations not applying in Jabiru township**

The following regulations do not apply in the Jabiru township:

- (a) 12.12 (Damaging, defacing features etc);
- (b) 12.14 (Dumping of waste, littering etc);
- (c) 12.18 (Use etc of firearms, nets and other devices)
- (d) 12.23 (Entering prohibited or restricted area);
- (e) 12.24 (Capturing images or recording sound);
- (f) 12.27 (Public nuisance);
- (g) 12.28 (Camping);
- (h) 12.30 (Lighting fires);
- (i) 12.31 (Public gatherings);
- (j) 12.35 (Fishing other than commercial fishing);
- (k) 12.36 (Commercial activities);
- (l) 12.38 (Deriving commercial gain from images captured);
- (m) 12.39 (Collections);
- (n) 12.40 (Erecting signs);
- (o) 12.41 (Vehicle use of tracks or roads);
- (p) 12.43 (Speed limits and one-way traffic);
- (q) 12.44 (Parking and stopping).

**12.08 Authorising activities by indigenous people**

- (1) For paragraph 12.06 (1) (d), the Director and a land council may agree to conditions under which an indigenous person may carry out the following activities in Commonwealth reserves:
- (a) enter an area to which access is restricted or prohibited;
  - (b) take or keep an organism that is a member of a native species;

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- (c) use a vehicle, vessel or aircraft in an area in which the use of the vehicle, vessel or aircraft is prohibited;
  - (d) take a dog into a Commonwealth reserve;
  - (e) take firewood from a Commonwealth reserve;
  - (f) carry out a cultural activity in a Commonwealth reserve.
- (2) Without limiting subregulation (1), the conditions may include a requirement that the activity may only take place during the period, in the area or in the manner specified in the condition.

*Note* By operation of other provisions of law, certain activities may be carried out by indigenous persons without authorisation from the Director under this Division. See, for example, section 359A of the Act, section 211 of the *Native Title Act 1993*, the *Aboriginal Land Rights (Northern Territory) Act 1976* and the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986*.

**12.09 Activities in Commonwealth reserves where management plans in force**

- (1) If the management plan for a Commonwealth reserve provides that an activity mentioned in subsection 354 (1) of the Act may be done in accordance with a permit issued by the Director under this Division, the Director may issue a permit in accordance with Part 17 for the activity.
- (2) If the management plan for a Commonwealth reserve provides that commercial fishing may be carried out in the reserve in accordance with a determination by the Director under this Division, a person who carries out commercial fishing in the reserve must comply with a determination by the Director under regulation 12.34.
- (3) If the management plan for a Commonwealth reserve provides that fishing (other than commercial fishing) may be carried out in the reserve in accordance with a determination by the Director under this Division, a person who carries out fishing (other than commercial fishing) in the reserve must comply with a determination by the Director under regulation 12.35.

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**Subdivision 12.2.2 General offences**

**12.10 Scientific research**

- (1) A person must not carry out scientific research in a Commonwealth reserve.

Penalty: 20 penalty units.

- (2) However, subregulation (1) does not apply to anthropological research carried out by a land council under the *Aboriginal Land Rights (Northern Territory) Act 1976* or the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986*.

- (3) In this regulation:

*scientific*, for research, includes archaeological and anthropological.

**12.11 Excavating, building and works**

A person must not carry on an excavation, erect a building or other structure or carry out works in a Commonwealth reserve.

Penalty: 50 penalty units.

**12.12 Damaging, defacing features etc**

A person must not, in a Commonwealth reserve, damage, deface, obstruct, remove or interfere with:

- (a) a natural feature; or  
(b) an object, sign or structure.

Penalty: 25 penalty units.

**12.13 Damaging etc heritage**

A person must not, in a Commonwealth reserve, damage, deface, move, possess or interfere with heritage.

Penalty: 50 penalty units.

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**12.14 Dumping of waste, littering etc**

- (1) Subregulation (2) applies to the following substances:
  - (a) minerals, mineral waste and any other solid waste;
  - (b) any noxious, offensive or polluting substance.
- (2) A person must not discharge or leave a substance mentioned in subregulation (1) in a Commonwealth reserve other than in an area approved or provided for the purpose by the Director.

Penalty: 50 penalty units.

- (3) A person must not release liquid or gaseous material in a Commonwealth reserve if the release is likely:
  - (a) to pollute the air, soil, water or a watercourse; or
  - (b) to be harmful to native species; or
  - (c) to be harmful or offensive to another person.

Penalty: 50 penalty units.

- (4) A person must not leave any litter, dung or other refuse in a Commonwealth reserve except in an area or receptacle approved or provided for that purpose by the Director.

Penalty: 10 penalty units.

- (5) However, subregulation (4) does not apply to matter to which subregulation (2) or (3) applies.
- (6) An offence against this regulation is a strict liability offence.

**12.15 Use of poisonous substances**

- (1) A person must not use or introduce a pesticide, herbicide or other poisonous substance in a Commonwealth reserve.

Penalty: 30 penalty units.

- (2) However, subregulation (1) does not apply to the reasonable use of a pesticide, herbicide or other poisonous substance by a person for a domestic purpose.

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**12.16 Fossicking, removal of earth materials etc**

A person must not, in a Commonwealth reserve:

- (a) introduce, disturb, or remove minerals, clay, sand, stone or other earth materials; or
- (b) fossick.

Penalty: 50 penalty units.

**12.17 Activities relating to caves and karst**

A person must not, in a Commonwealth reserve:

- (a) enter a cave; or
- (b) interfere with anything within a cave; or
- (c) release a substance into waters that flow through a cave or karst area.

Penalty: 25 penalty units.

**12.18 Use etc of firearms, nets and other devices**

(1) A person must not use or possess, in a Commonwealth reserve:

- (a) a firearm; or
- (b) a flail or spear; or
- (c) a snare or trap; or
- (d) a hunting-bow, spear gun or any other device designed to discharge a projectile; or
- (e) a device for detecting minerals or metal; or
- (f) explosives or fireworks; or
- (g) a chainsaw; or
- (h) any device that can be used, or is designed, for taking an animal, other than a hook and line for catching fish or a hand-held net designed to land a fish caught on a hook and line.

Penalty: 30 penalty units.



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- (2) However, subregulation (1) does not apply to:
- (a) use or possession of the item by a person to carry out commercial fishing operations that are authorised by a law of the Commonwealth, a State or self-governing Territory or by a permit issued by the Director; or
  - (b) possession of the item by a person on a vessel in passage through a marine area.
- (3) Also, paragraph (1) (a) does not apply to a police officer who is acting in that capacity.
- (4) Also, paragraph (1) (a) does not apply to a firearm that is registered under a law of the Northern Territory for the registration of firearms and is in the possession of:
- (a) a person who is a resident of the Jabiru township and uses or possesses the firearm in a place in Kakadu National Park that is occupied under a lease or licence, from the Director, for recreational shooting; or
  - (b) a person who is a resident of the Jabiru township and is transporting the firearm:
    - (i) to or from a place mentioned in paragraph (a); or
    - (ii) on the Arnhem or Kakadu Highway, the road between the Arnhem Highway and Oenpelli or the road between the Kakadu Highway and Coinda.
- (5) Also, paragraph (1) (g) does not apply to:
- (a) a person who carries or has control of a chainsaw in a vehicle, vessel or aircraft in passage through a reserve if the chainsaw is not removed from the vehicle, vessel or aircraft; or
  - (b) a person who is clearing fallen timber from a road or track that the person is permitted to use; or
  - (c) possession or use of a chainsaw in a township.
- (6) Also, paragraph (1) (h) does not apply to the possession of a prawning net by a person who is in Booderee National Park and is going directly to a place in the City of Shoalhaven in New South Wales where the net may be used lawfully to take prawns.

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**12.19 Taking animals into Commonwealth reserve**

- (1) A person must not cause or allow an animal owned by, or in the charge of, the person, to enter or remain in a Commonwealth reserve.

Penalty: 20 penalty units.

- (2) A person is taken to have contravened subregulation (1) if the person places a beehive in a Commonwealth reserve.

- (3) However, subregulation (1) does not apply to:

- (a) the use of a dog or animal that:

(i) is a guide dog used by a blind person, a hearing dog used by a deaf person or an assistance animal used by a person with a disability; and

(ii) is at all times restrained on a lead not more than 3 metres in length; or

- (b) taking the carcass of an animal into a Commonwealth reserve as food for the person or a dog or animal mentioned in paragraph (a); or

- (c) a person, if the animal is confined to a vessel and the person is on a vessel in passage through a marine area.

- (4) A person who, in accordance with a permit or other authority under these Regulations, takes an animal into, or has in his or her possession an animal in, a Commonwealth reserve must not:

- (a) allow the animal to be at large; or

- (b) fail to remove the animal from the reserve:

(i) if the person lives in the reserve — when the person ceases to live there; or

(ii) in any other case — when the person leaves the reserve.

Penalty: 20 penalty units.

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- (5) A person who takes the carcass of an animal into a Commonwealth reserve as food must not, within 50 metres of an area of water in the reserve, dismember, disembowel or skin the carcass.

Penalty: 20 penalty units.

- (6) It is a defence to a prosecution for an offence under paragraph (4) (b) that the person has transferred the ownership of the animal to another person in the reserve in accordance with the permit or authority.

**12.20 Taking plants into Commonwealth reserve**

- (1) A person must not cause or allow a plant to be taken into, or possess a plant in, a Commonwealth reserve.

Penalty: 20 penalty units.

- (2) Subregulation (1) does not apply to:

- (a) taking into the Jabiru township a plant of a kind included by the Director on a list of plants given by the Director to the Authority and to residents of the Jabiru township; or
- (b) taking a plant into a Commonwealth reserve to cultivate or propagate the plant on land held under a lease or licence granted by the Director, if the plant may be cultivated or propagated under the lease or licence; or
- (c) taking a plant into a Commonwealth reserve as food.

- (3) Also, subregulation (1) does not apply to a person who takes a plant into, or possesses a plant, in a reserve if the plant is:

- (a) confined in a vehicle on a road; or
- (b) confined in a vessel on a watercourse.

- (4) However, subregulations (2) and (3) have no effect if the plant is a member of a species that is:

- (a) included in a list mentioned in section 301A of the Act; or
- (b) stated, in a management plan for the reserve, to be a pest species.

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- (5) For subregulation (4), a plant is confined in a vehicle or vessel only if no part of the plant is capable of being spread beyond the vehicle or vessel.

**12.21 Cultivating plants**

- (1) A person must not cultivate or propagate a plant in a Commonwealth reserve.

Penalty: 30 penalty units.

- (2) Subregulation (1) does not apply to cultivating or propagating a plant:

- (a) in the township, if the plant is:
- (i) a member of a native species; and
  - (ii) of a kind included by the Director in a list of plants given by the Director to the Authority and to residents of the township; or
- (b) on land that is not in the township, if:
- (i) the land is held under a lease or licence granted by the Director; and
  - (ii) the plant may be cultivated or propagated under the lease or licence.

- (3) However, subregulation (2) has no effect if the plant is a member of a species that is:

- (a) included in a list mentioned in section 301A of the Act; or
- (b) in a management plan for the reserve, stated to be a pest species.

**12.22 Failing to comply with directions to remove plants**

- (1) This regulation applies if the Director directs a person in writing to remove a plant that:

- (a) is cultivated or propagated in contravention of subregulation 12.21 (1); and
- (b) is growing on land occupied by the person.

- (2) The person must comply with the direction.

Penalty: 30 penalty units.

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- (3) A ranger or warden may destroy or remove a plant:
  - (a) that is cultivated or propagated in contravention of subregulation 12.21 (1); and
  - (b) for which a direction mentioned in subregulation (1) has been given but has not been complied with.

*Note* Regulation 12.66 deals with control of non-native species generally.

**12.23 Entering prohibited or restricted area**

- (1) A person must not enter a Commonwealth reserve or a part of a reserve in contravention of a prohibition or restriction imposed by the Director under subregulation (3).

Penalty: 50 penalty units.

- (2) If the reserve is a jointly managed reserve, subregulation (1) does not apply to a member or officer of a land council for indigenous people's land, in the part of the reserve entered, who is performing his or her duties as a member or officer.
- (3) For subregulation (1), the Director may prohibit or restrict entry:
  - (a) by persons generally or by a class of persons; and
  - (b) at all times, at specified times or for a specified period; and
  - (c) to all or part of the reserve.
- (4) Notice of a prohibition or restriction must be published, unless the prohibition or restriction deals with an emergency or meteorological conditions that:
  - (a) may endanger public safety; and
  - (b) were not known in sufficient time for publication.

**12.24 Capturing images or recording sound**

- (1) A person must not capture an image or record a sound in or of a Commonwealth reserve in contravention of a prohibition or restriction imposed by the Director under subregulation (3).

Penalty: 50 penalty units.

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- (2) If the reserve is a jointly managed reserve, subregulation (1) does not apply to a member or officer of a land council for indigenous people's land, in the part of the reserve where the image is captured or the sound is recorded, who is performing his or her duties as a member or officer.
- (3) For subregulation (1), the Director may prohibit or restrict the capturing of images or recording of sounds:
  - (a) generally or to a class of persons; and
  - (b) at all times, at specified times or for a specified period; and
  - (c) in all or part of the reserve.
- (4) Notice of a prohibition or restriction must be published.
- (5) The Director, a ranger or a warden may, at any time, require a person who has captured an image or recorded a sound in contravention of subregulation (1) to surrender the following:
  - (a) all copies and forms of the image or sound recording;
  - (b) any device or means used to capture the image or record the sound.

**12.25 Failing to comply with safety directions**

- (1) If the Director, a ranger or a warden believes that the safety of a person in a Commonwealth reserve is, or is likely to be, endangered, the Director, ranger or warden may give to the person or another person directions necessary to ensure the safety of the person.
- (2) A person must comply with a reasonable direction given under subregulation (1) to the person.

Penalty: 30 penalty units.

**12.26 Adventurous activities**

- (1) A person must not carry out any of the following activities in a Commonwealth reserve other than in an area provided for the activity under a determination made by the Director under subregulation (2):
  - (a) climbing, abseiling on, or jumping from, rock faces;

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- (b) bungee jumping or BASE-jumping;
- (c) hang gliding or paragliding.

Penalty: 30 penalty units.

- (2) For subregulation (1), the Director may determine that:
  - (a) an area is provided for an adventurous activity; and
  - (b) the activity in that area may be carried out:
    - (i) in a specified manner; and
    - (ii) by specified persons or a specified class of persons; and
    - (iii) at all times, at specified times or during a specified period.
- (3) Notice of a determination under subregulation (2) must be published.

**12.27 Public nuisance**

- (1) A person must not, in a Commonwealth reserve:
  - (a) cause a remotely controlled device to be flown or operated; or
  - (b) use a public address system, loud speaker or other device or equipment that produces loud noise; or
  - (c) use a portable generator or alternator except in an area determined by the Director under subregulation 12.28 (4) to be an area where portable generators may be used.

Penalty: 10 penalty units.

- (2) A person must not, in a Commonwealth reserve:
  - (a) behave in a disorderly, offensive or indecent manner; or
  - (b) obstruct, disturb, or annoy a person engaged in the proper use of the reserve; or
  - (c) intentionally throw or roll a stone or similar object.

Penalty: 10 penalty units.

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**12.28    Camping**

- (1) A person may camp, in a Commonwealth reserve, only in a camping area or a camping site described in a determination made by the Director under subregulation (3).

Penalty: 10 penalty units.

- (2) A person who camps in a camping area or camping site must comply with any determination for the area or site made by the Director under subregulation (4).

Penalty: 10 penalty units.

- (3) For subregulation (1), the Director may determine in writing:
- (a) that a part of a Commonwealth reserve is a camping area; and
  - (b) that a part of a camping area is a camping site, defined by reference to natural features or other objects, structures or survey points.
- (4) For subregulation (2), the Director may, for a camping area or for a part of a camping area, determine in writing:
- (a) the maximum number of persons who may camp in the area at the same time; and
  - (b) the maximum number of camping sites in the area that may be occupied at the same time; and
  - (c) the maximum number of tents that may be used on a camping site at the same time; and
  - (d) the maximum number of persons who may camp in a camping site at the same time; and
  - (e) the maximum length of time a person may camp in the area, during a specified time of the year or at all times; and
  - (f) the quantity and nature of equipment that may be used on a camping site and where it must be placed; and
  - (g) that the area is set aside for a specified kind of camping or for camping by specified persons; and
  - (h) that the area is not to be used for camping for a specified period; and
  - (i) when portable generators may be operated in the area; and



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- (j) that camping in the area is subject to specified restrictions on:
  - (i) digging trenches; or
  - (ii) the use of trees or structures.
- (5) Notice of a determination under subregulation (3) or (4) must be published, unless the determination is made to deal with an emergency that may endanger public safety.
- (6) An offence against this regulation is a strict liability offence.

**12.29 Failing to comply with directions about camping**

- (1) To give effect to regulation 12.28, a ranger or warden may direct a person to camp only in a specified camping area or site.
- (2) A person given a direction by a ranger or warden under subregulation (1) may camp only in the specified camping area or site.  
  
Penalty: 10 penalty units.
- (3) An offence against this regulation is a strict liability offence.

**12.30 Lighting fires**

- (1) A person must not light, maintain or use a fire in a Commonwealth reserve, or in a part of the reserve:
    - (a) while a total fire ban declared under subregulation (4) by the Director is in force for the reserve, or that part of the reserve; or
    - (b) at any other time — except in:
      - (i) a portable barbecue or stove; or
      - (ii) a fireplace provided by the Director; or
      - (iii) a fireplace of a kind approved by the Director; or
      - (iv) a place approved by the Director.
- Penalty: 50 penalty units.

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- (2) A person who lights, maintains or uses a fire must not leave the fire unattended.
- Penalty: 50 penalty units.
- (3) A person who lights or uses a fire for cooking or heating in part of a reserve must not use any fuel that is prohibited under the management plan to be used in that part of the reserve.
- Penalty: 15 penalty units.
- (4) For paragraph (1) (a), the Director may declare that a period mentioned in the declaration is a period of total fire ban.
- (5) Notice of a declaration made under subregulation (4) must:
- (a) state that during the period of total fire ban, the lighting, maintenance or use of a fire is prohibited in the reserve or the part of the reserve to which the fire ban applies; and
  - (b) be published in a newspaper circulating in the area to which the declaration applies; and
  - (c) be prominently displayed on a sign at each entrance station of the reserve.
- (6) However, the Director need not comply with paragraph (5) (b) or (c) if:
- (a) no newspaper circulates in that area; or
  - (b) the circumstances that make the total fire ban necessary were not known in sufficient time for publication in a newspaper; or
  - (c) it is not practicable to display a notice at each entrance station.
- (7) If the Director relies on subregulation (6), the Director must give notice of the declaration having regard to the forms of communication available for giving notice to persons likely to be in that area.

**12.31 Public gatherings**

- (1) A person must not organise or attend a public gathering of more than 15 persons in a Commonwealth reserve.
- Penalty: 10 penalty units.

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- (2) Subregulation (1) does not apply to a gathering that is:
  - (a) to take place, or is taking place, in accordance with a lease or licence granted by the Director; or
  - (b) organised by the Director.

**12.32 Burials**

- (1) A person may bury human remains in a Commonwealth reserve only:
  - (a) in a burial area determined by the Director under subregulation (3); and
  - (b) in accordance with a permit issued by the Director.

Penalty: 20 penalty units.

- (2) However, subregulation (1) does not apply to a burial that the Director has authorised to take place as an emergency to prevent endangering public safety or health.
- (3) For subregulation (1), the Director may determine in writing that an area in a Commonwealth reserve is a burial area.
- (4) Notice of a determination under subregulation (3) must be published.

**12.33 Erection of commemorative markers**

A person must not, in a Commonwealth reserve:

- (a) erect or display a commemorative marker, whether temporarily or permanently; or
- (b) engage in commemorative activities associated with a commemorative marker.

Penalty: 20 penalty units.

**12.34 Commercial fishing**

- (1) A person may carry out commercial fishing in a Commonwealth reserve only if the person is authorised by:
  - (a) a law of the Commonwealth, a State or self-governing Territory; or

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(b) a permit issued by the Director.

Penalty: 50 penalty units.

(2) A person who is authorised by a law of the Commonwealth, a State or self-governing Territory or a permit issued by the Director to carry out commercial fishing in a Commonwealth reserve, or in a part of a reserve, must comply with any determination for the reserve, or the part, made by the Director under subregulation (3).

Penalty: 50 penalty units.

(3) For subregulation (2), the Director may determine, for a Commonwealth reserve or a part of a reserve, that:

- (a) specified kinds of fishing gear cannot be carried or used; and
- (b) specified kinds of fishing gear are required to be carried or used by a person who is fishing or intending to fish; and
- (c) specified practices in commercial fishing are prohibited; and
- (d) specified practices in commercial fishing are to be followed.

(4) The Director may determine that a prohibition or requirement mentioned in subregulation (3) is to apply at all times, at specified times or during a specified period.

(5) Notice of a determination under subregulation (4) must be published.

**12.35 Fishing other than commercial fishing**

(1) This regulation applies to fishing other than commercial fishing.

(2) A person must not fish in a Commonwealth reserve in contravention of a determination made by the Director under subregulation (3).

Penalty: 30 penalty units.

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- (3) For subregulation (2), the Director may determine in writing:
- (a) that an area of water is an area where fishing is prohibited at all times, at specified times or during a specified period; and
  - (b) for an area of water where fishing is allowed:
    - (i) that specified kinds of fishing gear cannot be carried or used; and
    - (ii) that specified kinds of fishing gear are required to be carried or used by a person who is fishing or intending to fish; and
    - (iii) the kind of fish that a person may take or must not take; and
    - (iv) the maximum number of fish, or maximum number of a species of fish, that a person may take in a day; and
    - (v) the minimum or maximum size of fish that a person may take; and
    - (vi) the maximum size of fillets of fish that a person may have in the reserve; and
    - (vii) that if a person stores any fish in a freezer, the fish must be stored in bags clearly marked with the name of the person who owns the fish; and
    - (viii) that tethering of fish (whether or not alongside a boat) is prohibited.
- (4) A person who is fishing in an area of water must not:
- (a) use equipment that allows the person to breathe under the surface of the water; or
  - (b) attract or take fish using, or install, equipment other than:
    - (i) a rod and line to which a single hook or fishing lure is attached; or
    - (ii) a hand-held line to which a single hook or fishing lure is attached; or
    - (iii) a hand-held net designed to land a fish caught on a hook or fishing lure to which a line is attached; or

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- (c) use a hand-held net to take a fish that has not been caught on a hook or fishing lure attached to a line.

Penalty: 30 penalty units.

