

NORTHERN TERRITORY OF AUSTRALIA

ENVIRONMENTAL ASSESSMENT ACT

As in force at 1 January 2013

Table of provisions

1	Short title	1
2	Commencement	1
3	Definitions.....	1
4	Object