- (5) A person must not, in a Commonwealth reserve:
- (a) use a live animal as bait for fishing; or
  - (b) use a member of a native species, other than a species of fish, as bait for fishing; or
  - (c) fish by leaving a fishing line unattended; or
  - (d) clean fish taken under this regulation, within 50 metres of a freshwater stream, watercourse or lake, except at a facility provided by the Director for that purpose; or
  - (e) clean or fillet fish within a marine area.

Penalty: 15 penalty units.

- (6) Notice of a determination under subregulation (3) must be published, unless the determination is made to deal with an emergency that may endanger public safety.

**12.36 Commercial activities**

- (1) A person must not carry out a commercial activity in a Commonwealth reserve.

Penalty: 30 penalty units.

- (2) For subregulation (1), an activity is taken to be carried out in a Commonwealth reserve if:

- (a) the activity is carried out in airspace between the reserve and 3 000 metres above mean sea level; or
- (b) it results in a commercial activity being carried out in the reserve, whether or not the activity took place in the reserve.

- (3) However, subregulation (1) does not apply to a person who is:

- (a) carrying out licensed commercial fishing operations in accordance with regulation 12.34; or

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- (b) travelling:
- (i) on a merchant vessel in passage through a marine area; or
  - (ii) on an aircraft using an approved flight path for an approach to landing at, or for departure from, an airport.

**12.37 Sale of liquor**

A person must not sell liquor in Kakadu National Park.

Penalty: 20 penalty units.

**12.38 Deriving commercial gain from images captured**

- (1) A person must not use a captured image of a Commonwealth reserve to derive commercial gain.

Penalty: 30 penalty units.

- (2) For subregulation (1):

*captured image* includes an image that was not captured for a commercial purpose or in contravention of the Act or these Regulations.

**12.39 Collections**

A person must not, in a Commonwealth reserve, collect money or goods as gifts from members of the public.

Penalty: 10 penalty units.

**12.40 Erecting signs**

- (1) A person must not display or erect in a Commonwealth reserve:

- (a) a sign that is likely to be mistaken for a sign erected under these Regulations; or
- (b) a flag, banner, promotional device or image.

Penalty: 5 penalty units.

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- (2) However, subregulation (1) does not apply to displaying or erecting a sign, flag, banner, promotional device or image (other than a sign to which paragraph (1) (a) applies), on land held under a licence or lease granted by the Director, in accordance with the licence or lease.
- (3) A sign or other device displayed or erected in the reserve that purports to be a sign erected under these Regulations is, unless the contrary is established, taken to have been displayed or erected by the Director.

**Subdivision 12.2.3 Traffic**

**12.41 Vehicle use of tracks or roads**

- (1) A person may drive, ride or tow a vehicle only:
  - (a) on a road that is not a restricted access road; or
  - (b) on a public access track; or
  - (c) in a camping area or parking area.

Penalty: 15 penalty units.

- (2) A person must not drive, ride or tow a vehicle on a track or road in contravention of any prohibition or restriction imposed by the Director under subregulation 12.42 (4).

Penalty: 15 penalty units.

- (3) However, subregulations (1) and (2) do not apply, in a jointly managed reserve, to a member or officer of a land council for indigenous people's land, in the part of the reserve where the vehicle is, who is performing his or her duties as a member or officer.

**12.42 Director's control of vehicle use of tracks or roads**

- (1) For paragraph 12.41 (1) (a) or (b), the Director may determine that:
  - (a) a road or track is a restricted access road; or
  - (b) a track is a public access track.



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- (2) The Director must give notice of a determination for subregulation (1) by:
  - (a) displaying a suitable sign, in accordance with subregulation 12.53 (1), near any area affected by the determination; or
  - (b) stating the effect of the determination in a management plan for the reserve.
- (3) For subregulation 12.41 (2), the Director may prohibit or restrict the use of vehicles, or a class of vehicles, on a track or road in a Commonwealth reserve.
- (4) The Director must display notice of a prohibition or restriction under subregulation (3) on a suitable sign beside the track or road at a point near which the public may gain access to the track or road.
- (5) Notice of a determination under subregulation (3) must be published, unless the determination:
  - (a) is stated to expire within not more than 6 months; or
  - (b) is made to deal with an emergency or meteorological conditions that:
    - (i) may endanger public safety; and
    - (ii) were not known in sufficient time for publication.

**12.43 Speed limits and one-way traffic**

- (1) A person must not:
  - (a) drive a vehicle on a part of a road or public access track at more than the maximum speed for that part of the road or track; or
  - (b) drive a vehicle in a parking area or camping area at more than 20 kilometres per hour; or
  - (c) drive or ride a vehicle on a road or public access track along a one-way traffic carriageway except in the direction indicated by an arrow on a traffic sign mentioned in subregulation 12.53 (4) for the road or track.

Penalty: 5 penalty units.

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- (2) For paragraph (1) (a), the maximum speed for a part of a road or public access track between a speed limit sign and another speed limit sign or a de-restricting sign facing the direction from which the vehicle approaches is the number of kilometres per hour that is shown in numbers on the first speed limit sign.
- (3) For paragraph (1) (c), the Director may designate a road or public access track as a one-way traffic carriageway.
- (4) The Director must give notice of a designation under subregulation (3) by displaying a suitable sign, in accordance with subregulation 12.53 (4), near any area affected by the designation.
- (5) An offence against this regulation is a strict liability offence.

**12.44 Parking and stopping**

- (1) A person must not park or stop a vehicle in a Commonwealth reserve:
  - (a) in a place other than:
    - (i) a parking area; or
    - (ii) a road or public access track; or
    - (iii) if the person is camping in a camping area in the reserve, the camping area; or
  - (b) in contravention of a sign erected by the Director; or
  - (c) in a way that would unreasonably obstruct the passage of other vehicles; or
  - (d) in a way that would obstruct access to a boat ramp in a launching area.

Penalty: 3 penalty units.
- (2) For subparagraph (1) (a) (i) or paragraph (1) (b), the Director may:
  - (a) regulate, prohibit or restrict the parking or stopping of vehicles, or define how vehicles may be parked or stopped, in the reserve; or
  - (b) prohibit the parking or stopping of vehicles, or a class of vehicles, in part of the reserve generally or during a specified period; or

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- (c) permit the parking or stopping of vehicles, or a class of vehicles, in part of the reserve generally or during a specified period.
- (3) The Director must give notice of an action mentioned in subregulation (2) by displaying a suitable sign, in accordance with subregulations 12.53 (2) and (3), near any area affected by the action.
- (4) An offence against this regulation is a strict liability offence.

**12.45 Parking permits**

- (1) The Director may issue a parking permit to a person.
- (2) A parking permit:
  - (a) authorises the parking of the vehicle for which it was issued in the parking area to which the permit relates; and
  - (b) remains in force until the end of the period specified in the permit.
- (3) A parking permit does not have effect until it is fixed to the vehicle in accordance with subregulation 12.48 (3).
- (4) A person to whom a parking permit is issued may surrender the permit by removing it from the vehicle.

**12.46 Voucher machines and parking vouchers**

- (1) The Director may authorise in writing the installation of a voucher machine in a parking area.
- (2) On payment of the determined fee, a parking voucher issued from a voucher machine authorises the parking of a vehicle in the parking area in which the voucher machine is installed.
- (3) Unless the contrary is established, a voucher machine that purports to be a voucher machine installed in a parking area with the authority of the Director is taken to have been installed in accordance with this regulation.

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**12.47 Parking fees**

The Director must adjust a voucher machine so that, after payment of the determined fee by a method described on the machine, a parking voucher is issued from the machine.

**12.48 Parking permits and parking vouchers**

- (1) A person may park a vehicle in a parking area in which a voucher machine is installed only if the parking of the vehicle is authorised by:
- (a) a parking permit that is attached to the vehicle; or
  - (b) a parking voucher that is:
    - (i) issued from that machine; and
    - (ii) displayed on the vehicle.

Penalty: 3 penalty units.

- (2) A person must not park a vehicle in a parking area in which a voucher machine is installed after the end of the period in which the parking of the vehicle is authorised by:
- (a) a parking permit that is attached to the vehicle; or
  - (b) a parking voucher that is:
    - (i) issued from that machine; and
    - (ii) displayed on the vehicle.

Penalty: 3 penalty units.

- (3) For this regulation, a parking permit or parking voucher is taken to be attached to, or displayed on, a vehicle only if all words, figures and symbols appearing on the side of the permit or voucher showing the date and time of issue and expiry of the permit or voucher can be read clearly by a person standing beside the vehicle, and:
- (a) for a vehicle that is not a motor cycle or trailer — the permit or voucher is fixed to, or displayed on, the interior of the windscreen or a window of the vehicle; and
  - (b) for a motor cycle or trailer — the permit or voucher is fixed to, or displayed on, the motor cycle or trailer.

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- (4) A person is not taken to have contravened this regulation if the person:
  - (a) fixed or displayed a parking permit or parking voucher in accordance with subregulation (3); and
  - (b) took reasonable steps to ensure that the permit or voucher remained fixed or displayed in accordance with subregulation (3).
- (5) It is a defence to proceedings for an offence against subregulation (1) or (2) if:
  - (a) the defendant proves that he or she stopped the vehicle:
    - (i) to set down a passenger or a passenger's luggage, or other goods; or
    - (ii) to allow a person to enter the vehicle or load on the vehicle a person's luggage, or other goods; and
  - (b) the period for which the vehicle stopped was no longer than was reasonable.
- (6) An offence against this regulation is a strict liability offence.

**12.49 Daily parking offence**

A person who contravenes regulation 12.44 or 12.48 is guilty of the offence for each day, or part of a day, when the contravention occurs.

**12.50 Interference with parking permits or parking vouchers**

- (1) A person may interfere with, or remove, a parking permit or a parking voucher on a vehicle that is parked in a parking area only if:
  - (a) the person is the owner of the vehicle; or
  - (b) the person is the person:
    - (i) to whom the permit was issued; or
    - (ii) who obtained the voucher; or
  - (c) the permit was issued, or the voucher was obtained, on behalf of the person; or

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- (d) the person is acting with the authority of;
  - (i) the owner of the vehicle; or
  - (ii) the person to whom the permit was issued; or
  - (iii) the person who obtained the voucher.

Penalty: 3 penalty units.

- (2) An offence against this regulation is a strict liability offence.

**12.51 Abuse of voucher machines**

- (1) A person must not:
  - (a) operate a voucher machine except in accordance with any instructions that are shown on the machine; or
  - (b) insert in a voucher machine anything that is not a coin, or coins, of the denomination, or denominations, stated on the voucher machine; or
  - (c) insert a bent or damaged coin in a voucher machine.

Penalty: 3 penalty units.

- (2) A person must not do an act that is likely to interfere with the operation of a voucher machine.

Penalty: 3 penalty units.

- (3) An offence against this regulation is a strict liability offence.

**12.52 Unauthorised installation of voucher machines**

- (1) A person must not, except with the authority of the Director:
  - (a) install in or near a parking area a device that is likely to be mistaken for a voucher machine; or
  - (b) attach or affix anything to or place anything on, or stand anything against, a voucher machine.

Penalty: 3 penalty units.

- (2) An offence against this regulation is a strict liability offence.

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**12.53 Signs for controlling traffic etc**

- (1) A sign displayed under subregulation 12.42 (2) to designate a road or track as a restricted access road must include the words 'SERVICE ROAD - WALKERS ONLY' or 'AUTHORISED PERSONS ONLY'.
- (2) A sign displayed under subregulation 12.44 (3) to prohibit the stopping or parking of vehicles must:
  - (a) indicate the area within which a vehicle must not stop or park; and
  - (b) if parking or stopping is prohibited during specified hours, specify the hours within which vehicles may be parked or stopped; and
  - (c) be in a form approved for a sign of that kind by a law of the State or Territory where the reserve is located.
- (3) A sign displayed under subregulation 12.44 (3) to designate a part of the reserve within which vehicles may be parked must, in addition to including words designating that part:
  - (a) be in a form approved for a sign of that kind by a law of the State or Territory where the reserve is located; and
  - (b) if parking is permitted only during a specified period, specify the hours within which vehicles may be parked; and
  - (c) if parking is restricted to, or prohibited for, a class of vehicles, specify the class of vehicles to which the restriction or prohibition applies.
- (4) A sign displayed under subregulation 12.43 (3) to designate a road or public access track as a one-way traffic carriageway must include the words 'ONE WAY' and an arrow indicating the direction in which a vehicle using the road or track must proceed.

**12.54 Vehicles to stop as required**

- (1) A person must not drive or ride a vehicle in a Commonwealth reserve beyond a location at which a ranger, warden or person authorised to operate an entrance station requires the person to

**Regulation 12.55**

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stop until the ranger, warden or authorised person indicates that the driver or rider may proceed.

Penalty: 10 penalty units.

- (2) A person must not drive or ride a vehicle in a Commonwealth reserve beyond a sign, erected near an entrance station, that requires the person to stop, whether at all times or at specified times, until a person authorised to operate the station indicates that the driver or rider may proceed.

Penalty: 10 penalty units.

- (3) An offence against this regulation is a strict liability offence.

**12.55 Walking on roads or marked tracks**

- (1) A person may walk or ride on a part of a Commonwealth reserve only on:
- (a) a road or track that is available for public use; or
  - (b) a track for walking or riding provided by the Director.

Penalty: 5 penalty units.

- (2) For paragraph (1) (b), a track is a track for walking or riding provided by the Director if:
- (a) a sign or other marker indicating that the track is for walking or riding is displayed near the track; or
  - (b) the track is indicated as a track for walking or riding under the management plan.
- (3) Subregulation (1) does not apply, in a jointly managed reserve, to a member or officer of a land council for indigenous people's land, in the part of the reserve where the person walks or rides, who is performing his or her duties as a member or officer.
- (4) An offence against this regulation is a strict liability offence.



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**12.56 Use of vessels**

- (1) A person must not use a vessel in an area of water in a Commonwealth reserve in contravention of a determination by the Director under subregulation (2).

Penalty: 15 penalty units

- (2) The Director may determine:
- (a) that an area of water is an area where the use of vessels or a class of vessels is prohibited at all times, at specified times or during a specified period; and
  - (b) for an area of water where the use of vessels or a class of vessels is allowed, any of the following conditions:
    - (i) that a vessel is not to be used during a specified period;
    - (ii) the maximum number of vessels that may be used in a specified area at any time;
    - (iii) the maximum speed at which a vessel may proceed;
    - (iv) that a vessel may be launched only from a launching area;
    - (v) that a vessel may be anchored only in an anchoring area;
    - (vi) that a vessel may be moored only in a mooring area;
    - (vii) that a vessel may be anchored or moored only in a specified manner.
- (3) If the Director makes a determination to include a condition mentioned in subparagraph (2) (b) (iv), (v) or (vi), the determination must specify the launching area, anchoring area or mooring area by reference to natural features, other objects, structures, survey points or latitude and longitude.
- (4) Notice of a determination must be published, unless the determination is made to deal with an emergency that may endanger public safety.

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**12.57 Signs relating to use of vessels**

- (1) If the Director makes a determination under subregulation 12.56 (2), the Director must display, as close to the area of water as is reasonably practicable, a sign that includes a description of the area of water and:
  - (a) if the determination is made under paragraph 12.56 (2) (a):
    - (i) a statement to the effect that use of vessels in the area is prohibited; or
    - (ii) if the determination does not apply to all vessels, a statement to the effect that use of a vessel described in the statement is prohibited in the area; or
  - (b) if the determination is to include a condition mentioned in subparagraph 12.56 (2) (b) (i), when a vessel is not to be used; or
  - (c) if the determination is to include a condition mentioned in subparagraph 12.56 (2) (b) (ii), a statement to the effect that:
    - (i) a permit is required; or
    - (ii) the number of permits that may be issued is limited by the maximum number of vessels specified in the determination; or
    - (iii) if the determination does not apply to all vessels — the number of permits that may be issued is limited by the maximum number, and the kind, of vessels specified in the determination; or
  - (d) if the determination is to include a condition mentioned in subparagraph 12.56 (2) (b) (iii) — a statement of the speed so determined, expressed in knots.
- (2) If the Director makes a determination to include a condition mentioned subparagraph 12.56 (2) (b) (iv), (v) or (vi), the Director must erect at the designated area a sign:
  - (a) designating the launching area, anchoring area or mooring area; and
  - (b) stating that boats must be launched, anchored or moored only at designated launching, anchoring or mooring areas.

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- (3) If the Director makes a determination to include a condition mentioned in subparagraph 12.56 (2) (b) (vii), the Director must erect at the designated area a sign stating the conditions under which anchoring or mooring may be carried out.
- (4) However, if it is not practicable to display a sign mentioned in subregulation (1), (2) or (3) at the location required by the subregulation, the Director:
  - (a) need not comply with that subregulation; but
  - (b) must give notice of the determination having regard to the forms of communication available for giving notice to persons likely to be in that area.

**12.58 Use of aircraft**

- (1) A person must not, in a Commonwealth reserve:
  - (a) taxi an aircraft, except in a landing area; or
  - (b) land or take-off an aircraft.

Penalty: 30 penalty units.
- (2) A person must not jump, parachute or otherwise disembark from an aircraft in a Commonwealth reserve:
  - (a) when the aircraft is in airspace above a Commonwealth reserve; or
  - (b) if the person is likely to land in a Commonwealth reserve.

Penalty: 30 penalty units.
- (3) A person must not use an aircraft to drop or lower an object into a Commonwealth reserve.

Penalty: 30 penalty units.
- (4) For subregulation (1) (a), the Director may determine:
  - (a) that an area is a landing area; and
  - (b) that a landing area may be used:
    - (i) in a specified manner; and
    - (ii) by an aircraft or a class of aircraft; and
    - (iii) at all times, at specified times or during a specified period.

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- (5) The Director must tell the Commonwealth authority responsible for aviation safety of a determination made under subregulation (4).

**Subdivision 12.2.4 Administration**

**12.59 Obligation to produce permit**

A person authorised by a permit to carry on an activity in a Commonwealth reserve must, when requested by a warden or ranger, produce the permit for inspection by the warden or ranger.

Penalty: 10 penalty units.

**12.60 Removal of trespassers and offenders**

- (1) A warden or ranger may require a person in a Commonwealth reserve whom the warden or ranger finds committing, or suspects on reasonable grounds to be committing or to have committed, an offence against the Act or these Regulations to leave the reserve for a specified time.

- (2) A person required to leave the reserve must comply with the requirement.

Penalty: 20 penalty units.

- (3) However, a person must comply with the requirement only if the warden or ranger:

- (a) is a member of a police force who is in uniform; or
- (b) produces, for inspection by the person:
  - (i) written evidence of the fact that the warden or ranger is a member of a police force; or
  - (ii) the warden's or ranger's identity card.

**12.61 Payment of fees and charges etc**

- (1) A person who engages, or has engaged, in an activity for which a charge is payable must, if asked by a warden or ranger:

- (a) produce evidence of payment of the charge; or

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- (b) pay the charge to the person making the request; or
- (c) if, at the time of request, the person cannot produce evidence of payment or pay the charge:
  - (i) state his or her full name and usual place of residence to the person making the request; and
  - (ii) produce evidence of his or her identity and address; and
  - (iii) produce the evidence of payment or pay the charge to a warden or ranger, or to the Director, within 4 days after the day when the request is made.

Penalty: 20 penalty units.

- (2) However, the person must comply with the request only if the warden or ranger:
  - (a) is a member of a police force who is in uniform; or
  - (b) produces, for inspection by the person:
    - (i) written evidence of the fact that the warden or ranger is a member of a police force; or
    - (ii) the warden's or ranger's identity card.
- (3) If the charge is paid by the person under subregulation (1) to a warden or ranger, or a person authorised to collect the charges, the Director, warden, ranger or the person authorised to collect the charges must give a receipt for the amount to the person who paid it.
- (4) Subregulation (1) does not apply in a jointly managed reserve to a member or officer of a land council for indigenous people's land, in the part of the reserve where the activity occurs, who is performing his or her duties as a member or officer.

**12.62 Liability of owner of vehicle etc for offences**

- (1) The owner of a motor vehicle at the time when an offence relating to the motor vehicle under these Regulations is committed is taken to have committed the offence.

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- (2) However, the owner of the motor vehicle is not taken to have committed the offence if:
- (a) the motor vehicle was, at the time of the offence, stolen or illegally taken or used; or
  - (b) for an owner who is not a body corporate — within 14 days after the date of a notice served under the relevant provision, or within 14 days after service of a summons for the alleged offence, the owner gives to the Director a statutory declaration made by him or her stating:
    - (i) that it is made for this regulation; and
    - (ii) that he or she was not in charge of the motor vehicle at the time of the alleged offence; and
    - (iii) the name and address of the person who was in charge of the motor vehicle at that time; or
  - (c) for an owner who is a body corporate — within 14 days after the date of a notice served under the relevant provision or within 14 days after service of a summons for the alleged offence, a director, manager or secretary of the body corporate gives to the Director a statutory declaration made by him or her stating:
    - (i) that it is made for this regulation; and
    - (ii) that the motor vehicle was not being used for the body corporate at the time of the alleged offence; and
    - (iii) the name and address of the person who was in charge of the motor vehicle at that time.
- (3) If an infringement notice has been served under regulation 14.03, or a summons has been served, on the owner of a motor vehicle for an alleged offence under these Regulations, the owner may:
- (a) for an owner who is a not a body corporate — within 14 days after the date of the notice or service of the summons give to the Director a statutory declaration made by him or her or by a person having knowledge of the facts stating:
    - (i) that it is made for this regulation; and
    - (ii) that the owner was not in charge of the motor vehicle at the time of the alleged offence; and

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- (iii) that he or she has not been able to find out who was in charge of the motor vehicle at that time; and
    - (iv) the nature of the inquiries made to find out the name and address of the person who was in charge of the motor vehicle at that time; or
  - (b) for an owner who is a body corporate — a director, manager or secretary of the body corporate may, within 14 days after the date of the notice or service of the summons, give to the Director a statutory declaration made by him or her or by a person having knowledge of the facts stating:
    - (i) that it is made for this regulation; and
    - (ii) that, to his or her knowledge, from the facts as set out in the declaration, the motor vehicle was not being used for the body corporate at the time of the alleged offence; and
    - (iii) that he or she has not been able to find out who was in charge of the motor vehicle at that time; and
    - (iv) the nature of the inquiries made to find out the name and address of the person who was in charge of the motor vehicle at that time.
- (4) At the hearing of a prosecution for an offence under regulation 12.44, 12.48 or 12.54 against the owner of a motor vehicle:
  - (a) if the owner has given a statutory declaration under paragraph (3) (a) — the court must dismiss the charge if it is satisfied (whether on the statements contained in the statutory declaration or otherwise) that:
    - (i) the owner was not in charge of the motor vehicle at the time of the alleged offence; and
    - (ii) the inquiries made to find out the name and address of the person who was in charge of the motor vehicle at that time were reasonable in the circumstances of the case and were carried out with due diligence; or
  - (b) if a director, manager or secretary of the owner has given a statutory declaration under paragraph (3) (b) — the court must dismiss the charge if it is satisfied (whether on the

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statements contained in the statutory declaration or otherwise) that:

- (i) the motor vehicle was not being used for the body corporate at the time of the alleged offence; and
  - (ii) the inquiries made to find out the name and address of the person who was in charge of the motor vehicle at that time were reasonable in the circumstances of the case and were carried out with due diligence.
- (5) At the hearing of a prosecution for an offence against regulation 12.44, 12.48 or 12.54, a certificate signed by the Director stating that a person named in the certificate has not, in relation to that offence, given the Director a statutory declaration for a provision of this regulation is evidence of the matter so stated.
- (6) For subregulation (5), a document that purports to have been signed by the Director is to be taken to have been so signed unless the contrary is proved.
- (7) This regulation does not affect the liability of an actual offender other than the owner of the motor vehicle, but:
- (a) the owner and the actual offender must not both be liable for the same offence; and
  - (b) if a penalty has been imposed on a person for an offence under regulation 12.44, 12.48 or 12.54, a further penalty must not be imposed on or recovered from another person for the same offence.
- (8) In this regulation:
- owner**, for a motor vehicle, means:
- (a) if the motor vehicle is registered under a law of a State or Territory for the registration of motor vehicles — the registered owner; or
  - (b) for any other motor vehicle — the person who is legally entitled to possession of the motor vehicle.



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**12.63 Copy of statutory declaration to be served with summons**

If a person is named in a statutory declaration given under paragraph 12.62 (2) (b) or (c) as being the person who was in charge of the motor vehicle at the time of an alleged offence against regulation 12.43, 12.44, 12.48 or 12.54:

- (a) the person may be found guilty of the offence only if a copy of the statutory declaration was attached to the summons for the offence when it was served on him or her; and
- (b) the statutory declaration is admissible in evidence in a prosecution for the offence against the person and is evidence that the person was in charge of the vehicle at that time.

**12.64 Impounding or removal of vehicles etc**

- (1) A warden or ranger may impound a vehicle, vessel, aircraft or other property (other than goods that have been seized or forfeited under Division 10 of Part 17 of the Act), but only if the warden or ranger suspects on reasonable grounds that the vehicle, vessel, aircraft or other property has been abandoned in a Commonwealth reserve.
- (2) For subregulation (1), the Director may:
  - (a) establish and maintain a pound; or
  - (b) enter into an arrangement with a body for use of a pound established by the body.
- (3) If a warden or ranger impounds a vehicle, vessel, aircraft or other property, he or she must:
  - (a) remove it to a pound; and
  - (b) take reasonable steps to identify its owner and inform the owner of the impounding.
- (4) For paragraph (3) (b), if the owner of the vehicle, vessel, aircraft or other property cannot be identified, the steps include publishing, in a newspaper circulating in the area where the reserve is located, an advertisement that includes:

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- (a) a description of the vehicle, vessel, aircraft or other property; and
  - (b) the date when, and area of the reserve where, the vehicle, vessel, aircraft or other property was impounded.
- (5) A warden or ranger must release an impounded vehicle, vessel, aircraft or property to its owner on payment to the Director of the cost of impounding.
- (6) The cost of impounding a vehicle, vessel, aircraft or other property includes:
- (a) the cost of removing it to a pound; and
  - (b) the cost of identifying its owner; and
  - (c) if the pound is maintained by the Director, the cost, that is reasonably attributable to the management of the impounded property, of:
    - (i) providing staff at the pound; and
    - (ii) reasonably maintaining the pound.
  - (d) if the pound is not maintained by the Director, the amount that the Director is charged for the use of the pound for the impounded property; and
  - (e) any other expenses of the Director for the impounded property.
- (7) A warden or ranger may dispose of the vehicle, vessel, aircraft or other property after 1 month after:
- (a) the owner is informed of the impounding and has not paid the cost of impounding; or
  - (b) the later of:
    - (i) if the owner cannot be contacted — the vehicle, vessel, aircraft or other property was impounded; or
    - (ii) if the owner cannot be identified — an advertisement mentioned in subregulation (4) was published.
- (8) The Director, or a warden or ranger who impounds a vehicle, vessel, aircraft or other property under this regulation, is not liable for any damage to the vehicle, vessel or other property caused by its impounding.

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**12.65 Impounding animals**

- (1) A warden or ranger may impound an animal that:
  - (a) is not a member of a native species; and
  - (b) is found straying in a Commonwealth reserve.
- (2) For subregulation (1), the Director may:
  - (a) establish and maintain a pound; or
  - (b) enter into an agreement with a person or body for the use of a pound established by the person or body.
- (3) If a warden or ranger impounds an animal, the warden or ranger must:
  - (a) remove the animal to a pound; and
  - (b) take reasonable steps to identify the owner of the animal and to tell the owner of the impounding.
- (4) For paragraph (3) (b), if the animal is not identified in a way that allows its owner to be determined, the steps include publishing, in a newspaper circulating in the area where the reserve is located, an advertisement that includes:
  - (a) a description of the animal; and
  - (b) the date when, and the part of the reserve where, the animal was impounded.
- (5) A warden or ranger must release an impounded animal to the owner of the animal on payment of the cost of impounding the animal to the Director.
- (6) The cost of impounding an animal includes:
  - (a) the cost of removing the animal to a pound; and
  - (b) the cost of identifying the owner of the animal; and
  - (c) if the pound is maintained by the Director:
    - (i) the cost, that is reasonably attributable to the management of the animal, of providing staff at the pound; and
    - (ii) the cost of feeding and watering the animal; and
  - (d) if the pound is not maintained by the Director, the amount that the Director is charged for the use of the pound for the animal; and

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- (e) any other expenses of the Director for the animal.
- (7) A warden or ranger may dispose of or destroy an impounded animal after 7 days after any of the following events:
  - (a) the owner was informed of the impounding and has not paid the cost of impounding;
  - (b) the later of:
    - (i) if the owner cannot be contacted — the animal was impounded;
    - (ii) if the owner cannot be determined — an advertisement mentioned in subregulation (4) was published.
- (8) A warden or ranger who impounds an animal under this regulation is not liable for any damage to the animal caused by its impounding.

**12.66 Control of non-native species**

If a ranger or a warden considers it necessary for the protection of public safety or for the protection and conservation of biodiversity and heritage in a Commonwealth reserve or a part of the reserve, the ranger or warden may take any suitable measure to control or remove an organism that is:

- (a) not a member of a native species; or
- (b) not indigenous to the reserve or that part of the reserve.

## **Part 13 Conservation zones**

### **13.01 Purpose of Part 13**

For section 390E of the Act, this Part sets out the provisions for regulating activities for conservation zones.

### **13.02 Application of Regulations for conservation zones**

- (1) The provisions mentioned in subregulation (2) apply to conservation zones as if each reference in the provisions to a Commonwealth reserve were a reference to a conservation zone.
- (2) The provisions are:
  - (a) Part 9 (Conservation of biodiversity in Commonwealth areas);
  - (b) regulation 12.10 (Scientific research);
  - (c) regulation 12.11 (Excavating, building and works);
  - (d) regulation 12.12 (Damaging, defacing features etc);
  - (e) regulation 12.13 (Damaging etc heritage);
  - (f) regulation 12.14 (Dumping of waste, littering etc);
  - (g) regulation 12.15 (Use of poisonous substances);
  - (h) regulation 12.16 (Fossicking, removal of earth materials etc);
  - (i) regulation 12.17 (Activities relating to caves and karst);
  - (j) regulation 12.18 (Use etc of firearms, nets and other devices);
  - (k) regulation 12.19 (Taking animals into Commonwealth reserve);
  - (l) regulation 12.20 (Taking plants into Commonwealth reserve);
  - (m) regulation 12.30 (Lighting fires);
  - (n) regulation 12.34 (Commercial fishing);
  - (o) regulation 12.35 (Fishing other than commercial fishing);

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- (p) regulation 12.36 (Commercial activities);
- (q) regulation 12.38 (Deriving commercial gain from images captured);
- (r) regulation 12.66 (Control of non-native species);
- (s) Part 17 (Permits).

## **Part 14 Enforcement**

### **Division 14.1 Wardens, rangers and inspectors**

#### **14.01 Ranger may ask for person's name and address**

- (1) For section 400 of the Act, a ranger or an authorised officer may ask a person to tell the ranger or authorised officer the person's name and address if the ranger or authorised officer finds the person committing, or there are reasonable grounds for suspecting that the person has committed, an offence against the Act or these Regulations.
- (2) For section 400 of the Act, a ranger or an authorised officer may:
  - (a) ask a person to show the ranger or authorised officer any authority, licence or permit issued to the person under the Act or these Regulations; or
  - (b) ask a person to show the ranger or authorised officer any permit, licence or authority needed for an activity the ranger or authorised officer suspects on reasonable grounds the person has carried on.
- (3) A person must comply with a request under subregulation (1) or (2).

Penalty: 10 penalty units.

- (4) However, a person must comply with the request only if the ranger or authorised officer who makes the request produces his or her identity card for inspection by that person.

- (5) A person must not knowingly give or produce false or misleading information or documents to a ranger or an authorised officer, who makes a request under subregulation (1) or (2).

Penalty: 10 penalty units.

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**Division 14.2              Infringement notices**

**14.02      Purpose of Division 14.2**

For subsection 497 (1) of the Act, this Division provides a procedure under which a person who is alleged to have committed an offence against a regulation mentioned in Schedule 10 may, as an alternative to having the matter dealt with by a court, dispose of the matter by payment of a monetary penalty (an *infringement notice penalty*) specified in a notice (an *infringement notice*) served on the person.

**14.03      Infringement notices**

- (1) If there are reasonable grounds for believing that a person has committed an offence against a regulation mentioned in Schedule 10, a ranger or an authorised officer may serve an infringement notice, or cause an infringement notice to be served, on the person in accordance with regulation 14.04.
- (2) The notice must set out the following information:
  - (a) the name and address of the person served (unless the notice is served in accordance with subparagraph 14.04 (1) (c) (ii));
  - (b) the provision of these Regulations that it is alleged has been contravened;
  - (c) details of the alleged offence, including:
    - (i) the day, and (if appropriate) the time, on which it is alleged to have been committed; and
    - (ii) the place at which it is alleged to have been committed;
  - (d) the maximum penalty that may be imposed by a court for the offence;
  - (e) the amount payable as the infringement notice penalty;
  - (f) a statement that, if the person prefers that the matter not be dealt with by a court, he or she may signify that preference by paying the infringement notice penalty:
    - (i) before the end of 28 days after the day the notice is served; or



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- (ii) if a further period is allowed by a warden, ranger or inspector under regulation 14.05 — before the end of that further period; or
    - (iii) if payment by instalments is permitted under regulation 14.06 — in accordance with the permission;
  - (g) how, and where, the infringement notice penalty may be paid;
  - (h) a statement that if, before the end of 28 days after service of the notice, the person notifies the Director, in the manner set out in the infringement notice, of any facts or matters that the person believes ought to be taken into account in relation to the alleged offence:
    - (i) time for payment of the penalty will be extended to the extent necessary to enable a decision to be made about those facts or matters; and
    - (ii) the Director must consider the matters mentioned in subregulation 14.07 (5);
  - (i) a statement that, if the infringement notice penalty is paid in time:
    - (i) the person's liability for the offence is discharged; and
    - (ii) further proceedings cannot be taken against the person for the offence; and
    - (iii) the person is not taken to have been convicted of the offence;
  - (j) a statement to the effect that, if none of the things mentioned in paragraph (f) or (h) is done within the time specified, the person may be prosecuted for the alleged offence;
  - (k) the name of the ranger or authorised officer by whom the notice is served.
- (3) An infringement notice may contain any other information that the ranger or authorised officer considers necessary.

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- (4) The notice must be served on the person not more than 12 months after the alleged commission of the offence.

*Note* The infringement notice penalty in respect of an offence is set at one-fifth of the maximum fine that a court could impose for the offence — see Act, subsection 497 (2).

**14.04    Service of infringement notices**

- (1) An infringement notice may be served:
- (a) personally or by post; or
  - (b) by leaving the notice:
    - (i) at the last-known place of residence or business of the person who appears to have committed the offence; and
    - (ii) with a person, apparently over the age of 16 years, who appears to live or work at the place; or
  - (c) for an offence under regulation 12.44 or 12.48:
    - (i) personally on a person who appears to be in charge of the vehicle; or
    - (ii) by securely placing the notice on the vehicle in a conspicuous position; or
    - (iii) if the Director receives a statutory declaration under subregulation 12.62 (2) — by serving the notice on the person named in the statutory declaration as being in charge of the vehicle at the time of the alleged offence in accordance with paragraph (a) or (b).
- (2) If an infringement notice for an offence under regulation 12.44 or 12.48 is to be served by post on the owner of the vehicle, it may be addressed to the owner:
- (a) at the owner's last-known place of residence or business; or
  - (b) for the owner of a vehicle registered under a law of a State or Territory — at the latest address of the owner in the record of registration of the vehicle; or
  - (c) for a person named in a statutory declaration under subregulation 12.62 (2) — at the address given in the statutory declaration.

**14.05 Extension of time to pay**

- (1) On written application by a person on whom an infringement notice has been served, the Director may grant, if satisfied that in all the circumstances it is reasonable to do so, a further period for payment of the infringement notice penalty, whether or not the period of 28 days after the date of service of the notice has ended.
- (2) If application is made after the end of the 28 day period, the application must include an explanation why the alleged offender could not deal with the notice within that period.
- (3) The Director must:
  - (a) grant or refuse a further period; and
  - (b) give the applicant written notice of the decision; and
  - (c) if the decision is a refusal — mention in the notice the reasons for refusal.
- (4) The person must pay the penalty:
  - (a) if a further period is granted — before the end of that period; or
  - (b) if the decision is a refusal — before the end of the later of:
    - (i) 7 days after receiving notice of the refusal; or
    - (ii) the 28 day period.

**14.06 Payment by instalments**

- (1) If the Director is satisfied that in all the circumstances it is proper to do so, he or she may make an arrangement with a person on whom an infringement notice has been served (whether or not the period of 28 days after the date of service of the notice has ended) for the payment of the amount of the infringement notice penalty by instalments.
- (2) The Director must:
  - (a) grant or refuse to make an arrangement; and
  - (b) give the applicant written notice of the decision; and
  - (c) if the decision is a refusal — mention in the notice the reasons for refusal.

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- (3) The person must pay the penalty:
  - (a) if an arrangement is made — in accordance with the arrangement; or
  - (b) if the decision is a refusal — before the end of the later of:
    - (i) the 28 day period; and
    - (ii) 7 days after receiving notice of the refusal.

**14.07 If infringement notice disputed**

- (1) Whether or not a notice is received under subregulation (2), the Director, if satisfied that in all the circumstances it is proper to do so, may withdraw an infringement notice.
- (2) If, before the end of 28 days after receiving an infringement notice, a person gives the Director notice under paragraph 14.03 (2) (h), the Director must decide whether to withdraw the infringement notice.
- (3) The Director must:
  - (a) withdraw, or refuse to withdraw, the notice; and
  - (b) give the applicant written notice of the decision; and
  - (c) if the decision is a refusal — mention in the notice the reasons for refusal.
- (4) If the Director decides to refuse to withdraw an infringement notice, notice of that decision must state:
  - (a) that if the amount of the infringement notice penalty is paid within 28 days after notice of the decision is given to the person, the person will not be prosecuted for the alleged offence; and
  - (b) that if that amount is not so paid, the person may be prosecuted for the alleged offence.
- (5) In making a decision, the Director must consider:
  - (a) the facts or matters set out in the notice (if any) given under paragraph 14.03 (2) (h); and
  - (b) the circumstances in which the offence mentioned in the notice is alleged to have been committed; and
  - (c) whether the person has been convicted previously of an offence against these Regulations; and

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- (d) whether an infringement notice has previously been given to the person for an offence of the same kind as the offence mentioned in the notice; and
- (e) any other matter the Director considers relevant to the decision.

*Note* Part VIIC of the *Crimes Act 1914* includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them.

**14.08 Payment of penalty if infringement notice not withdrawn**

If the Director refuses to withdraw an infringement notice, the applicant for withdrawal must pay the infringement notice penalty before the end of 28 days after receiving notice of the refusal.

**14.09 Effect of payment of infringement notice penalty**

- (1) If a person served with an infringement notice pays the infringement notice penalty in accordance with this Division:
  - (a) the person's liability in respect of the offence is discharged; and
  - (b) further proceedings cannot be taken against the person for the offence; and
  - (c) the person is not convicted of the offence.
- (2) Subregulation (1) applies to a person who makes an arrangement to pay the infringement notice penalty by instalments, only if the person makes payments in accordance with the arrangement.

**14.10 Admissions under paragraph 14.03 (2) (h)**

Evidence of an admission made by a person in a notice under paragraph 14.03 (2) (h) is inadmissible in proceedings against the person for the alleged offence.

**Regulation 14.11**

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**14.11      Matter not to be taken into account in determining sentence**

- (1) This regulation applies if a person served with an infringement notice:
  - (a) elects not to pay the infringement notice penalty; and
  - (b) is prosecuted for, and convicted of, the alleged offence mentioned in the infringement notice.
- (2) In determining the penalty to be imposed, the court must not take into account the fact that the person chose not to pay the infringement notice penalty.

**14.12      Evidence for hearing**

- (1) At the hearing of a prosecution for an offence mentioned in an infringement notice, the following certificates are evidence of the facts stated in the certificate:
  - (a) a certificate signed by a ranger or an authorised officer and stating that:
    - (i) the infringement notice was served on the alleged offender; and
    - (ii) the infringement notice penalty has not been paid in accordance with this Division;
  - (b) a certificate signed by a ranger or an authorised officer and stating that the notice was withdrawn on a day specified in the certificate;
  - (c) a certificate signed by the Director and stating that:
    - (i) a further period was refused, under regulation 14.05, for payment of the infringement notice penalty; and
    - (ii) the infringement notice penalty has not been paid in accordance with this Division;
  - (d) a certificate signed by the Director and stating that a notice, a copy of which is attached to the certificate, was served on the date mentioned in the certificate by securely placing it in a conspicuous position on the vehicle;

**Regulation 14.14**

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- (e) a certificate signed by the Director and stating that:
  - (i) for regulation 14.05, the further time mentioned in the certificate for payment of the infringement notice penalty was granted; and
  - (ii) the infringement notice penalty was not paid in accordance with the notice or within the further time.
- (2) A certificate that purports to have been signed by the Director, a ranger or an authorised officer is taken to have been signed by that officer unless the contrary is proved.

**14.13 Payment of penalty by cheque**

If a cheque is given to the Commonwealth in payment of all or part of the amount of an infringement notice penalty, the payment is taken not to have been made unless the cheque is honoured on presentation.

**14.14 Infringement notice not compulsory, etc**

Nothing in this Division is to be taken to:

- (a) require that a person suspected of having contravened a provision of these Regulations be served an infringement notice; or
- (b) affect the liability of a person to be prosecuted for an alleged offence, if:
  - (i) an infringement notice is not served on the person for the offence; or
  - (ii) an infringement notice is served, and withdrawn; or
- (c) limit the penalty that may be imposed by a court on a person convicted of an offence.

**Regulation 14.15**

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**Division 14.3              Review of administrative decisions**

**14.15      Definition for Division 14.3**

In this Division:

*decision* has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

**14.16      Consideration and review of decisions of Director**

- (1) This regulation applies to a decision of the Director under Part 17 about a permit, other than a decision:
  - (a) under subregulation 17.12 (5) or 17.09 (2); or
  - (b) that is taken to be a decision under these Regulations by subsection 43 (6) of the *Administrative Appeals Tribunal Act 1975*.
- (2) The Director must give to any person whose interests are affected by the decision written notice of the decision, including:
  - (a) a statement that the person may apply to the Director to reconsider the decision; and
  - (b) the person's rights to seek review of a reconsidered decision under subregulation (4).
- (3) A failure to comply with subregulation (2) does not affect the validity of the decision.
- (4) A person whose interests are affected by the decision and who is dissatisfied with the decision may, by written notice to the Director within 21 days after the decision first comes to the notice of the person, ask the Director to reconsider the decision.
- (5) A request under subregulation (4) must set out the reasons for making the request.
- (6) The Director must:
  - (a) reconsider the decision within 1 month after he or she receives the request; and



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- (b) give to the person who requested the reconsideration written notice of the result of the reconsideration and of the grounds for the result.
- (7) The notice must include a statement that, subject to the *Administrative Appeals Tribunal Act 1975*, the person may apply to the Administrative Appeals Tribunal for review of the reconsideration.
- (8) The person may apply to the Administrative Appeals Tribunal for the review of a decision by the Director made under subregulation (6).

**14.17 Objects or purposes of organisation or association**

- (1) An organisation or association of persons, whether incorporated or not, is to be taken to have interests that are affected by a decision if the decision relates to a matter included in the objects or purposes of the organisation or association.
- (2) Subregulation (1) does not apply to a decision given before the organisation or association was formed or before the objects or purposes of the organisation or association included the matter.

**Regulation 15.01**

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## **Part 15 Committees**

### **Division 15.1 Disclosure of interests**

#### **15.01 Pecuniary interests**

- (1) For paragraph 509 (5) (a) of the Act, a member of a Committee who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Committee must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Committee.
- (2) The member must not, unless the Committee or the Minister otherwise determines:
  - (a) be present during any deliberation of the Committee about the matter; or
  - (b) take part in any decision of the Committee about the matter.
- (3) For a determination under subregulation (2), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates must not:
  - (a) be present during any deliberation of the Committee about making the determination; or
  - (b) take part in making the determination.

### **Division 15.2 Committee procedure**

#### **15.02 Purpose of Division 15.2**

For section 510 of the Act, this Division provides for matters relating to the operation of a Committee.

#### **15.03 Convening meetings**

- (1) A Committee must hold such meetings as are necessary for the efficient performance of its functions.

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- (2) A Committee must hold at least 1 meeting every 12 months.
- (3) The Chairperson of a Committee:
  - (a) may convene a meeting of the Committee at any time; and
  - (b) must convene a meeting of the Committee on receipt of a written request from at least 5 other members.
- (4) The Secretary of the Department may convene a meeting of a Committee at any time.

**15.04 Presiding at meetings**

- (1) The Chairperson of a Committee is to preside at all meetings at which he or she is present.
- (2) If the Chairperson is not present, the members present must elect 1 of their number to preside.

**15.05 Quorum**

A quorum at a meeting of a Committee is the greater of 4 members or a majority of members.

**15.06 Voting at meetings**

- (1) Questions arising at a meeting of a Committee are to be decided by a majority of votes of the members present and voting.
- (2) The member presiding has a deliberative vote, and, if necessary, also has a casting vote.

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## **Part 16                      Publication**

### **Division 16.1              General publication requirements**

#### **16.01      Application of Division 16.1**

- (1) This Division applies to publication requirements for material under the following provisions of the Act:
  - (a) subsections 33 (3) and 36 (2);
  - (b) subsections 45 (3) and (4) and 46 (3);
  - (c) paragraph 49A (a);
  - (d) subsections 57 (3) and 59 (6);
  - (e) paragraphs 60 (2) (b) and 62 (2) (b);
  - (f) subsections 63 (5) and 65 (3);
  - (g) paragraphs 77 (1) (b) and 79 (3) (d);
  - (h) subsections 84 (5) and (6);
  - (i) paragraphs 91 (1) (b), 130 (4) (b), 143 (5) (b), 144 (5) (b) and 145 (5) (b);
  - (j) subsection 145A (8);
  - (k) paragraphs 155 (4) (b) and 158 (7) (a);
  - (l) paragraph 303A (7) (a);
  - (m) subsection 351 (2).
- (2) This Division also applies to the requirement to give notice of material under sections 317 and 329 of the Act.

#### **16.02      Publication requirements**

- (1) The material must be published:
  - (a) in the *Gazette*; and
  - (b) if the material is not required to be published on the internet under section 170A of the Act — at an appropriate location on the internet; and

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- (c) if the material is relevant to the Territory of Cocos (Keeling) Islands, Christmas Island or Norfolk Island — in the Government Gazette of the Territory.
- (2) Material to which paragraph 16.01 (1) (a), (h) or (l) applies must be published in a daily newspaper that circulates throughout Australia.
- (3) Material to which paragraph 16.01 (1) (b), (c), (d), (e) or (f) applies must be published in a daily newspaper that circulates in the State or Territory to which the bilateral agreement relates.
- (4) However, if the material is more than 200 words, a notice may be published instead.
- (5) A notice under subregulation (4) must state:
  - (a) that the material is publicly available; and
  - (b) where the material may be viewed or obtained.

## **Division 16.2      Publication requirements for specified matters**

### **Subdivision 16.2.1    Assessments and approvals**

#### **16.03    Place of publication**

- (1) This regulation applies to publication requirements under the following provisions of the Act:
  - (a) paragraph 93 (1) (a);
  - (b) paragraph 98 (1) (c);
  - (c) subsection 99 (4);
  - (d) paragraph 103 (1) (c);
  - (e) subsection 104 (4);
  - (f) paragraph 108 (1) (a);
  - (g) paragraph 108 (1) (b);
  - (h) section 122.

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- (2) The material must be published:
  - (a) for material to which paragraph (1) (f), (g) or (h) applies — at an appropriate location on the internet; and
  - (b) for material to which paragraph (1) (a) applies — in a national or State daily newspaper that circulates in the State or Territory in which the action occurs; and
  - (c) for material to which paragraph (1) (a) does not apply — in a national newspaper and a State daily newspaper that circulates in the State or Territory in which the action occurs; and
  - (d) if practical, in regional newspapers that circulate in any regions of Australia where the action is likely to have a significant impact on a matter protected by a provision of Part 3 of the Act.
- (3) However, if material to which subregulation (1) applies is more than 200 words, a notice may be published instead.
- (4) The material or notice must state:
  - (a) the requirement under the Act that the material be published; and
  - (b) the name of the action; and
  - (c) a brief description of the action; and
  - (d) the location of the action; and
  - (e) the name of the person intending to take the action; and
  - (f) the name of the designated proponent (if not the person mentioned in paragraph (e)); and
  - (g) each matter protected by a provision of Part 3 of the Act; and
  - (h) where the material may be viewed or obtained.

**16.04 Additional publication requirements for designated proponent**

- (1) This regulation applies to material required to be published by a designated proponent under the following provisions of the Act:
  - (a) paragraph 93 (1) (a);

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- (b) paragraph 98 (1) (c);
  - (c) subsection 99 (4);
  - (d) paragraph 103 (1) (c);
  - (e) subsection 104 (4).
- (2) The designated proponent must:
- (a) give 2 copies of the material to:
    - (i) at least 1 local authority, or at least 1 local or regional library, for the area where the action is likely to have a significant impact on a matter protected by a provision of Part 3 of the Act; and
    - (ii) a State government authority responsible for environmental protection, or a State library, in the State where the action is likely to have a significant impact on a matter protected by a provision of Part 3 of the Act; and
    - (iii) the Department; and
  - (b) ask the authority or library to display the material publicly.
- (3) If the material cannot be displayed in an area in accordance with subregulation (2), the proponent must take reasonable steps to ensure that the material is publicly displayed at an appropriate location.
- (4) A notice published for paragraph 93 (1) (a), 98 (1) (c) or 103 (1) (c) of the Act must:
- (a) invite public comment on the material; and
  - (b) state the final date for providing comment under subparagraph 93 (1) (a) (iv), paragraph 98 (1) (c) or subparagraph 103 (1) (c) (ii) of the Act.

**16.05 Publication of information about assessments**

For paragraph 170A (j) of the Act, the Secretary must publish on the internet every week, notice of any decision that the Minister has made in the preceding week to approve, or not to approve, an action under Division 1 of Part 9 of the Act.

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**Subdivision 16.2.2 National and Commonwealth Heritage**

**16.05A Publication requirements**

- (1) This regulation sets out the publication requirements for material under the following provisions of the Act:
  - (a) subsection 324E (9);
  - (b) paragraph 324G (3A) (a);
  - (c) subsection 324H (1);
  - (d) subsection 324H (5);
  - (e) paragraph 324M (1) (b);
  - (f) subsection 324S (3);
  - (g) paragraphs 324S (6) (a) and 341G (3A) (a);
  - (h) subsection 341H (1);
  - (i) subsection 341H (5);
  - (j) paragraph 341M (1) (b);
  - (k) subsection 341S (3);
  - (l) paragraph 341S (6) (b).
- (2) The material to which paragraphs (1) (a), (b), (c), (g), (h) and (l) applies must be published:
  - (a) on the Internet; and
  - (b) if the material is relevant to the Territory of Cocos (Keeling) Islands, the Territory of Christmas Island or Norfolk Island — in the government gazette of the Territory; and
  - (c) in a daily newspaper that circulates throughout Australia.
- (3) The material to which paragraphs (1) (d) and (i) applies must be published on the Internet.
- (4) The material to which paragraphs (1) (e) and (j) applies must, if it is relevant to the Territory of Cocos (Keeling) Islands, the Territory of Christmas Island or Norfolk Island, be published in the government gazette of the Territory.
- (5) The material to which paragraphs (1) (f) and (k) applies must be published:
  - (a) on the Internet; and



- (b) in the *Gazette*.

## **Division 16.3 Prescribed places for purchase of published material**

### **16.06 Prescribed places for purchase of lists**

For sections 194 and 252 of the Act, the Minister must make copies of up-to-date lists available for purchase at:

- (a) for Norfolk Island — the office of the Administrator of the Territory; and
- (b) for each State or other self-governing Territory — an office of the Department or the Australian Government Info Shop in the capital city of the State or Territory.

### **16.07 Prescribed places for purchase of plans**

- (1) This regulation sets out the places where copies of plans must be made available for purchase under the following provisions of the Act:
  - (a) paragraph 275 (1) (a);
  - (b) paragraph 278 (1) (a);
  - (c) paragraph 290 (1) (a);
  - (d) paragraph 293 (1) (a).
- (2) The places are:
  - (a) for Norfolk Island — the office of the Administrator of the Territory; and
  - (b) for each State or other self-governing Territory — an office of the Department or the Australian Government Info Shop in the capital city of the State or Territory; and
  - (c) for paragraphs (1) (a) and (d), if the plan affects Christmas Island or Cocos (Keeling) Islands — the office of the Administrator of the affected Territory.

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**16.08      Prescribed places for purchase of conservation agreements and lists**

- (1) This regulation sets out the places where the Minister must make copies of material available for purchase under subsection 309 (1) or section 310 of the Act:
- (2) The places are:
  - (a) for Norfolk Island — the office of the Administrator of the Territory; and
  - (b) for each State or other self-governing Territory — an office of the Department or the Australian Government Info Shop in the capital city of the State or Territory; and
  - (c) for a conservation agreement or variation that affects Christmas Island or Cocos (Keeling) Islands — the office of the Administrator of the affected Territory.

## **Part 17                      Permits**

### **17.01      Application of Part 17**

This Part applies to permits issued:

- (a) by the Minister under the following provisions of the Act:
  - (i) section 201;
  - (ii) section 216;
  - (iii) section 238;
  - (iv) section 258; and
- (aa) by the Minister under the following provisions of the Act:
  - (i) section 303DG;
  - (ii) section 303EN;
  - (iii) section 303GD; and
- (ab) by the Minister under Part 8A, authorising a person to access biological resources in Commonwealth areas to which that Part applies; and
- (b) by the Minister under Part 9, authorising a person to take an action stated in the permit for a protected species; and
- (c) by the Director authorising a person to carry out an activity that is prohibited under Division 12.2; and
- (d) by the Director authorising a person to carry out an activity to which subregulation 12.09 (1) applies.

### **17.02      Application for a permit**

- (1) A person may apply for a permit to which this Part applies.
- (2) The application for the permit must be in writing or electronic form and must include the following information:
  - (a) for a permit to which paragraph 17.01 (a) applies — the section of the Act under which the application is made;
  - (b) the full name of each person to whom the permit is to be issued;

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- (c) if the application is not made by any of those persons — the name of the applicant;
- (d) the name, business address and postal address of any group to which the permit is to be issued;
- (e) contact details for a person mentioned in paragraph (b) or (c);
- (f) for a permit to which paragraph 17.01 (a) or (b) applies — any common name and any scientific name of the native species for which the application is made and, if it is a listed species, the Part in the list mentioned in subsection 178 (1) of the Act in which it is listed;
- (g) for a permit, other than a permit to which paragraph 17.01 (aa) applies — details of the action for which the permit is sought, including:
  - (i) for a permit to which paragraph 17.01 (a) applies — whether the action will result in the death or injury of a member of a listed species or involve taking, trading, keeping or moving a member of a listed species or treating or interfering with a cetacean;
  - (ii) for a permit to which paragraph 17.01 (b), (c) or (d) applies — whether the action will result in the death or injury of a member of a native species, involve taking, trading, keeping or moving a member of a native species or result in damage to or destruction of the nest or dwelling place of a member of a native species;
  - (iii) how many members of each listed species or native species will be affected;
  - (iv) when and where the action is proposed to be taken;
  - (v) a description of the action, including the methods to be used to comply with these Regulations and to minimise impact on any listed species or native species;
  - (vi) the relevant qualifications or experience of each person proposing to take the action;
  - (vii) the objectives or purpose of the action;

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- (ga) for a permit to which paragraph 17.01 (ab) applies:
- (i) whether the relevant purpose is commercial or non-commercial; and
  - (ii) the name of each access provider or, if an access provider for the biological resources is the Commonwealth or a Commonwealth agency, the name of the Commonwealth Department or Commonwealth agency that administers the Commonwealth area in which the access is proposed; and
  - (iii) the biological resources to which the applicant seeks access; and
  - (iv) the amount of biological resources that is proposed to be taken; and
  - (v) the use that is proposed to be made of indigenous people's knowledge in determining the biological resources to be accessed or the particular areas to be searched, and details of any agreements made with indigenous persons in relation to use of specialised information or information otherwise confidential to the indigenous people of the area; and
  - (vi) the use the applicant proposes to make of the biological resources and how access will benefit biodiversity conservation within the area; and
  - (vii) details of any other person for whose benefit access is sought or who proposes to use the samples obtained; and
  - (viii) how the access is to be undertaken, including details of vehicles and equipment to be used; and
  - (ix) whether the applicant thinks that further access to the biological resources will be sought; and
  - (x) details of any other application by the applicant for a permit under this Part;
- (h) a statement of the matters mentioned in regulation 17.06;
- (i) a declaration stating whether the applicant has been convicted of, or is subject to proceedings for, an offence mentioned in subregulation 17.07 (1);

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- (j) a declaration that the information in the application is correct to the best of the applicant's knowledge.

*Note* Part VIIC of the *Crimes Act 1914* includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them.

- (3) The application must be accompanied by a fee in accordance with Part 18.
- (4) For paragraph (2) (i), the applicant is taken to have been convicted of an offence if the applicant:
- (a) has been charged with, and found guilty of, the offence but discharged without conviction; or
  - (b) has not been found guilty of the offence, but a court has taken the offence into account in passing sentence on the applicant for another offence.

**17.03 Issue of permit**

- (1) This regulation applies to a permit to which paragraph 17.01 (ab), (b), (c) or (d) applies.
- (2) The Minister or Director may issue a permit only if:
- (aa) for a permit to which paragraph 17.01 (ab) applies — the requirements mentioned in subregulation 17.03A (6) are met; and
  - (a) for a permit to which paragraph 17.01 (b) applies — there are reasonable grounds for believing that the action will not, or is not likely to, adversely affect the conservation status of a protected species or a population of a protected species; and
  - (b) for a permit to which paragraph 17.01 (c) or (d) applies — the circumstances mentioned in subregulation 17.05 (1) apply; and
  - (c) the applicant has not been convicted of, nor is subject to proceedings for, an offence under a law mentioned in subregulation 17.07 (1); and
  - (d) for a permit that applies in a jointly managed reserve:
    - (i) consultation with the Board for the reserve is required under any agreement between the Director

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and the Board and has been carried out in accordance with the agreement; or

- (ii) there is no such agreement but the activity is consistent with the Director's obligations under the lease for the reserve.

*Note* Part VIIC of the *Crimes Act 1914* includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them.

- (3) The Minister or Director must:
  - (a) give each permit a reference number by which it can be identified; and
  - (b) tell the applicant the reference number; and
  - (c) give the applicant written notice if the Minister or Director refuses to issue a permit.

**17.03A Permits for access to biological resources**

- (1) This regulation applies to a permit to which paragraph 17.01 (ab) applies.
- (2) If the proposed access is a controlled action, the Minister must decide whether to issue a permit within 10 business days after deciding, under subsection 133 (1) of the Act, whether or not to approve the taking of the action.
- (3) If the proposed access is not a controlled action and assessment by public notice is required, the Minister must decide whether to issue a permit after receiving the comments received under paragraph 8A.16 (3) (c) and the responses mentioned in subregulation 8A.16 (4).
- (4) In deciding whether to issue a permit under subregulation (2) or (3):
  - (a) the Minister must take into account:
    - (i) the reports and information mentioned in the relevant subregulation; and
    - (ii) the views of any owner of land consulted under regulation 8A.09; and

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- (iii) the views of any Commonwealth Department, Commonwealth agency or person consulted by the Minister under paragraph 8A.15 (1); and
    - (iv) the assessment mentioned in regulation 8A.15; and
  - (b) the Minister may take into account any other matter that the Minister considers relevant.
- (5) However, if the Minister considers that he or she does not have sufficient information to decide whether to issue a permit under subregulation (3), the Minister may ask for more information from any person who may have information relevant to the application.
- (6) For paragraph 17.03 (2) (aa), the requirements are:
  - (a) for an application for access to biological resources for commercial purposes:
    - (i) the applicant has entered into a benefit-sharing agreement for the biological resources with each access provider; and
    - (ii) the applicant has given to the Minister a copy of each benefit-sharing agreement; and
    - (iii) if the resources are in an area that is indigenous people's land and an access provider for the resources is the owner of that land — the Minister is satisfied that the owner has given informed consent to the benefit-sharing agreement; and
  - (b) for an application for access to biological resources for non-commercial purposes:
    - (i) the applicant has permission from each access provider for the area in accordance with subregulation 8A.12 (1); and
    - (ii) the applicant has given to the Minister a copy of the statutory declaration required under regulation 8A.13; and
  - (c) the Minister believes, on reasonable grounds, that some of the benefits of access to the biological resources will, if practicable, be used for biodiversity conservation in the area from where the resources were taken; and



**Regulation 17.03B**

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- (d) for proposed access in a Commonwealth reserve, access would be consistent with any management plan in operation for the reserve; and
- (e) for proposed access in Kakadu National Park, Uluru-Kata Tjuta National Park or Booderee National Park, access would be consistent with any lease of indigenous people's land in the park; and
- (f) the proposed access will, taking into account the precautionary principle, be ecologically sustainable and consistent with the conservation of Australia's biological diversity.

*Note* For the meaning of *precautionary principle*, see the Act, section 391.

- (7) In considering whether the requirement in paragraph (6) (f) is met, the Minister must consider whether the proposed access may adversely affect:
  - (a) the conservation status of any species or population; or
  - (b) any ecosystem or ecological community.

*Note* For the meaning of *ecological community*, *ecosystem* and *species*, see the Act, section 528.

**17.03B Access to biological resources — effect of native title**

- (1) This regulation applies to an application for access to biological resources in an area that is not Aboriginal/Torres Strait Islander land or waters in relation to:
  - (a) the issue of a permit to which paragraph 17.01 (ab) applies; or
  - (b) variation to, or the revoking of, conditions attaching to a permit to which paragraph 17.01 (ab) applies; or
  - (c) the addition of conditions, or further conditions, attaching to a permit to which paragraph 17.01 (ab) applies.
- (2) The Minister may issue the permit, vary the conditions attaching to the permit or add conditions to the permit only if the Minister is satisfied that the action would not be an invalid future act under the *Native Title Act 1993*.

*Note* The procedural rights arising from the doing of a future act are set out in Part 2, Division 3 of the *Native Title Act 1993*.

**Regulation 17.04**

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- (3) For subregulation (2), the Minister may be satisfied that issuing the permit, varying the conditions attaching to the permit or adding conditions to the permit would not be an invalid future act under the *Native Title Act 1993* if:
- (a) an indigenous land use agreement has been registered for the area under the *Native Title Act 1993*; and
  - (b) the indigenous land use agreement authorises the action proposed to be taken under the permit; and
  - (c) sets out the native title holders' consent to the issue of, or the variation or the addition of conditions to, the permit.
- (4) In this regulation:
- Aboriginal/Torres Strait Islander land or waters*** has the meaning given by section 253 of the *Native Title Act 1993*.
- indigenous land use agreement*** has the meaning given by section 253 of the *Native Title Act 1993*.
- registered*** means registered on the Register of Indigenous Land Use Agreements under the *Native Title Act 1993*.

**17.04 Content of permits**

- (1) A permit must:
- (a) be in writing; and
  - (b) state:
    - (i) the provision of the Act or these Regulations for which it is issued; and
    - (ii) the activity that is permitted; and
    - (iii) when the permit expires; and
    - (iv) the conditions subject to which it is issued.
- (2) A permit, other than a permit to which paragraph 17.01 (aa) applies, must state the Commonwealth area where the activity may be carried out.
- (3) A permit to which paragraph 17.01 (aa) applies must state the name and address of the person to whom the permit is issued.

**Regulation 17.05****17.05 Circumstances that must apply**

- (1) For paragraph 17.03 (2) (b), the circumstances for an activity mentioned in an item of the following table are those mentioned in the item:

<b>Item</b>	<b>Activity</b>	<b>Circumstances</b>
1	Any activity	It must be consistent with: <ul style="list-style-type: none"> <li>(a) if there is a management plan in force for the reserve — the plan; and</li> <li>(b) if there is no management plan in force for the reserve — the purposes for which the reserve is declared; and</li> <li>(c) if the activity is in a jointly managed reserve — any lease of indigenous people's land in the reserve.</li> </ul>
2	Any activity	It must not be likely to: <ul style="list-style-type: none"> <li>(a) endanger public safety; or</li> <li>(b) unduly damage the reserve; or</li> <li>(c) unduly interfere with the preservation or conservation of biodiversity or heritage in the reserve; or</li> <li>(d) unduly interfere with the protection of other features or facilities in the reserve; or</li> <li>(e) interfere with the privacy of a cultural event held in the reserve by the traditional owners of indigenous people's land in the reserve; or</li> <li>(f) interfere with the continuing cultural use of the reserve (including residence in the reserve) by the traditional owners of indigenous people's land in the reserve; or</li> <li>(g) interfere with the privacy of other persons in the reserve.</li> </ul>
3	An activity prohibited under regulation 12.19 (except subregulation (5))	The animal must be kept under any restraint necessary to prevent it from straying in the reserve.

**Regulation 17.05**

<b>Item</b>	<b>Activity</b>	<b>Circumstances</b>
4	An activity prohibited under regulation 12.20 or 12.21	The plant must not be a member of a species that is: <ol style="list-style-type: none"> <li>(a) included in a list mentioned in section 301A of the Act; or</li> <li>(b) determined by the Director in a management plan for the reserve to be a pest species.</li> </ol>
5	An activity prohibited under regulation 12.31	<ol style="list-style-type: none"> <li>1. The capacity of a parking area, a fireplace or toilet facilities provided must be able to meet the demand created by the public gathering.</li> <li>2. No permit may have already been issued for the place and time covered by the proposed permit.</li> </ol>
6	An activity prohibited under regulation 12.32	The person to be buried must have had a traditional association with the land or waters in the reserve.
7	An activity prohibited under regulation 12.34	Carrying out commercial fishing must not contravene a law of the Commonwealth or a relevant State or Territory about commercial fishing.
8	An activity prohibited under regulation 12.36	<ol style="list-style-type: none"> <li>1. The activity must benefit the public or persons using the reserve.</li> <li>2. If the activity is to sell liquor in a reserve in the Northern Territory, the requirements mentioned in subregulation (2) must be met.</li> </ol>
9	An activity prohibited under regulation 12.37	The requirements mentioned in subregulation (2) must be met.
10	An activity prohibited under regulation 12.39	No permit may have already been issued for the time and place to be covered by the proposed permit.
11	An activity prohibited under regulation 12.41	The use of the vehicle must not be likely: <ol style="list-style-type: none"> <li>(a) to cause the condition of the track or road to which the permit relates to deteriorate significantly; or</li> <li>(b) to cause the condition of another part of the reserve to be significantly degraded.</li> </ol>

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<b>Item</b>	<b>Activity</b>	<b>Circumstances</b>
12	An activity prohibited under regulation 12.56	The issue of the permit must not result in the maximum number of vessels authorised for the area exceeding the number of vessels authorised in the determination.
13	An activity mentioned in subsection 354 (1) of the Act	The issue of the permit must be consistent with the management plan.

- (2) For paragraph 2 of item 8 and item 9 of the table to subregulation (1), the requirements are:
- (a) the proposed permit holder must be the holder of a licence under the *Liquor Act* of the Northern Territory; and
  - (b) the Northern Land Council, established under the *Aboriginal Land Rights (Northern Territory) Act 1976*, must be given an opportunity to comment on the merits of the application; and
  - (c) the Director must have considered any views expressed by the Northern Land Council.

**17.06 Statement by applicant**

- (1) For paragraph 17.02 (2) (h), this regulation sets out the matters that must be included in a statement by the applicant.
- (2) For a permit to which paragraph 17.01 (a) applies, the applicant must state why the applicant believes the proposed action meets 1 of the criteria identified in subsection 201 (3), 216 (3), 238 (3) or 258 (3) of the Act that relates to the action.
- (3) For a permit to which paragraph 17.01 (b) applies, the applicant must state:
  - (a) whether the action will, or is likely to, adversely affect the conservation status of a protected species or a population of a protected species; and
  - (b) the steps to be taken to minimise the impact of the action on the native species.

**Regulation 17.07**

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**17.07 Relevant offences**

- (1) For paragraphs 17.02 (2) (i) and 17.03 (2) (c), and paragraphs 17.11 (3) (c) and (5) (f), the offences are the following:
  - (a) offences under the Act or these Regulations;
  - (b) offences under any other law of the Commonwealth about the protection, conservation or management of native species or ecological communities;
  - (c) offences under section 6, 7, or 7A, or subsection 86 (1), of the *Crimes Act 1914* in relation to an offence referred to in paragraph (a) or (b);
  - (d) offences under a law of a State or Territory about the protection, conservation or management of native species or ecological communities;
  - (e) offences, in relation to a law referred to in paragraph (d), under a provision of a law of a State or Territory that is equivalent to a provision mentioned in paragraph (c), or to section 11.1, 11.4 or 11.5 of the *Criminal Code*.

*Note 1* Sections 6, 7 and 7A of the *Crimes Act 1914* relate respectively to accessories to an offence, attempts to commit an offence and inciting the commission of an offence; section 86 of that Act relates to conspiracy to commit an offence.

*Note 2* Section 11.1 of the *Criminal Code* relates to attempt; section 11.4 of the Code relates to incitement to commit an offence; and section 11.5 to conspiracy to commit an offence. Under section 11.6 of the Code, a reference in a law of the Commonwealth to an offence includes the offences created by sections 11.1, 11.4 and 11.5. For offences of complicity and common purpose, and the commission of an offence by means of an innocent agency, see sections 11.2 and 11.3 of the Code.

- (2) For subregulation (1), the applicant is taken to have been convicted of an offence if, within 5 years before the application is made, the applicant:
  - (a) has been charged with, and found guilty of, the offence but discharged without conviction; or
  - (b) has not been found guilty of the offence, but a court has taken the offence into account in passing sentence on the applicant for another offence.

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**17.08 Contravention of condition of permit**

A holder of a permit to which paragraph 17.01 (ab), (b) or (c) applies is guilty of an offence if the holder:

- (a) takes an action or omits to take an action; and
- (b) the action or omission contravenes a condition of the permit.

Penalty: 50 penalty units.

*Note* For contravention of conditions of a permit to which paragraph 17.01 (a) applies — see the Act, sections 203, 218, 240 and 260.

**17.09 Varying or revoking conditions**

- (1) The Minister may, by written notice to a holder of a permit issued by the Minister, vary or revoke a condition of the permit, or impose a further condition on the permit, in accordance with subregulation (3).
- (2) The Director may, by written notice to a holder of a permit issued by the Director, vary or revoke a condition of the permit, or impose a further condition on the permit, in accordance with subregulation (3).
- (3) However, the Minister or Director may take action under subregulation (1) or (2) only if the permit, as changed by the action, could have been issued in accordance with:
  - (a) a provision of the Act mentioned in paragraph 17.01 (a) or (aa); or
  - (b) subregulation 17.03 (2).
- (4) A holder of a permit may apply in writing for the variation or revocation of a condition of the permit.
- (5) An application under subregulation (4) must be accompanied by:
  - (a) a fee in accordance with Part 18; and
  - (b) for a permit to which paragraph 17.01 (ab), (b) or (c) applies:
    - (i) the reference number given to the permit; and

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- (ii) a statement of the reasons the holder thinks the condition of the permit should be varied or revoked.
- (6) A person who makes a decision under subregulation (1) or (2) must give each holder of the permit written notice of the decision.
- (7) If a condition of a permit must be varied, revoked or imposed to make sure that matters or circumstances, about which the Minister or Director must be satisfied when issuing the permit, continue to apply, the Minister or Director must:
  - (a) vary or revoke the condition (whether or not an application has been made under this regulation); or
  - (b) impose the further condition.
- (8) The Minister or Director must give a holder of the permit written notice of a decision under subregulation (1), (2) or (7).

**17.10 Authorities under permits**

- (1) A holder of a permit to which paragraph 17.01 (ab), (b) or (c) applies may authorise a person to take an action under the permit.
- (2) An authority may be given only if:
  - (a) it is in writing; and
  - (b) the permit has a condition that allows a holder of the permit to give an authority; and
  - (c) it is given in accordance with the condition; and
  - (d) for a permit to which paragraph 17.01 (c) applies — paragraphs 17.03 (2) (b), (c) and (d) will continue to be satisfied if the authority is given.
- (3) A permit is taken to allow an action that is taken by an authorised person in accordance with an authority.
- (4) A holder of a permit may also take an action for which the holder has authorised another person.
- (5) A person who gives an authority under this regulation must, within 14 days after giving the authority, give written notice of it to:



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- (a) for a permit issued by the Minister — the Minister; or
- (b) for a permit issued by the Director — the Director.

Penalty: 20 penalty units.

**17.11 Transfer of a permit**

- (1) The Minister may transfer a permit issued by the Minister.
- (2) The Director may transfer a permit issued by the Director.
- (3) A permit may be transferred only if:
  - (a) a holder of the permit applies in writing; and
  - (aa) for a permit to which paragraph 17.01 (aa) applies — the permit is given to the Minister; and
  - (b) there are reasonable grounds for believing that the proposed transferee will meet the conditions of the permit; and
  - (c) the proposed transferee has not been convicted of, nor is subject to proceedings for, an offence under a law mentioned in subregulation 17.07 (1); and
  - (d) for a jointly managed reserve:
    - (i) if consultation with the Board for the reserve is required under any agreement between the Director and the Board — the consultation has been carried out in accordance with the agreement; or
    - (ii) if there is no such agreement — the approval is consistent with the Director's obligations under the lease of indigenous people's land in the reserve.
- (4) An application for transfer of a permit must be accompanied by a fee in accordance with Part 18.
- (5) The application must include the following:
  - (a) the full name of the holder of the permit;
  - (b) a copy of the permit;
  - (c) the reasons for the proposed transfer;

*Note* Part VIIC of the *Crimes Act 1914* includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them.

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- (d) full name and contact details for the proposed transferee;
  - (e) the relevant qualifications or experience of the proposed transferee;
  - (f) a declaration by the proposed transferee stating whether he or she has been convicted of, or is subject to proceedings for, an offence mentioned in subregulation 17.07 (1);
  - (g) a declaration that the information in the application is correct to the best of the knowledge of the holder of the permit and the proposed transferee.
- (6) For paragraphs (3) (c) and (5) (f), the applicant is taken to have been convicted of an offence if the applicant:
- (a) has been charged with, and found guilty of, the offence but discharged without conviction; or
  - (b) has not been found guilty of the offence, but a court has taken the offence into account in passing sentence on the applicant for another offence.
- (7) The Minister or Director must give the applicant and the proposed transferee written notice of a decision whether or not to transfer a permit under subregulation (1) or (2).

**17.12 Suspension or cancellation of a permit**

- (1) Subregulations (2), (3) and (4) apply if:
- (a) a holder of a permit contravenes a condition of the permit; or
  - (b) there are reasonable grounds for believing that:
    - (i) a holder of a permit is likely to contravene a condition of the permit; or
    - (ii) if an application for a permit that has been issued were being considered again, the permit would not be issued.
- (2) The Minister may, by written notice to a holder of a permit issued by the Minister, cancel the permit.
- (3) The Director may, by written notice to a holder of a permit issued by the Director, cancel the permit.

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- (4) The Minister or Director may, by written notice given to a holder of the permit, suspend the permit for the period stated in the notice.
- (5) A permit must not be suspended for more than 28 consecutive days.
- (6) A permit has no effect while it is suspended.
- (7) Suspension of a permit does not affect the period for which the permit was issued.
- (8) If a permit expires before the end of a period for which the permit is suspended, the holder of the permit is not eligible for another permit until the period of suspension is over.

**Regulation 18.01**

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**Part 18                      Permit fees****18.01    Components of a fee for a permit**

- (1) This regulation applies to an application for a permit to which regulation 17.01 applies.
- (2) The fee is made up of:
  - (a) an amount (the *administration component*) for the cost of processing the application; and
  - (b) an amount (the *assessment component*) for the cost of assessing whether a permit may be issued and whether a permit application needs to be redirected as a referral or as a different type of permit; and
  - (c) an amount (the *management component*) for the costs of providing supervision or monitoring compliance with permit conditions.
- (3) The management component of a fee is not payable if the application is refused.

**18.02    Fee amount**

- (1) An application to which a provision of these Regulations, mentioned in a Part of Schedule 11 for an activity mentioned in an item of the Schedule, applies must be accompanied by the administration component and the assessment component mentioned in the item.

*Note* The application fee for a permit does not include charges that may apply for a Commonwealth reserve, including entry, using a camping site, bushwalking and using facilities and services.

- (2) An application for transfer of a permit, variation or revocation of a condition of a permit to which regulation 17.01 applies must be accompanied by the administration component and the assessment component mentioned for the application in Part 4 of Schedule 11.

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- (3) The management component of a fee for a permit must be paid before the permit is issued.
- (4) For Part 1A of Schedule 11, if more than 1 permit is needed for the export or import of a consignment of specimens, the total fee payable is the highest amount payable for any of the permits.

**18.04 Exemption from fees**

No fee is payable in any of the following circumstances:

- (a) if:
  - (i) the applicant is an Australian charitable organisation; and
  - (ii) the permit is issued for an activity mentioned in regulation 12.31 (Public gatherings) or 12.39 (Collections); and
  - (iii) the Director is satisfied that the activity contributes to the positive portrayal of the Commonwealth reserve and its values;
- (b) if:
  - (i) the permit is issued for an activity mentioned in regulation 12.24 (Capturing images or recording sound) or 12.38 (Deriving commercial gain from images captured); and
  - (ii) the Director is satisfied that the activity contributes to the positive portrayal of the Commonwealth reserve and its values;
- (c) if the applicant is a traditional owner of indigenous people's land where the activity is to be carried out, unless the activity is to be carried out by a business entity not under the direct control of the applicant;
- (d) for an application for variation of a condition or imposition of a condition for a permit, if the Minister or Director is satisfied that the variation or imposition helps to achieve the objects of the Act;

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- (e) if:
  - (i) immediately before the commencement of the Act, the applicant carried on the activity for which the application for a permit is made; and
  - (ii) the Minister or Director is satisfied that the applicant has paid a fee to an appropriate authority for the same activity; and
- (f) if:
  - (i) the permit is issued under section 303CG, 303DG, 303EN or 303GD of the Act; and
  - (ii) the applicant is the Commonwealth, a Commonwealth agency, a State or a Territory or an authority or agency of a State or a Territory.

## **Part 19**                      **Miscellaneous**

### **19.01**    **Allowances for witnesses**

- (1) This regulation sets out the allowances for travelling and other expenses that a person summoned by a commissioner to appear as a witness at an inquiry is entitled to be paid by the Commonwealth.
- (2) For subsection 111 (4) of the Act, a person is entitled to be paid:
  - (a) reasonable expenses for travelling to and from the place where the person is required to attend; and
  - (b) if the person is required to be absent overnight from his or her usual place of residence — reasonable expenses for meals and accommodation; and
  - (c) if expenses are payable to a person for being a witness — expenses in accordance with the Second Schedule of the *High Court Rules 1952*.

### **19.01A**    **Delegation**

- (1) The Minister may, by signed instrument, delegate any or all of his or her powers (except this power of delegation) or functions under these Regulations to an employee in the Department.
- (2) A delegate of the Minister is, in the exercise or performance of a delegated power or function, subject to the directions of the Minister.
- (3) The Secretary may, by signed instrument, delegate any or all of his or her powers (except this power of delegation) or functions under these Regulations to an employee in the Department.
- (4) A delegate of the Secretary is, in the exercise or performance of a delegated power or function, subject to the directions of the Secretary.

**Regulation 19.02**

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- (5) The Director may, by sealed instrument, delegate any or all of his or her powers (except this power of delegation) or functions under these Regulations to a person.
- (6) A delegate of the Director is, in the exercise or performance of a delegated power or function, subject to the directions of the Director.

**19.02 Definition of *Commonwealth agency***

For paragraph (j) of the definition of *Commonwealth agency* in section 528 of the Act, the following companies are prescribed:

- (a) Telstra Corporation Limited (ABN 33 051 775 556, ACN 051 775 556);
- (b) each company that is, or becomes, a subsidiary of Telstra Corporation Limited.



## **Part 20 Transitional**

### **20.01 Permits**

- (1) A continuing permit is taken to be a permit issued under Part 17 and to remain in force, unless suspended or cancelled, for the remainder of the period for which it was granted.
- (2) In this regulation:  
*continuing permit* means a permit, licence, authority or exemption granted and in force, immediately before the commencement of these Regulations, under the following provisions of the National Parks and Wildlife Regulations:
  - (a) subregulation 23 (1), (2), (3) or (4);
  - (b) subregulation 27 (1);
  - (c) paragraph 31 (4) (a);
  - (d) subregulation 50 (1);
  - (e) subregulation 54 (1);
  - (f) subregulation 65A (1);
  - (g) subregulation 70 (1);
  - (h) subregulation 73 (1);
  - (i) subregulation 76 (1).

### **20.02 Determinations, prohibitions, restrictions and authorities**

- (1) This regulation applies to a determination or decision made, prohibition or restriction notified or authority given by the Director and in force, immediately before the commencement of these Regulations, under the following provisions of the National Parks and Wildlife Regulations:
  - (a) subregulation 14 (1) or (3);
  - (b) subregulation 29 (1);
  - (c) subregulation 31 (1) or (2);
  - (d) subregulation 34 (1);

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- (e) subregulation 36 (1) or (2);
  - (f) subregulation 38 (1);
  - (g) subregulation 40 (4);
  - (h) subregulation 41 (1);
  - (i) subregulation 65B (1).
- (2) A determination, decision, prohibition, restriction or authority mentioned in subregulation (1) is taken to be a determination made by the Director under Part 12 and to remain in force until it is revoked.

**20.03 Established pound**

A pound established by the Director under subregulation 22 (1) of the National Parks and Wildlife Regulations is taken to have been established under regulation 12.64 or 12.65.

**20.04 Time-limited declarations and specifications**

- (1) This regulation applies to a declaration or specification by the Director and in force, immediately before the commencement of these Regulations, under subregulation 15 (2) or 33 (1) of the National Parks and Wildlife Regulations.
- (2) A declaration or specification mentioned in subregulation (1) is taken to be a determination made by the Director under Part 12 and to remain in force, unless revoked, for the period mentioned in the declaration or specification.

**20.05 Declarations that may remain in force for 2 years**

A declaration by the Director and in force, immediately before the commencement of these Regulations, under subregulation 58 (1) of the National Parks and Wildlife Regulations is taken to be a determination made by the Director and to remain in force, unless revoked, until 2 years after the commencement of these Regulations.

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**20.06 Other continuing matters**

- (1) A licence suspended, immediately before the commencement of these Regulations, under subregulation 52 (1) of the National Parks and Wildlife Regulations is taken to be suspended under regulation 17.12 for the remaining period of the suspension.
- (2) Subregulation (3) applies to an infringement notice:
  - (a) served under subregulation 66 (3) of the National Parks and Wildlife Regulations; and
  - (b) for which the prescribed penalty was not paid at the commencement of these Regulations.
- (3) The infringement notice is taken to have been served under these Regulations and may be enforced as if the offence mentioned in the infringement notice were an offence against these Regulations.
- (4) A reconsideration by the Director under regulation 75 of the National Parks and Wildlife Regulations that has not been finalised before the commencement of these Regulations is to be carried on as if it were a reconsideration under Division 14.3.

**20.07 Requirement for assessments**

For subitem 82 (1) of Schedule 1 to the *Environment Protection and Biodiversity Conservation Amendment (Wildlife Protection) Act 2001*:

- (a) a proposal by the Minister under paragraph 9B (1) (aa) of the *Wildlife Protection (Regulation of Exports and Imports) Act 1982* is taken to comply with section 303EF of the Act if:
  - (i) it relates to the amendment of Schedule 6 to that Act to include a new species; and
  - (ii) it includes an assessment of the potential impact on the environment of the proposed amendment; and
  - (iii) the Designated Authority and the Minister have complied with section 9B of that Act; and

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- (b) participation of State and Territory Ministers under section 78 of that Act on a proposal to amend Schedule 6 to that Act is taken to be consultation under paragraph 303EC (3) (b) of the Act.

**20.08 Consultation undertaken under section 9B of the *Wildlife Protection (Regulation of Exports and Imports) Act 1982***

If before this regulation commenced the Minister was considering a proposal:

- (a) to declare a program as an approved management program under section 10 of the *Wildlife Protection (Regulation of Exports and Imports) Act 1982*; or
- (b) to declare specimens to be controlled specimens under section 10A of that Act;

consultation undertaken by the Minister that complies with section 9B of that Act is taken to comply with section 303FR of the Act.

**20.09 Certain trading in shells of native molluscs**

Until 30 June 2003, to the extent that an operation trades in specimens of shells of native molluscs declared to be controlled specimens by the declaration made by the Minister on 3 June 1998, the operation is taken, for subregulation 9A.20 (4), to be an existing stocks operation.

*Note* The declaration was published in the *Gazette* of 17 June 1998.

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## Schedule 1      **Classes of actions not needing assessment**

(regulation 3.06)

### **1      Definition for Schedule 1**

1.01      In this Schedule:

*decision-maker*, for a manner of assessment specified in the bilateral agreement, means the relevant State or Territory agency, authority or person who makes a decision under the specified State process.

### **2      Assessment of relevant impacts**

2.01      The specified manner of assessment includes an assessment of the relevant impacts of the action.

### **3      Deciding on the assessment approach**

3.01      This item applies if the specified manner of assessment provides for the decision-maker to choose between assessment approaches corresponding to assessment approaches mentioned in paragraph 3.02 (b) of the Regulations.

3.01A      The decision-maker, in selecting an assessment approach for an action, has information that he or she considers to be sufficient to make the decision.

3.02      The decision-maker, in selecting an assessment approach for an action, considers criteria equivalent to the criteria that are:

- (a) mentioned in any guidelines published under subsection 87 (6) of the Act; and
- (b) are relevant to the decision.

3.03      An action is assessed using an approach corresponding to assessment on preliminary documentation under Division 4 of Part 8 of the Act only if:

- (a) the Minister has been given an opportunity to ask that another assessment approach be used and the Minister has not done so; or
- (b) the Minister has agreed in writing that the assessment approach be used.

#### **4 Guidelines for assessment**

- 4.01 For an assessment approach corresponding to assessment by public environment report under Division 5 of Part 8 of the Act or environmental impact statement under Division 6 of Part 8 of the Act:
- (a) the decision-maker prepares written guidelines for the assessment; or
  - (b) the guidelines for the assessment are those prepared in writing by a State or Territory agency or authority for assessment of all actions in the class of action for which the assessment is required.
- 4.02 The decision-maker seeks public comment, if appropriate, on the guidelines before they are made.
- 4.03 The guidelines are designed to ensure that the assessment:
- (a) assesses all the relevant impacts of the action; and
  - (b) provides enough information about the action and its relevant impacts to allow the Minister to make an informed decision whether to approve the action; and
  - (c) addresses the matters mentioned in Division 5.2 for an environmental impact statement or a public environment report.
- 4.04 For an assessment approach corresponding to assessment by inquiry under Division 7 of Part 8 of the Act:
- (a) persons are appointed to carry out the inquiry; and
  - (b) the persons are given terms of reference to ensure that the inquiry:
    - (i) assesses all relevant impacts of the action; and

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- (ii) provides enough information about the action and its relevant impacts for the Minister to make an informed decision whether to approve the action; and
  - (c) the terms of reference are published; and
  - (d) the people appointed to conduct the inquiry are independent and have sufficient power to investigate the action adequately; and
  - (e) hearings held as part of the inquiry are conducted in public except so far as the people appointed to conduct the inquiry believe that it is in the public interest that all or part of the hearings be held in private.

## **5 Public comment on draft documentation**

- 5.01 For an assessment approach other than one corresponding to assessment by inquiry under Division 7 of the Act, draft assessment documentation is released for public comment for at least:
  - (a) for an assessment approach corresponding to assessment on preliminary documentation under Division 4 of Part 8 of the Act — 14 days; or
  - (b) for any other assessment approach — 28 days.
- 5.01A For an assessment approach corresponding to assessment by public environment report under Division 5 of Part 8 of the Act or environmental impact statement under Division 6 of Part 8 of the Act, the assessment documentation made available to the public adequately addresses the guidelines for the assessment.
- 5.02 Assessment documentation prepared after public comments on draft assessment documentation have been considered summarise, or take into account, the issues raised by the public.
- 5.03 For an assessment approach corresponding to assessment by inquiry under Division 7 of the Act, hearings are held in public unless the persons appointed to hold the inquiry direct otherwise in the public interest or for reasons of commercial confidentiality.

**6 Assessment and inquiry reports**

6.01 Either:

- (a) an assessment report is prepared for each action that is assessed; or
- (b) if an inquiry is held, the persons holding the inquiry prepares an inquiry report.

6.02 The assessment report or inquiry report takes into account:

- (a) the information in the assessment documentation; and
- (b) any other relevant information available to the decision-maker or inquiry.

6.03 An assessment report or an inquiry report includes:

- (a) a description of:
  - (i) the action; and
  - (ii) the places affected by the action; and
  - (iii) any matters of national environmental significance that are likely to be affected by the action; and
- (b) a summary of the relevant impacts of the action; and
- (c) a description of feasible mitigation measures, changes to the action or procedures to prevent or minimise environmental impacts on relevant matters of national environmental significance proposed by the proponent or suggested in public submissions; and
- (d) to the extent practicable, a description of any feasible alternatives to the action that have been identified through the assessment process, and their likely impact on matters of national environmental significance; and
- (e) a statement of conditions for approval of the action that may be imposed to address identified impacts on matters of national environmental significance; and
- (f) a statement of State or Territory approval requirements and conditions that apply, or are proposed to apply, to the action when the report is prepared, including a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the action.



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- 6.04 An assessment report is prepared by a State or Territory or an agency of a State or Territory.

**7 Advertising and consultation**

- 7.01 This item applies to an invitation to the public to comment on draft assessment documents or guidelines.
- 7.02 The invitation is published in newspapers circulating generally in each State and self-governing Territory.
- 7.03 However, for an assessment approach corresponding to assessment on preliminary documentation under Division 4 of Part 8 of the Act, the invitation may be published instead on a website that is:
- (a) approved by the decision-maker; and
  - (b) linked to the Environment Australia website.
- 7.04 The invitation includes:
- (a) a brief description of the action; and
  - (aa) the name of the action; and
  - (ab) the name of the person intending to take the action; and
  - (ac) the name of the designated proponent (if this is not the person intending to take the action); and
  - (b) the location of the action; and
  - (c) what matters are protected by a provision of Part 3 of the Act; and
  - (d) how the relevant documents may be obtained; and
  - (e) the deadline for public comments.

## **Schedule 2 Referral information**

(regulation 4.03)

### **1 Contact**

- 1.01 Name, postal address and telephone number of:
- (a) the person making the referral; and
  - (b) the person proposing to take the action (if not the person mentioned in paragraph (a)).

### **2 Designated proponent**

- 2.01 The name of the person who should be designated as the proponent if the Minister decides the action is a controlled action.
- 2.02 If the person making the referral states that a person other than the person proposing to take the action should be designated as proponent:
- (a) the proposed proponent's name, postal address and telephone number; and
  - (b) a signed agreement to the proposed designation by the proposed proponent and the person proposing to take the action.

### **3 Whether the action is a controlled action**

- 3.01 If the referral is made by the person proposing to take the action:
- (a) whether the person thinks the action is a controlled action; and
  - (b) the provisions of the Act that the person believes are controlling provisions for the action; and
  - (c) why the person thinks the action is or is not a controlled action.

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## **4 Description of the proposal**

- 4.01 A description of the proposed action, including:
- (a) details of the location of the project area;
  - (b) the latitude and longitude of the action;
  - (c) the timeframe in which the action is proposed to be taken;
  - (d) activities proposed to be carried out in the action;
  - (e) an explanation of the context, including any relevant planning framework, in which the action is proposed;
  - (f) whether the action is related to other actions or proposals in the region.

## **5 Nature and extent of the likely impacts of the action**

- 5.01 A description of the affected area that refers, as appropriate, to relevant maps.
- 5.02 The nature and extent of likely impacts on any of:
- (a) the World Heritage values of a World Heritage property;
  - (aa) the National Heritage values of a National Heritage place;
  - (b) the ecological character of a Ramsar wetland;
  - (c) the members of a listed threatened species (except a conservation dependent species) or any threatened ecological community, or their habitat;
  - (d) the members of a listed migratory species or their habitat;
  - (e) part of the Commonwealth marine area;
  - (f) Commonwealth land.
- 5.03 The nature and extent of the likely impact on the environment, and whether the action is:
- (a) a nuclear action; or
  - (b) an action by the Commonwealth or a Commonwealth agency; or
  - (c) to be taken in a Commonwealth marine area; or
  - (d) to be taken on Commonwealth land.

- 5.04 A map of the affected area on which the following features (if relevant) are marked:
- (a) the location of the action;
  - (b) the approximate boundary of the areas and habitat mentioned in item 5.02;
  - (c) to the extent practicable and relevant, the information mentioned in item 5.06.
- 5.05 A description of important features of the project area and the affected area, including (if relevant to the project area or affected area) information about:
- (a) soil and vegetation characteristics;
  - (b) water flows, including rivers, creeks and impoundments;
  - (c) the presence of outstanding natural features, including caves;
  - (d) gradient;
  - (e) any buildings or other infrastructure;
  - (f) any marine areas;
  - (g) kinds of fauna in the area; and
  - (h) the current state of the environment in the area, including information about the extent of erosion, whether the area is infested with weeds or feral animals and whether the area is covered by native vegetation or crops.
- 5.06 Whether the project area is held under freehold, leasehold or any other tenure.
- 5.07 Current or proposed land uses for the project area.

## **6 Information sources**

- 6.01 For information given under item 5:
- (a) the source of the information; and
  - (b) how recent the information is; and
  - (c) how the reliability of the information was tested; and
  - (d) what uncertainties (if any) are in the information.

## **Schedule 3 Preliminary information**

(regulation 5.03)

### **Part 1 General requirements**

#### **1 Contact**

- 1.01 Name, postal address and telephone number of:
- (a) the person taking the action; and
  - (b) the designated proponent (if not the person mentioned in paragraph (a)); and
  - (c) the agent of the designated proponent (if applicable).

#### **2 Information in the referral**

- 2.01 If the preliminary information is given after the Minister has decided whether the action requires approval or after an application is made for a permit in relation to whales, dolphins or porpoises:
- (a) the referral reference number recorded on the notice of the decision or a copy of the notice; and
  - (b) whether any of the information given under regulation 4.03 or 17.01 needs to be revised or updated and, if so, details of the changes; and
  - (c) whether the person giving the preliminary information wants to give any further information to the information given in the referral or permit application and, if so, the further information.

#### **3 Assessments under State or Territory legislation**

- 3.01 Details of any environmental assessment of relevant impacts of the action that has been, is being or will be carried out under State or Territory legislation, including:
- (a) copies of assessment documentation, including documents, prepared by the person proposing to take the

- action or a government agency, that describe the impacts of the action or how the impacts are to be managed; and
- (b) a description of any public consultation occurring, or to occur, during the State assessment process; and
- (c) copies of documents recording the outcomes of the consultations.

#### **4 Other sources of information on the relevant impacts and their management**

- 4.01 Details of any environmental assessment of relevant impacts of the action (other than an assessment mentioned in item 3) that has been, is being or will be carried out, including:
- (a) copies of assessment documentation; and
  - (b) a description of any public consultation occurring, or to occur, during the assessment process; and
  - (c) copies of documents recording the outcomes of the consultations.
- 4.02 Details of any plan, program or strategy that provides for the action and the management and mitigation of any relevant impacts of the action.

#### **5 Need for an environmental impact statement or public environment report**

- 5.01 Whether the person giving the preliminary information thinks that the relevant impacts of the action should be assessed by an environmental impact statement or a public environment report.

#### **6 Alternatives to the proposed action**

- 6.01 A description of:
- (a) any options for how the proposed action may be taken; and
  - (b) any feasible alternatives to the proposed action, including not taking the action; and

(c) the relative effect of the options and alternatives on the relevant impacts of the action.

6.02 This item does not apply if the person giving the preliminary information states that the relevant impacts of the action should be assessed by an environmental impact statement or a public environment report.

## **7 Mitigation techniques to eliminate or reduce relevant impacts**

7.01 Details of measures that will be implemented to avoid or manage any relevant impacts of the action including, if appropriate, evidence in the form of reports or technical advice on the feasibility and effectiveness of the proposed measures.

7.02 This item does not apply if the person giving the preliminary information states that the relevant impacts of the action should be assessed by an environmental impact statement or a public environment report.

## **8 Environmental record of person proposing to take the action**

8.01 Details of any proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources against:

- (a) the person proposing to take the action; and
- (b) for an action for which a person has applied for a permit, the person making the application.

8.02 If the person proposing to take the action is a corporation — details of the corporation's environmental policy and planning framework.

8.03 This item does not apply if the person giving the preliminary information states that the relevant impacts of the action should be assessed by an environmental impact statement or a public environment report.

## **Part 2        Requirements for actions to which                   section 160 of the Act applies**

### **1        Description of the proposal**

- 1.01    A description of the proposed action, including:
- (a) details of the location of the project area;
  - (b) the timeframe in which the action is proposed to be taken;
  - (c) activities proposed to be carried out in the action;
  - (d) an explanation of the context, including any relevant planning framework, in which the action is proposed;
  - (e) whether the action is related to other actions or proposals in the region.

### **2        Area likely to be affected by the action**

- 2.01    A description of the affected area that refers, as appropriate, to relevant maps.
- 2.02    A description of important features of the project area and the affected area, including (if relevant to the project area or affected area) information about:
- (a) soil and vegetation characteristics;
  - (b) water flows, including rivers, creeks and impoundments;
  - (c) the presence of outstanding natural features, including caves;
  - (d) gradient;
  - (e) any buildings or other infrastructure;
  - (f) any marine areas;
  - (g) kinds of fauna in the area;
  - (h) the current state of the environment in the area, including information about the extent of erosion, whether the area is infested with weeds or feral animals and whether the area is covered by native vegetation or crops.
- 2.03    Whether the project area is held under freehold, leasehold or any other tenure.
- 2.04    Current or proposed land uses for the project area.



**3 Known likely impacts of action on the environment**

- 3.01 Whether the action is likely to have an impact on the environment and, if so, the nature and extent of the likely impact.
- 3.02 The evidence and reasoning being relied on to support the conclusions about the impact mentioned in subitem 3.01.

**4 Part 1 information**

- 4.01 The information mentioned in items 3 to 8 of Part 1.
- 4.02 For this Part, a reference in Part 1 to *relevant impact* is taken to be a reference to an impact on the environment.

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## **Schedule 4      Matters to be addressed by draft public environment report and environmental impact statement**

(regulation 5.04)

### **1      General information**

1.01      The background of the action including:

- (a) the title of the action;
- (b) the full name and postal address of the designated proponent;
- (c) a clear outline of the objective of the action;
- (d) the location of the action;
- (e) the background to the development of the action;
- (f) how the action relates to any other actions (of which the proponent should reasonably be aware) that have been, or are being, taken or that have been approved in the region affected by the action;
- (g) the current status of the action;
- (h) the consequences of not proceeding with the action.

### **2      Description**

2.01      A description of the action, including:

- (a) all the components of the action;
- (b) the precise location of any works to be undertaken, structures to be built or elements of the action that may have relevant impacts;
- (c) how the works are to be undertaken and design parameters for those aspects of the structures or elements of the action that may have relevant impacts;
- (d) relevant impacts of the action;

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- (e) proposed safeguards and mitigation measures to deal with relevant impacts of the action;
  - (f) any other requirements for approval or conditions that apply, or that the proponent reasonably believes are likely to apply, to the proposed action;
  - (g) to the extent reasonably practicable, any feasible alternatives to the action, including:
    - (i) if relevant, the alternative of taking no action;
    - (ii) a comparative description of the impacts of each alternative on the matters protected by the controlling provisions for the action;
    - (iii) sufficient detail to make clear why any alternative is preferred to another;
  - (h) any consultation about the action, including:
    - (i) any consultation that has already taken place;
    - (ii) proposed consultation about relevant impacts of the action;
    - (iii) if there has been consultation about the proposed action — any documented response to, or result of, the consultation;
  - (i) identification of affected parties, including a statement mentioning any communities that may be affected and describing their views.

### **3 Relevant impacts**

3.01 Information given under paragraph 2.01 (d) must include:

- (a) a description of the relevant impacts of the action;
- (b) a detailed assessment of the nature and extent of the likely short term and long term relevant impacts;
- (c) a statement whether any relevant impacts are likely to be unknown, unpredictable or irreversible;
- (d) analysis of the significance of the relevant impacts;
- (e) any technical data and other information used or needed to make a detailed assessment of the relevant impacts.

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## **4 Proposed safeguards and mitigation measures**

- 4.01 Information given under paragraph 2.01 (e) must include:
- (a) a description, and an assessment of the expected or predicted effectiveness of, the mitigation measures;
  - (b) any statutory or policy basis for the mitigation measures;
  - (c) the cost of the mitigation measures;
  - (d) an outline of an environmental management plan that sets out the framework for continuing management, mitigation and monitoring programs for the relevant impacts of the action, including any provisions for independent environmental auditing;
  - (e) the name of the agency responsible for endorsing or approving each mitigation measure or monitoring program;
  - (f) a consolidated list of mitigation measures proposed to be undertaken to prevent, minimise or compensate for the relevant impacts of the action, including mitigation measures proposed to be taken by State governments, local governments or the proponent.

## **5 Other approvals and conditions**

- 5.01 Information given under paragraph 2.01 (f) must include:
- (a) details of any local or State government planning scheme, or plan or policy under any local or State government planning system that deals with the proposed action, including:
    - (i) what environmental assessment of the proposed action has been, or is being, carried out under the scheme, plan or policy;
    - (ii) how the scheme provides for the prevention, minimisation and management of any relevant impacts;
  - (b) a description of any approval that has been obtained from a State, Territory or Commonwealth agency or authority (other than an approval under the Act), including any conditions that apply to the action;

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- (c) a statement identifying any additional approval that is required;
  - (d) a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the action.

## **6 Environmental record of person proposing to take the action**

- 6.01 Details of any proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources against:
  - (a) the person proposing to take the action; and
  - (b) for an action for which a person has applied for a permit, the person making the application.
- 6.02 If the person proposing to take the action is a corporation — details of the corporation's environmental policy and planning framework.

## **7 Information sources**

- 7.01 For information given in a draft public environment report or environmental impact statement, the draft must state:
  - (a) the source of the information; and
  - (b) how recent the information is; and
  - (c) how the reliability of the information was tested; and
  - (d) what uncertainties (if any) are in the information.

## **Schedule 4A      Export of CITES specimens**

(regulation 9A.02)

- 1      Manufactured product of *Crocodylus porosus* or *Crocodylus johnstoni* that is an eligible commercial purpose export and is carried as part of personal baggage
- 2      Moulded feathers

## Schedule 4B Import of CITES specimens

(regulation 9A.03)

- 1 Manufactured product of *Crocodylus porosus* or *Crocodylus johnstoni* that is an eligible commercial purpose export, was exported in accordance with Schedule 4A without a permit, and is carried as part of personal baggage
- 2 American ginseng (*Panax quinquefolia*) harvested in the USA, carried as part of personal baggage

## **Schedule 5      Australian World Heritage management principles**

(regulation 10.01)

### **1      General principles**

- 1.01      The primary purpose of management of natural heritage and cultural heritage of a declared World Heritage property must be, in accordance with Australia's obligations under the World Heritage Convention, to identify, protect, conserve, present, transmit to future generations and, if appropriate, rehabilitate the World Heritage values of the property.
- 1.02      The management should provide for public consultation on decisions and actions that may have a significant impact on the property.
- 1.03      The management should make special provision, if appropriate, for the involvement in managing the property of people who:
- (a)      have a particular interest in the property; and
  - (b)      may be affected by the management of the property.
- 1.04      The management should provide for continuing community and technical input in managing the property.

### **2      Management planning**

- 2.01      At least 1 management plan should be prepared for each declared World Heritage property.
- 2.02      A management plan for a declared World Heritage property should:
- (a)      state the World Heritage values of the property for which it is prepared; and
  - (b)      include adequate processes for public consultation on proposed elements of the plan; and



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- (c) state what must be done to ensure that the World Heritage values of the property are identified, conserved, protected, presented, transmitted to future generations and, if appropriate, rehabilitated; and
  - (d) state mechanisms to deal with the impacts of actions that individually or cumulatively degrade, or threaten to degrade, the World Heritage values of the property; and
  - (e) provide that management actions for values, that are not World Heritage values, are consistent with the management of the World Heritage values of the property; and
  - (f) promote the integration of Commonwealth, State or Territory and local government responsibilities for the property; and
  - (g) provide for continuing monitoring and reporting on the state of the World Heritage values of the property; and
  - (h) be reviewed at intervals of not more than 7 years.

### **3 Environmental impact assessment and approval**

- 3.01 This principle applies to the assessment of an action that is likely to have a significant impact on the World Heritage values of a property (whether the action is to occur inside the property or not).
- 3.02 Before the action is taken, the likely impact of the action on the World Heritage values of the property should be assessed under a statutory environmental impact assessment and approval process.
- 3.03 The assessment process should:
  - (a) identify the World Heritage values of the property that are likely to be affected by the action; and
  - (b) examine how the World Heritage values of the property might be affected; and
  - (c) provide for adequate opportunity for public consultation.

- 3.04 An action should not be approved if it would be inconsistent with the protection, conservation, presentation or transmission to future generations of the World Heritage values of the property.
- 3.05 Approval of the action should be subject to conditions that are necessary to ensure protection, conservation, presentation or transmission to future generations of the World Heritage values of the property.
- 3.06 The action should be monitored by the authority responsible for giving the approval (or another appropriate authority) and, if necessary, enforcement action should be taken to ensure compliance with the conditions of the approval.

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## Schedule 5A Management plans for National Heritage places

(regulation 10.01C)

A management plan must:

- (a) establish objectives for the identification, protection, conservation, presentation and transmission of the National Heritage values of the place; and
- (b) provide a management framework that includes reference to any statutory requirements and agency mechanisms for the protection of the National Heritage values of the place; and
- (c) provide a comprehensive description of the place, including information about its location, physical features, condition, historical context and current uses; and
- (d) provide a description of the National Heritage values and any other heritage values of the place; and
- (e) describe the condition of the National Heritage values of the place; and
- (f) describe the method used to assess the National Heritage values of the place; and
- (g) describe the current management requirements and goals, including proposals for change and any potential pressures on the National Heritage values of the place; and
- (h) have policies to manage the National Heritage values of a place, and include, in those policies, guidance in relation to the following:
  - (i) the management and conservation processes to be used;
  - (ii) the access and security arrangements, including access to the area for indigenous people to maintain cultural traditions;
  - (iii) the stakeholder and community consultation and liaison arrangements;
  - (iv) the policies and protocols to ensure that indigenous people participate in the management process;

- (v) the protocols for the management of sensitive information;
- (vi) the planning and management of works, development, adaptive reuse and property divestment proposals;
- (vii) how unforeseen discoveries or disturbance of heritage are to be managed;
- (viii) how, and under what circumstances, heritage advice is to be obtained;
- (ix) how the condition of National Heritage values is to be monitored and reported;
- (x) how records of intervention and maintenance of a heritage places register are kept;
- (xi) the research, training and resources needed to improve management;
- (xii) how heritage values are to be interpreted and promoted; and
- (i) include an implementation plan; and
- (j) show how the implementation of policies will be monitored; and
- (k) show how the management plan will be reviewed.

## **Schedule 5B National Heritage management principles**

(regulation 10.01E)

- 1 The objective in managing National Heritage places is to identify, protect, conserve, present and transmit, to all generations, their National Heritage values.
- 2 The management of National Heritage places should use the best available knowledge, skills and standards for those places, and include ongoing technical and community input to decisions and actions that may have a significant impact on their National Heritage values.
- 3 The management of National Heritage places should respect all heritage values of the place and seek to integrate, where appropriate, any Commonwealth, State, Territory and local government responsibilities for those places.
- 4 The management of National Heritage places should ensure that their use and presentation is consistent with the conservation of their National Heritage values.
- 5 The management of National Heritage places should make timely and appropriate provision for community involvement, especially by people who:
  - (a) have a particular interest in, or association with, the place; and
  - (b) may be affected by the management of the place.
- 6 Indigenous people are the primary source of information on the value of their heritage and the active participation of indigenous people in identification, assessment and management is integral to the effective protection of indigenous heritage values.
- 7 The management of National Heritage places should provide for regular monitoring, review and reporting on the conservation of National Heritage values.

## **Schedule 6      Managing wetlands of international importance**

(regulation 10.02)

### **1      General principles**

- 1.01      The primary purpose of management of a declared Ramsar wetland must be, in accordance with the Ramsar Convention:
- (a)      to describe and maintain the ecological character of the wetland; and
  - (b)      to formulate and implement planning that promotes:
    - (i)      conservation of the wetland; and
    - (ii)     wise and sustainable use of the wetland for the benefit of humanity in a way that is compatible with maintenance of the natural properties of the ecosystem.
- 1.02      Wetland management should provide for public consultation on decisions and actions that may have a significant impact on the wetland.
- 1.03      Wetland management should make special provision, if appropriate, for the involvement of people who:
- (a)      have a particular interest in the wetland; and
  - (b)      may be affected by the management of the wetland.
- 1.04      Wetland management should provide for continuing community and technical input.

### **2      Management planning**

- 2.01      At least 1 management plan should be prepared for each declared Ramsar wetland.
- 2.02      A management plan for a declared Ramsar wetland should:
- (a)      describe its ecological character; and

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- (b) state the characteristics that make it a wetland of international importance under the Ramsar Convention; and
  - (c) state what must be done to maintain its ecological character; and
  - (d) promote its conservation and sustainable use for the benefit of humanity in a way that is compatible with maintenance of the natural properties of the ecosystem; and
  - (e) state mechanisms to deal with the impacts of actions that individually or cumulatively endanger its ecological character, including risks arising from:
    - (i) physical loss, modification or encroachment on the wetland; or
    - (ii) loss of biodiversity; or
    - (iii) pollution and nutrient input; or
    - (iv) changes to water regimes; or
    - (v) utilisation of resources; or
    - (vi) introduction of invasive species; and
  - (f) state whether the wetland needs restoration or rehabilitation; and
  - (g) if restoration or rehabilitation is needed — explain how the plan provides for restoration or rehabilitation; and
  - (h) provide for continuing monitoring and reporting on the state of its ecological character; and
  - (i) be based on an integrated catchment management approach; and
  - (j) include adequate processes for public consultation on the elements of the plan; and
  - (k) be reviewed at intervals of not more than 7 years.

### **3 Environmental impact assessment and approval**

- 3.01 This principle applies to the assessment of an action that is likely to have a significant impact on the ecological character of a Ramsar wetland (whether the action is to occur inside the wetland or not).

- 3.02 Before the action is taken, the likely environmental impact of the action on the wetland's ecological character should be assessed under a statutory environmental impact assessment and approval process.
- 3.03 The assessment process should:
- (a) identify any part of the ecological character of the wetland that is likely to be affected by the action; and
  - (b) examine how the ecological character of the wetland might be affected; and
  - (c) provide adequate opportunity for public consultation.
- 3.04 An action should not be approved if it would be inconsistent with:
- (a) maintaining the ecological character of the wetland; or
  - (b) providing for the conservation and sustainable use of the wetland.
- 3.05 Approval of the action should be subject to conditions, if necessary, to ensure that the ecological character of the wetland is maintained.
- 3.06 The action should be monitored by the authority responsible for giving the approval (or another appropriate authority) and, if necessary, enforcement action should be taken to ensure compliance with the conditions.



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## **Schedule 7      Australian Biosphere reserve management principles**

(regulation 10.03)

### **1      Management principles**

- 1.01      A management plan should be prepared for each Biosphere reserve.
- 1.02      A management plan for a Biosphere reserve should state:
- (a) the values for which the reserve is established; and
  - (b) the extent of the reserve; and
  - (c) any zoning that provides for the following functions:
    - (i) conserving genetic resources, species, ecosystems and landscapes;
    - (ii) fostering sustainable economic and human development;
    - (iii) supporting demonstration projects, environmental education and training, and research and monitoring related to local, national and global issues of conservation and sustainable development; and
  - (d) the role of the reserve in contributing to a national coverage of ecological systems representative of major bioregions;
  - (e) the strategies for biodiversity conservation in the reserve, including those that:
    - (i) protect it from disturbance and threatening processes; and
    - (ii) minimise potential adverse effects on its natural, cultural and social environment and surrounding communities; and
  - (f) how the plan will provide for:
    - (i) exploring and demonstrating approaches to sustainable development on a regional scale; and

- (ii) ensuring that the health, diversity and productivity of the environment in the biosphere reserve are maintained or enhanced for the benefit of future generations; and
  - (iii) ensuring that decision-making is consistent with the precautionary principle; and
  - (iv) setting out an appropriate policy and management framework; and
  - (v) programs for research, monitoring, education and training.
- 1.03 A management plan for a Biosphere reserve should provide for public consultation about planning for, and proposed actions in, the Biosphere reserve.

## **Schedule 7A    Management plans for Commonwealth Heritage places**

(regulation 10.03B)

A management plan must:

- (a) establish objectives for the identification, protection, conservation, presentation and transmission of the Commonwealth Heritage values of the place; and
- (b) provide a management framework that includes reference to any statutory requirements and agency mechanisms for the protection of the Commonwealth Heritage values of the place; and
- (c) provide a comprehensive description of the place, including information about its location, physical features, condition, historical context and current uses; and
- (d) provide a description of the Commonwealth Heritage values and any other heritage values of the place; and
- (e) describe the condition of the Commonwealth Heritage values of the place; and
- (f) describe the method used to assess the Commonwealth Heritage values of the place; and
- (g) describe the current management requirements and goals, including proposals for change and any potential pressures on the Commonwealth Heritage values of the place; and
- (h) have policies to manage the Commonwealth Heritage values of a place, and include in those policies, guidance in relation to the following:
  - (i) the management and conservation processes to be used;
  - (ii) the access and security arrangements, including access to the area for indigenous people to maintain cultural traditions;
  - (iii) the stakeholder and community consultation and liaison arrangements;

- (iv) the policies and protocols to ensure that indigenous people participate in the management process;
- (v) the protocols for the management of sensitive information;
- (vi) the planning and management of works, development, adaptive reuse and property divestment proposals;
- (vii) how unforeseen discoveries or disturbance of heritage are to be managed;
- (viii) how, and under what circumstances, heritage advice is to be obtained;
- (ix) how the condition of Commonwealth Heritage values is to be monitored and reported;
- (x) how records of intervention and maintenance of a heritage places register are kept;
- (xi) the research, training and resources needed to improve management;
- (xii) how heritage values are to be interpreted and promoted; and
- (i) include an implementation plan; and
- (j) show how the implementation of policies will be monitored; and
- (k) show how the management plan will be reviewed.

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## **Schedule 7B Commonwealth Heritage management principles**

(regulation 10.03D)

- 1 The objective in managing Commonwealth Heritage places is to identify, protect, conserve, present and transmit, to all generations, their Commonwealth Heritage values.
- 2 The management of Commonwealth Heritage places should use the best available knowledge, skills and standards for those places, and include ongoing technical and community input to decisions and actions that may have a significant impact on their Commonwealth Heritage values.
- 3 The management of Commonwealth Heritage places should respect all heritage values of the place and seek to integrate, where appropriate, any Commonwealth, State, Territory and local government responsibilities for those places.
- 4 The management of Commonwealth Heritage places should ensure that their use and presentation is consistent with the conservation of their Commonwealth Heritage values.
- 5 The management of Commonwealth Heritage places should make timely and appropriate provision for community involvement, especially by people who:
  - (a) have a particular interest in, or associations with, the place; and
  - (b) may be affected by the management of the place;
- 6 Indigenous people are the primary source of information on the value of their heritage and that the active participation of indigenous people in identification, assessment and management is integral to the effective protection of indigenous heritage values.
- 7 The management of Commonwealth Heritage places should provide for regular monitoring, review and reporting on the conservation of Commonwealth Heritage values.

## **Schedule 7C Heritage strategies**

(regulation 10.03E)

- 1 A strategy must include general matters, including the following:
  - (a) a statement of the agency's objective for management of its heritage places;
  - (b) a description of how the heritage strategy operates within the agency's corporate planning framework;
  - (c) a list of key positions within the agency, the holders of which are responsible for heritage matters;
  - (d) an outline of a process for consultation and liaison with other government agencies on heritage matters;
  - (e) an outline of a process for consultation and liaison with the community on heritage matters, including, in particular, a process for consultation and liaison with indigenous stakeholders on indigenous heritage matters;
  - (f) an outline of a process for resolution of conflict arising from the assessment and management of Commonwealth Heritage values;
  - (g) an outline of processes for monitoring, reviewing and reporting on the implementation of an agency's heritage strategy.
  
- 2 A strategy must include matters relating to the identification and assessment of Commonwealth Heritage values, including the following:
  - (a) an outline of the process for identifying and assessing the Commonwealth Heritage values of all agency property;
  - (b) a statement of the time-frames for the completion of:
    - (i) the agency's heritage identification and assessment program; and
    - (ii) the agency's register of places and their Commonwealth Heritage values; and
    - (iii) the agency's report to the Minister, that includes details of the program and a copy of the register.

- 3 A strategy must include matters relating to the management of Commonwealth Heritage values, including the following:
- (a) a description of how the agency's heritage places register will be maintained, updated and made accessible to the public;
  - (b) a statement of the time frame for the preparation of management plans for the agency's Commonwealth Heritage places;
  - (c) an outline of the existing use, by the agency, of places with Commonwealth Heritage values;
  - (d) an outline of current or expected development, works, disposal or other proposals that may affect Commonwealth Heritage values;
  - (e) an outline of the process to ensure that Commonwealth Heritage values are considered in the agency's planning for future development, works, divestment or other proposals;
  - (f) a plan and budget for the maintenance and long-term conservation of Commonwealth Heritage values;
  - (g) an outline of the process by which the success of the agency in conserving Commonwealth Heritage values will be monitored and reviewed.
- 4 A strategy must include matters relating to Commonwealth Heritage training and promotion, including the following:
- (a) a program for the training of agency staff about Commonwealth heritage obligations and best practice heritage management;
  - (b) a program for promoting community awareness of Commonwealth Heritage values, as appropriate.

## **Schedule 8 Australian IUCN reserve management principles**

(regulation 10.04)

### **Part 1 General administrative principles**

#### **1 Community participation**

Management arrangements should, to the extent practicable, provide for broad and meaningful participation by the community, public organisations and private interests in designing and carrying out the functions of the reserve or zone.

#### **2 Effective and adaptive management**

Management arrangements should be effective and appropriate to the biodiversity objectives and the socio-economic context of the reserve or zone. They should be adaptive in character to ensure a capacity to respond to uncertainty and change.

#### **3 Precautionary principle**

A lack of full scientific certainty should not be used as a reason for postponing measures to prevent degradation of the natural and cultural heritage of a reserve or zone where there is a threat of serious or irreversible damage.

#### **4 Minimum impact**

The integrity of a reserve or zone is best conserved by protecting it from disturbance and threatening processes. Potential adverse impacts on the natural, cultural and social environment and surrounding communities should be minimised as far as practicable.



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## 5 Ecologically sustainable use

If resource use is consistent with the management principles that apply to a reserve or zone, it should (if it is carried out) be based on the principle (the principle of *ecologically sustainable use*) that:

- (a) natural resources should only be used within their capacity to sustain natural processes while maintaining the life-support systems of nature; and
- (b) the benefit of the use to the present generation should not diminish the potential of the reserve or zone to meet the needs and aspirations of future generations.

## 6 Transparency of decision-making

The framework and processes for decision-making for management of the reserve or zone should be transparent. The reasons for making decisions should be publicly available, except to the extent that information, including information that is culturally sensitive or commercial-in-confidence, needs to be treated as confidential.

## 7 Joint management

If the reserve or zone is wholly or partly owned, by Aboriginal people, continuing traditional use of the reserve or zone by resident indigenous people, including the protection and maintenance of cultural heritage, should be recognised.

## Part 2 Principles for each IUCN category

### 1 Strict nature reserve

*Note* This category corresponds to the International Union for the Conservation of Nature (*IUCN*) protected area management category Ia.

- 1.01 The reserve or zone should be managed primarily for scientific research or environmental monitoring based on the following principles.

- 1.02 Habitats, ecosystems and native species should be preserved in as undisturbed a state as possible.
- 1.03 Genetic resources should be maintained in a dynamic and evolutionary state.
- 1.04 Established ecological processes should be maintained.
- 1.05 Structural landscape features or rock exposures should be safeguarded.
- 1.06 Examples of the natural environment should be secured for scientific studies, environmental monitoring and education, including baseline areas from which all avoidable access is excluded.
- 1.07 Disturbance should be minimised by careful planning and execution of research and other approved activities.
- 1.08 Public access should be limited to the extent it is consistent with these principles.

## **2 Wilderness area**

*Note* This category corresponds to the IUCN protected area management category Ib.

- 2.01 The reserve or zone should be protected and managed to preserve its unmodified condition based on the following principles.
- 2.02 Future generations should have the opportunity to experience, understand and enjoy reserves or zones that have been largely undisturbed by human action over a long period of time.
- 2.03 The essential attributes and qualities of the environment should be maintained over the long term.
- 2.04 Public access should be provided at levels and of a type that will best serve the physical and spiritual well-being of visitors and maintain the wilderness qualities of the reserve or zone for present and future generations.

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- 2.05 Indigenous human communities living at low density and in balance with the available resources should be able to maintain their lifestyle.

### **3 National park**

*Note* This category corresponds to the IUCN protected area management category II.

- 3.01 The reserve or zone should be protected and managed to preserve its natural condition according to the following principles.
- 3.02 Natural and scenic areas of national and international significance should be protected for spiritual, scientific, educational, recreational or tourist purposes.
- 3.03 Representative examples of physiographic regions, biotic communities, genetic resources, and native species should be perpetuated in as natural a state as possible to provide ecological stability and diversity.
- 3.04 Visitor use should be managed for inspirational, educational, cultural and recreational purposes at a level that will maintain the reserve or zone in a natural or near natural state.
- 3.05 Management should seek to ensure that exploitation or occupation inconsistent with these principles does not occur.
- 3.06 Respect should be maintained for the ecological, geomorphologic, sacred and aesthetic attributes for which the reserve or zone was assigned to this category.
- 3.07 The needs of indigenous people should be taken into account, including subsistence resource use, to the extent that they do not conflict with these principles.
- 3.08 The aspirations of traditional owners of land within the reserve or zone, their continuing land management practices, the protection and maintenance of cultural heritage and the benefit the traditional owners derive from enterprises, established in the reserve or zone, consistent with these principles should be recognised and taken into account.

#### **4 Natural monument**

*Note* This category corresponds to the IUCN protected area management category III.

- 4.01 The reserve or zone should be protected and managed to preserve its natural or cultural features based on the following principles.
- 4.02 Specific outstanding natural features should be protected or preserved in perpetuity because of their natural significance, unique or representational quality or spiritual connotations.
- 4.03 Opportunities for research, education, interpretation and public appreciation should be provided to an extent consistent with these principles.
- 4.04 Management should seek to ensure that exploitation or occupation inconsistent with these principles does not occur.
- 4.05 People with rights or interests in the reserve or zone should be entitled to benefits derived from activities in the reserve or zone that are consistent with these principles.

#### **5 Habitat/species management area**

*Note* This category corresponds to the IUCN protected area management category IV.

- 5.01 The reserve or zone should be managed primarily, including (if necessary) through active intervention, to ensure the maintenance of habitats or to meet the requirements of collections or specific species based on the following principles.
- 5.02 Habitat conditions necessary to protect significant species, groups or collections of species, biotic communities or physical features of the environment should be secured and maintained, if necessary through specific human manipulation.
- 5.03 Scientific research and environmental monitoring that contribute to reserve management should be facilitated as primary activities associated with sustainable resource management.

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- 5.04 The reserve or zone may be developed for public education and appreciation of the characteristics of habitats, species or collections and of the work of wildlife management.
  - 5.05 Management should seek to ensure that exploitation or occupation inconsistent with these principles does not occur.
  - 5.06 People with rights or interests in the reserve or zone should be entitled to benefits derived from activities in the reserve or zone that are consistent with these principles.
  - 5.07 If the reserve or zone is declared for the purpose of a botanic garden, it should also be managed for the increase of knowledge, appreciation and enjoyment of Australia's plant heritage by establishing, as an integrated resource, a collection of living and herbarium specimens of Australian and related plants for study, interpretation, conservation and display.

## **6 Protected landscape/seascape**

*Note* This category corresponds to the IUCN protected area management category V.

- 6.01 The reserve or zone should be managed to safeguard the integrity of the traditional interactions between people and nature based on the following principles.
- 6.02 The harmonious interaction of nature and culture should be maintained through the protection of landscape or seascape and the continuation of traditional uses, building practices and social and cultural manifestations.
- 6.03 Lifestyles and economic activities that are in harmony with nature, and the preservation of the social and cultural fabric of the communities in the reserve or zone concerned should be supported.
- 6.04 The diversity of landscape, seascape and habitat, and of associated species and ecosystems, should be maintained.
- 6.05 Land and sea uses and activities that are inappropriate in scale or character should not occur.

- 6.06 Opportunities for public enjoyment should be provided through recreation and tourism appropriate in type and scale to the essential qualities of the reserve or zone.
- 6.07 Scientific and educational activities, that will contribute to the long-term well-being of resident populations and to the development of public support for the environmental protection of similar areas, should be encouraged.
- 6.08 Benefits to the local community, and contributions to its well-being, through the provision of natural products and services should be sought and promoted if they are consistent with these principles.

## **7 Managed resource protected area**

*Note* This category corresponds to the IUCN protected area management category VI.

- 7.01 The reserve or zone should be managed mainly for the sustainable use of natural ecosystems based on the following principles.
- 7.02 The biological diversity and other natural values of the reserve or zone should be protected and maintained in the long term.
- 7.03 Management practices should be applied to ensure ecologically sustainable use of the reserve or zone.
- 7.04 Management of the reserve or zone should contribute to regional and national development to the extent that this is consistent with these principles.

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## Schedule 9      Routes in Kakadu National Park

(regulation 11.06)

### Part 1      Transportation routes

- 1    The route followed by the Arnhem Highway from the western boundary of Kakadu National Park to the boundary of the land described in Schedule 2 to the *Aboriginal Land Rights (Northern Territory) Act 1976*
- 2    The route followed by the Kakadu Highway from the line joining the intersection of latitude 13° 14' 49" south with longitude 132° 19' 43" east and the intersection of latitude 13° 17' 34" south with longitude 132° 22' 44" east to the Arnhem Highway in Kakadu National Park
- 3    The route followed by the Oenpelli Road from the line joining the intersection of latitude 12° 30' 10" south with longitude 132° 51' 40" east and the intersection of latitude 12° 36' south with longitude 132° 55' east to the Arnhem Highway
- 4    The route followed by the Oenpelli Road from the line joining the intersection of latitude 12° 29' south with longitude 132° 52' 22" east and the intersection of latitude 12° 29' south with longitude 132° 55' east to the north-eastern boundary of Kakadu National Park at Cahill's Crossing
- 5    The route followed by the Old Darwin Road from the western boundary of Kakadu National Park to the Kakadu Highway
- 6    The route followed by the road that intersects the Kakadu Highway near Nourlangie Creek from that intersection to the boundary of the land described in paragraph (b) of Part I of the Schedule to the Proclamation under subsection 7 (2) of the *National Parks and Wildlife Conservation Act 1975* published in the *Gazette* on 5 April 1979

- 7    The air route, within Kakadu National Park, normally followed by an aircraft travelling between Jabiru Airstrip in the area described in Schedule 2 to the *Aboriginal Land Rights (Northern Territory) Act 1976* and any of the following locations:
- (a) Baroalba Airstrip;
  - (b) Batchelor;
  - (c) Darwin;
  - (d) Katherine;
  - (e) Nabarlek;
  - (f) Oenpelli;
  - (g) Pine Creek
- 8    The air route, within Kakadu National Park, normally followed by an aircraft travelling between Baroalba Airstrip in Kakadu National Park and any of the following locations:
- (a) Batchelor;
  - (b) Darwin;
  - (c) Katherine;
  - (d) Nabarlek;
  - (e) Oenpelli;
  - (f) Pine Creek
- 9    The route followed by the Kakadu Highway from the western boundary of Kakadu National Park at the Mary River to the line joining the intersection of latitude 13° 31' 33" south with longitude 132° 13' 43" east and the intersection of latitude 13° 33' 46" south with longitude 132° 17' 34" east
- 10   The route followed by the Gimbat Road from the line joining the intersection of latitude 13° 29' 30" south with longitude 132° 24' 49" east and the intersection of latitude 13° 32' 32" south with longitude 132° 30' 03" east to the line joining the intersection of latitude 13° 30' 49" south with longitude 132° 19' 49" east and the intersection of latitude 13° 31' 39" south with longitude 132° 22' 01" east
- 11   The route followed by a road from its intersection with the Oenpelli Road near the intersection of latitude 12° 35' 38" south with longitude 132° 51' 45" east to Mudginberri



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- 12 The water route followed by a vessel travelling between Mudginberri and that part of the boundary of the Jabiluka Project Area that follows the line joining the intersection of latitude 12° 30' 10" south with longitude 132° 51' 40" east and the intersection of latitude 12° 36' south with longitude 132° 55' east
  - 13 The air route followed by an aircraft travelling between Fisher Landing Ground and any of the following locations:
    - (a) Darwin;
    - (b) Jabiru;
    - (c) Katherine;
    - (d) Pine Creek

## **Part 2 Pipeline and power line routes**

- 1 The route followed on 21 May 1987 by the pipeline between the borefield at Nanambu Creek and Jabiru
- 2 The route followed on 21 May 1987 by the power line between the borefield at Nanambu Creek and Jabiru
- 3 The route followed on 21 May 1987 by the power line between the land described in Schedule 2 to the *Aboriginal Land Rights (Northern Territory) Act 1976* and Jabiru

## **Schedule 10      Infringement notice offences**

(regulation 14.02)

<b>Item</b>	<b>Regulation</b>
1	12.14 (Dumping of waste, littering etc)
2	12.28 (Camping)
3	12.29 (Failing to comply with directions about camping)
4	12.43 (Speed limits and one-way traffic)
5	12.44 (Parking and stopping)
6	12.48 (Parking permits and parking vouchers)
7	12.50 (Interference with parking permits or parking vouchers)
8	12.51 (Abuse of voucher machines)
9	12.52 (Unauthorised installation of voucher machines)
10	12.54 (Vehicles to stop as required)
11	12.55 (Walking on roads or marked tracks)

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## Schedule 11 Permit fees

(regulation 18.02)

Item	Activity	Fee		
		Administration component	Assessment component	Management component
<b>Part 1 Paragraph 17.01 (a)</b>				
1.01	Action to which paragraph 201 (3) (a), (c) or (d) of the Act applies	\$100	nil	nil
1.02	Action to which paragraph 201 (3) (b) of the Act applies	\$100	nil	nil
1.03	Action to which subsection 216 (3) of the Act applies	nil	nil	nil
1.04	Action to which subsection 258 (3) of the Act applies	nil	nil	nil
<b>Cetaceans:</b>				
1.05	Action to contribute significantly to conservation of cetaceans, eg scientific research (not involving kill, injure, take, trade, keep or move species)	\$25	nil	nil
1.06	Action that will interfere with cetaceans, but interference is incidental to, and not the purpose of, taking the action, eg commercial filming, defence, offshore exploration	nil	nil	nil
1.07	Whale watching	nil	nil	nil

Item	Activity	Fee		
		Administration component	Assessment component	Management component
<b>Part 1A Paragraph 17.01 (aa)</b>				
1A.01	Action to which subsection 303CG (2) of the Act applies, involving:			
	(a) export or re-export of a manufactured CITES II specimen as a personal or household effect	\$1	nil	nil
	(b) 1 action, other than described in paragraph (a), (d) or (e)	\$30	nil	nil
	(c) more than 1 action	\$75 each 6 months	nil	nil
	(d) export of a household pet in accordance with section 303FG of the Act	\$150	nil	nil
	(e) import or export of a live specimen, if the Act requires assessment of conditions applicable to welfare of the specimen and conditions not previously assessed	\$150	nil	nil
1A.02	Action to which subsection 303DG (2) of the Act applies, involving:			
	(a) multiple export of non-living specimens of species of <i>Macropus</i> or <i>Thylogale</i>	\$75 each 6 months and \$60 each expected export	nil	nil

Item	Activity	Fee		
		Administration component	Assessment component	Management component
	(b) 1 action, other than described in paragraph (d) or (e)	\$30	nil	nil
	(c) more than 1 action, other than described in paragraph (a)	\$75 each 6 months	nil	nil
	(d) export of a household pet in accordance with section 303FG of the Act	\$150	nil	nil
	(e) import or export of live specimen, if the Act requires assessment of conditions applicable to welfare of the specimen and conditions not previously assessed	\$150	nil	nil
1A.03	Action to which subsection 303EN (2) of the Act applies, involving:			
	(a) 1 action, other than described in paragraph (c)	\$30	nil	nil
	(b) more than 1 action	\$75 each 6 months	nil	nil
	(c) import or export of a live specimen, if the Act requires assessment of conditions applicable to welfare of the specimen and conditions not previously assessed	\$150	nil	nil

Item	Activity	Fee		
		Administration component	Assessment component	Management component
1A.04	Action to which subsection 303GB (2) of the Act applies	\$150	nil	nil
1A.05	Action to which subsection 303GC (3) of the Act applies	nil	nil	nil
1A.06	Action to which subsection 303GD (6) of the Act applies	\$150	nil	nil
<b>Part 1B Paragraph 17.01 (ab)</b>				
1B.01	Access to biological resources — commercial purposes	\$50	nil	nil
1B.02	Access to biological resources — non-commercial purposes	nil	nil	nil
<b>Part 2 Paragraph 17.01 (b)</b>				
2.01	Kill, injure	nil	nil	nil
2.02	Damage, destroy	nil	nil	nil
2.03	Take	nil	nil	nil
<b>Part 3 Paragraph 17.01 (c)</b>				
3.01	An activity to which regulation 12.10 applies	nil	nil	nil
3.02	An activity to which regulation 12.12, 12.13, 12.15, 12.16 or 12.17 applies	nil	nil	nil

Item	Activity	Fee		
		Administration component	Assessment component	Management component
3.03	An activity to which regulation 12.18, 12.19, 12.20, 12.27, 12.31, 12.32, 12.33 or 12.39 applies	nil	nil	nil
3.04	An activity to which regulation 12.23, 12.26, 12.41, 12.56 or 12.58 applies	nil	nil	nil
3.05	An activity to which regulation 12.24 applies, involving:			
	(a) still photography, painting or audio in:			
	(i) Kakadu National Park, Christmas Island National Park or Cocos (Keeling) National Park	\$30	nil	nil
	(ii) Uluru Kata Tjuta National Park	\$20 each day	nil	nil
	(iii) Booderee National Park	\$10	nil	nil
	(b) commercial filming in any of those National Parks	\$250 each day	nil	nil
3.06	An activity to which regulation 12.36 applies involving:			
	(a) in Kakadu National Park:			
	(i) up to 4 trips each year, not covered by another subparagraph	\$100 each year	nil	nil

Item	Activity	Fee		
		Administration component	Assessment component	Management component
	(ii) more than 4 trips each year, not covered by another subparagraph	\$500 each year	nil	nil
	(iii) sports fishing for up to 50 days	\$200 each year	nil	nil
	(iv) sports fishing for more than 50 days and up to 75 days	\$300 each year	nil	nil
	(v) sports fishing for more than 75 days and up to 100 days	\$400 each year	nil	nil
	(vi) sports fishing for more than 100 days and up to 125 days	\$500 each year	nil	nil
	(vii) operating a safari camp	\$500 each year	nil	nil
	(viii) touring Koolpin Gorge on a scheduled or chartered tour	\$500 each year	nil	nil
	(ix) using canoes at Twin Falls	\$500 each year	nil	nil
	(x) bushwalking tour, up to 4 trips each year	\$100 each year	nil	nil
	(xi) bushwalking tour, more than 4 trips each year	\$500 each year	nil	nil
	(b) in Uluru Kata Tjuta National Park:			
	(i) up to 4 trips each year	\$100 each year	nil	nil



Item	Activity	Fee		
		Administration component	Assessment component	Management component
	(ii) more than 4 trips each year	\$500 each year	nil	nil
	(c) in Booderee National Park:			
	(i) commercial fishing	\$50 each year	nil	nil
	(ii) any other circumstances	\$50 each year	nil	nil
	(d) any circumstances in Christmas Island National Park or Cocos (Keeling) National Park	\$50 each year	nil	nil
3.07	An activity to which regulation 12.38 applies	nil	nil	nil
3.08	An activity to which regulation 12.40 applies	nil	nil	nil
<b>Part 4 Regulations 17.09 and 17.11</b>				
4.01	Transfer of permit, variation or revocation of a condition	nil	nil	nil
4.02	Imposition of further condition, sought by holder of permit	nil	nil	nil

## Schedule 12 Protected species

(Dictionary, definition of *protected species*, paragraph (b))

- 1 A species for which a member of the species is:
  - (a) in the Christmas Islands Territory in an area of
    - (i) primary rainforest; or
    - (ii) marginal rainforest; or
    - (iii) open forest, scrubby forest, and vine forest; or
    - (iv) coastal fringe; or
    - (v) shore cliffs and spray zone;  
as defined in Du Puy, DJ, 1993 Christmas Island, in *Flora of Australia*, Volume 50, Oceanic Islands 2, Australian Government Publishing Service, Canberra; or
  - (b) in the Cocos (Keeling) Territory on the land above the high water mark on Horsburgh Island (Pulu Luar) or South Island (Pulu Atas), other than a fruit or leaf of the species *Cocos nucifera* (coconut); or
  - (c) in the Territory of Cocos (Keeling) Islands in the area known as *the Rip* as defined in a declaration, dated 16 October 1992, made under subregulation 48 (1) of the National Parks and Wildlife Regulations, gazetted on 22 October 1992.
- 2 A species in the following classes:
  - (a) Mammalia (mammals);
  - (b) Aves (birds);
  - (c) Reptilia (reptiles);
  - (d) Amphibia (amphibians).
- 3 A species in the following families:
  - (a) Coenobitidae (terrestrial hermit crabs) other than a member of the species *Birgus latro* (robber crab) in the Territory of Christmas Island that:

- 
- (i) is taken by a person whose principal place of residence is the Territory and who has lived in the Territory for 3 months immediately before taking the member; and
  - (ii) is taken for personal consumption by the person who took the member or a member of that person's household; and
  - (iii) is not offered, in whole or part, for barter, sale or export; and
  - (iv) is not taken from the Territory Golf Course, as defined in National Parks and Wildlife (Unprotected Animals and Plants — Christmas Island) Declaration No. 1 of 1995, gazetted on 20 December 1995.
- (b) Gecarcinidae (land crabs);
  - (c) Grapsidae (shore crabs);
  - (d) Ocypodidae (ghost crabs);
  - (e) Palaemoninae (freshwater shrimps).
- 4 A species, in the Territory of Christmas Island, whose members are obligate cave-dwellers.

## Dictionary

(regulation 1.03)

**affected area** means the area that is likely to be affected by the action.

**agency** — see Act, section 528.

**aircraft** — see Act, section 528.

**archaeological site** includes an area of land on which there are:

- (a) Aboriginal remains; or
- (b) Aboriginal artefacts; or
- (c) Aboriginal paintings, carvings, engravings or imprints.

**ARPNS Regulations** means the *Australian Radiation Protection and Nuclear Safety Regulations 1999*.

**artificially propagated** — see Act, section 527C.

**assessment by public notice** means assessment in accordance with regulation 8A.18.

**assistance animal** means an animal trained to help a person to lessen the effects of a disability.

**Australian Whale Sanctuary** has the meaning given by section 225 of the Act.

**Authority** means the Jabiru Town Development Authority established by the *Jabiru Town Development Act 1979* of the Northern Territory.

**benefit-sharing agreement** means an agreement that complies with Division 8A.2.

**biodiversity** — see Act, section 528.

**biological resources** — see Act, section 528.

**Biosphere reserve** — see Act, section 528.

**blind person** means a person who is totally or partially blind.

**Board** — see Act, section 528.

**Booderee National Park** has the meaning given by subsection 2 (1) of the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986*.

**bred in captivity** — see Act, section 527B.

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**burial** includes scattering or other disposal of ashes that are or include human remains.

**business day** — see Act, section 528.

**calf**, for a cetacean, means an animal not more than half the length of an adult of the species.

**camp** includes an overnight stay in or on a vehicle, vessel or aircraft.

**camping area** means a camping area determined under subregulation 12.28 (4).

**camping site** means a camping site determined under subregulation 12.28 (4).

**capture**, for an image, means record the image by artistic representation, or on film, videotape or electronic medium.

**caution zone**, for a cetacean, means an area around the cetacean with a radius of:

- (a) for a dolphin — 150 metres; and
- (b) for a whale — 300 metres.

**cetacean** — see Act, section 528.

**CITES** — see Act, section 528.

**CITES I specimen** — see Act, section 528.

**CITES II specimen** — see Act, section 528.

**CITES specimen** — see Act, section 528.

**coastal sea** — see Act, section 528.

**coastal waters** — see Act, section 528.

**commemorative marker** includes a monument, cairn, statue or sculpture, sign, plaque or tablet, wreath or floral arrangement.

**Committee** means a Committee to which Division 3 of Part 19 of the Act applies.

**Commonwealth agency** — see Act, section 528.

**Commonwealth area** — see Act, section 528.

**Commonwealth Department** means a Department of State of the Commonwealth.

**Commonwealth Heritage place** — see Act, section 528.

**Commonwealth land** — see Act, section 528.

**Commonwealth marine area** — see Act, section 528.

**Commonwealth reserve** — see Act, section 528.

**conservation agreement** — see Act, section 528.

**contact details**, for a person, means:

- (a) the person's business or residential address; and
- (b) the person's postal address; and
- (c) the telephone number (if any) at which the person may be contacted personally; and
- (d) the telephone number (if any) to which a facsimile message for the person may be transmitted; and
- (e) the person's email address (if any).

**controlled action** — see Act, section 528.

**country** — see Act, section 528.

**daily newspaper** — see Act, section 528.

**deaf person** means a person who is totally or partially deaf.

**declared Ramsar wetland** — see Act, section 528.

**declared World Heritage property** — see Act, section 528.

**de-restricting sign** means a traffic sign with a black circle with a straight black line bisecting the circle from the lower left quadrant to the upper right quadrant.

**designated proponent** — see Act, section 528.

**determined fee** means the fee determined under Part 18 for the parking of a vehicle in a parking area.

**Director** — see Act, section 528.

**dog** means an animal of the species *Canis familiaris*.

**dolphin** means a member of the family Delphinidae or the family Phocoenidae.

**draft assessment documentation** means:

- (a) for an assessment approach equivalent to assessment by public environment report under Division 5 of Part 8 of the Act or environmental impact statement under Division 6 of Part 8 of the Act — a draft report prepared in accordance with the guidelines mentioned in item 4 of Schedule 1; or
- (b) for an assessment approach equivalent to assessment by preliminary documentation under Division 4 of Part 8 of the Act — a document that describes:

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- (i) the proposed action; and
  - (ii) its likely relevant impacts; and
  - (iii) to the extent practicable, any feasible alternatives to the proposed action; and
  - (iv) possible mitigation measures.

**earth materials** includes gravel, shell grit, coral, evaporites, fossils or speleothems.

**ecological community** — see Act, section 528.

**ecosystem** — see Act, section 528.

**entrance station** means a building in a Commonwealth reserve that is:

- (a) beside a road or track where people enter the reserve; and
- (b) identified by a sign with the words 'ENTRANCE STATION'.

**evaporite** means salts deposited from solution because of evaporation of water.

**event day**, for the duration of an event, means each day that the event occurs.

**explosive**:

- (a) includes fireworks; but
- (b) does not include:
  - (i) fuel gas or liquid fuels to be used for domestic purposes, lighting, heating or cooking; or
  - (ii) a flare carried on a vessel or used in dealing with an emergency.

**export**, for a cetacean — see Act, section 528.

**film**, used as a verb, includes, but is not confined to, taking still photographs, videotape images or digital images.

**fire** includes a flame produced from any source.

**firearm** includes a firearm that is temporarily disabled.

**fish** includes aquatic invertebrate animals.

**fishing gear** means equipment that:

- (a) is designed to search for or take fish or aquatic animals; or
- (b) if it is used, can reasonably be expected to find or take fish or aquatic animals.

**fossick** includes the following:

- (a) use a device or technique (including remote sensing) for detecting minerals or metal;
- (b) use a panning dish, a powered fan or a sieve to separate mineral materials of different sizes;
- (c) use a pump to remove mineral materials from the bed of a watercourse or body of water;
- (d) use a riffle or sluice box in the way it was designed to be used;
- (e) drill or take core samples, excavate, dig, rake or shovel clay, sand, stone or other earth materials to find other mineral materials.

**fossil** includes prehistoric remains of a plant or an animal or the by-products of a plant or an animal.

**fuel gas** means a gas or mixture of gases that may be burned with air to produce light, heat or power.

*Note* This includes natural gas or liquefied petroleum gas that is a mixture of hydrocarbons, substantially made up of propane or butane, in a liquid or gaseous state.

**genetic resources** — see Act, section 528.

**habitat** — see Act, section 528.

**heritage**, for a Commonwealth reserve, includes places, features, structures and objects that have aesthetic, archaeological, historic, scientific or social significance or other special value for the present community and for future generations.

**heritage value** — see Act, section 528.

**hovercraft** means a vehicle designed to be supported on a cushion of air.

**indigenous heritage value** — see Act, section 528.

**indigenous people's land** — see Act, section 528.

**indigenous person** — see Act, section 528.

**indigenous tradition** — see Act, subsection 201 (4).

**inspector** — see Act, section 528.

**infringement notice** has the meaning given by regulation 14.02.

**infringement notice penalty** has the meaning given by regulation 14.02.

**Jabiru township** means the township established by the Authority.

**jointly managed reserve** — see Act, section 528.

**Kakadu National Park** — see Act, section 528.



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**karst** includes surface and subterranean landscape features formed in water-soluble carbonate rocks.

*Example* Limestone or dolomite.

**keep**, for an organism, means to have charge or possession of the organism, either in captivity or in a domesticated state.

**kill or injure** includes an action that results in death or injury.

**land** — see Act, section 528.

**land council** — see Act, section 528.

**landing area** means a part of a Commonwealth reserve authorised for use as an aerodrome by:

- (a) a licence under the *Civil Aviation Regulations 1988*; or
- (b) the Civil Aviation Safety Authority.

**launching area** means an area stated to be a launching area under subregulation 12.57 (2).

**liquid fuel** includes the solid form of a liquid that is used for heating or cooking.

**liquor** means a beverage that contains more than 1.15% by volume of ethyl alcohol.

**listed marine species** — see Act, section 528.

**listed migratory species** — see Act, section 528.

**listed species** means a native species that is a listed threatened species, a member of a listed threatened ecological community, a listed migratory species, a listed marine species or a cetacean.

**listed threatened species** — see Act, section 528.

**live animal** — see Act, section 528.

**live plant** — see Act, section 528.

**member**, for a native species, includes all or part of the member's reproductive material or dead body.

**mineral** — see Act, section 528.

**moor** means to attach a vessel to a permanently installed mooring.

**mooring area** means an area stated to be a mooring area under subregulation 12.56 (3).

**motor vehicle** means a vehicle for which the motive power is not provided by a human or animal.

**National Heritage List** — see Act, section 528.

**National Heritage place** — see Act, section 528.

**native species** — see Act, section 528.

**native title** has the meaning given by section 223 of the *Native Title Act 1993*.

**native title holder** has the meaning given by section 224 of the *Native Title Act 1993*.

**native title rights and interests** has the meaning given by section 223 of the *Native Title Act 1993*.

**natural features** means features or elements of the landscape that have not been placed or erected by a person.

**natural properties**, for an ecosystem, means:

- (a) the physical, chemical and biological components of the ecosystem, including soil, water, plants, animals and nutrients; and
- (b) the interactions between those components.

**parking area** means:

- (a) a part of a Commonwealth reserve designated by signs as a place where vehicles can be parked; or
- (b) the access to and from, and the passageways in, that part.

**parking permit** means a permit issued under regulation 12.45.

**parking voucher** means a voucher:

- (a) that is issued from a voucher machine; and
- (b) on which the date and time of issue and expiry of the parking voucher is printed by the voucher machine.

**person visit** means a visit to a Commonwealth reserve by 1 person on 1 day.

**plant** — see Act, section 528.

**plant reproductive material** — see Act, section 528.

**precautionary principle** — see Act, section 528.

**prescribed waters** — see Act, section 528.

**progeny** — see Act, section 528.

**prohibited vessel** means any of the following:

- (a) a jet ski;

- (b) a parasail;
- (c) a hovercraft;
- (d) a hydrofoil;
- (e) a wing-in-ground-effect craft;
- (f) a motorised diving aid (for example, a motorised underwater scooter).

**project area**, for an action, means the area where the action is proposed to take place.

**protected species** means a native species that is:

- (a) not a listed species; and
- (b) mentioned in Schedule 12; and
- (c) in, or taken in, a Commonwealth area to which Part 9 applies.

**public access track** means a track designated by a sign erected for the purpose mentioned in subregulation 12.53 (1).

**public gathering** includes an assembly of persons for a demonstration or a cultural or competitive event.

**Ramsar Convention** — see Act, section 528.

**ranger** — see Act, section 528.

**recovery plan** — see Act, section 528.

**Register of critical habitat** means the register kept for subsection 207A (1) of the Act.

**relevant CITES authority** — see Act, section 303BC.

**relevant impacts** — see Act, section 528.

**seabed** — see Act, section 528.

**sealed source**, for radioactive material, means permanent containment in a capsule, or being closely bound in a solid form, that is strong enough to be leak-tight for:

- (a) the intended use of the radioactive material; and
- (b) any foreseeable abnormal events likely to affect the radioactive material.

**Secretary** — see Act, section 528.

**self-governing Territory** — see Act, section 528.

**sell** includes attempt or offer to sell, barter, cause or permit to be sold or offered for sale, have in possession for sale or send or receive for sale, and **sale** has a corresponding meaning.

*service* includes accommodation or transportation.

*service road* means a road or track designated by a sign erected for the purpose mentioned in subregulation 12.53 (2).

*species* — see Act, section 528.

*specimen* — see Act, section 528.

*speed limit sign* means a traffic sign inscribed with figures within a red circle.

*speleothem* means a deposit of calcium carbonate by diffusion of carbon dioxide from water in a cave.

*sub-species* — see Act, section 528.

*sustainable utilisation*, for a wetland, means the human use of the wetland so that it can yield the greatest continuous benefit to present generations while maintaining its potential to meet the needs and aspirations of future generations.

*taxon* — see Act, section 528.

*territorial sea* — see Act, section 528.

*threat abatement plan* — see Act, section 528.

*trade*, for an organism that is a member of a native species or of a ecological community, includes:

- (a) buy the organism, agree to receive it under an agreement to buy or acquire it by barter; or
- (b) sell the organism, offer it for sale, agree to sell it, have it in possession for sale, deliver it for sale, receive it for sale or dispose of it by barter for gain; or
- (c) export the organism from Australia or an external Territory or import it into Australia or an external Territory; or
- (d) cause or allow any of the acts mentioned in paragraph (a), (b) or (c) to be done.

*traditional owners* — see Act, section 528.

*traffic sign* means a sign mentioned in regulation 12.53.

*unsealed source*, for radioactive material, means containment that does not satisfy the definition of *sealed source*.

*usage right* — see Act, section 528.

*voucher machine* means a machine installed under regulation 12.46.

*warden* — see Act, section 528.

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***weapon*** includes a disabled weapon.

***wetland*** — see Act, section 528.

***whale*** means a cetacean other than a dolphin.

***whale watching*** — see Act, section 528.

***wildlife*** — see Act, section 528.

***wildlife conservation plan***, for a listed species, means a plan made or adopted under section 285 of the Act.

***works***, for an action, includes earth works, removal or replacement of groundcover, diversion of water flows, tunnelling, drilling or any other sub-surface activity.

***World Heritage Convention*** — see Act, section 528.

***World Heritage List*** — see Act, section 528.

**Table of Instruments**

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**Notes to the *Environment Protection and Biodiversity Conservation Regulations 2000*****Note 1**

The *Environment Protection and Biodiversity Conservation Regulations 2000* (in force under the *Environment Protection and Biodiversity Conservation Act 1999*) as shown in this compilation comprise Statutory Rules 2000 No. 181 amended as indicated in the Tables below.

Under the *Legislative Instruments Act 2003*, which came into force on 1 January 2005, it is a requirement for all non-exempt legislative instruments to be registered on the Federal Register of Legislative Instruments. From 1 January 2005 the Statutory Rules series ceased to exist and was replaced with Select Legislative Instruments (SLI series). Numbering conventions remain the same, ie Year and Number.

**Table of Instruments**

<b>Year and number</b>	<b>Date of notification in Gazette or FRLI registration</b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
2000 No. 181	12 July 2000	16 July 2000	
2001 No. 179	5 July 2001	5 July 2001	—
2001 No. 306	15 Oct 2001	15 Oct 2001	—
2001 No. 327	13 Dec 2001	11 Jan 2002	—
2002 No. 83	9 May 2002	9 May 2002	—
2003 No. 354	23 Dec 2003	1 Jan 2004	—
2005 No. 167	22 July 2005 (see F2005L02017)	23 July 2005	—
2005 No. 251	14 Nov 2005 (see F2005L03473)	1 Dec 2005	—
2006 No. 131	16 June 2006 (see F2006L01832)	17 June 2006	—

**Table of Amendments****Table of Amendments**

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

<b>Provision affected</b>	<b>How affected</b>
<b>Part 2A</b>	
Part 2A.....	ad. 2002 No. 83
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Part 2B.....	ad. 2005 No. 167
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R. 3.06.....	ad. 2001 No. 179
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<b>Part 8</b>	
<b>Division 8.1</b>	
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R. 8.01.....	rs. 2006 No. 131
R. 8.01A.....	ad. 2006 No. 131
R. 8.02.....	rs. 2006 No. 131
R. 8.03.....	rs. 2006 No. 131
R. 8.04.....	rs. 2006 No. 131
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R. 8.06.....	rs. 2006 No. 131
R. 8.07.....	rs. 2006 No. 131
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<b>Division 8.2</b>	
Note to r. 8.10.....	rep. 2006 No. 131
R. 8.11.....	rs. 2006 No. 131
R. 8.12.....	am. 2006 No. 131
<b>Division 8.3</b>	
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R. 8.13.....	ad. 2001 No. 327
R. 8.14.....	ad. 2001 No. 327

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R. 8A.01.....	ad. 2005 No. 251
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R. 8A.04.....	ad. 2005 No. 251
R. 8A.05.....	ad. 2005 No. 251
R. 8A.06.....	ad. 2005 No. 251
<b>Division 8A.2</b>	
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R. 8A.08.....	ad. 2005 No. 251
R. 8A.09.....	ad. 2005 No. 251
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R. 8A.11.....	ad. 2005 No. 251
<b>Division 8A.3</b>	
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R. 8A.14.....	ad. 2005 No. 251
<b>Division 8A.4</b>	
R. 8A.15.....	ad. 2005 No. 251
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R. 8A.17.....	ad. 2005 No. 251
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<b>Division 8A.6</b>	
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R. 8A.20.....	ad. 2005 No. 251
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R. 9A.02.....	ad. 2001 No. 327
R. 9A.03.....	ad. 2001 No. 327
R. 9A.04.....	ad. 2001 No. 327
R. 9A.05.....	ad. 2001 No. 327
R. 9A.06.....	ad. 2001 No. 327
R. 9A.07.....	ad. 2001 No. 327
R. 9A.08.....	ad. 2001 No. 327
R. 9A.09.....	ad. 2001 No. 327



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R. 9A.13.....	ad. 2001 No. 327
R. 9A.14.....	ad. 2001 No. 327
R. 9A.15.....	ad. 2001 No. 327
R. 9A.16.....	ad. 2001 No. 327
R. 9A.17.....	ad. 2001 No. 327
R. 9A.18.....	ad. 2001 No. 327
R. 9A.19.....	ad. 2001 No. 327
R. 9A.20.....	ad. 2001 No. 327
R. 9A.21.....	ad. 2001 No. 327
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R. 9A.25.....	ad. 2001 No. 327
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<b>Division 3</b>	
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R. 10.03B.....	ad. 2003 No. 354
R. 10.03C.....	ad. 2003 No. 354
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R. 10.03F.....	ad. 2003 No. 354
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<b>Part 12</b>	
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<b>Part 17</b>	
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R. 17.02 .....	am. 2001 Nos. 179 and 327; 2005 No. 251
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R. 17.03B.....	ad. 2005 No. 251
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R. 17.07 .....	am. 2001 No. 327
R. 17.08 .....	am. 2005 No. 251
R. 17.09 .....	am. 2001 No. 327; 2005 No. 251
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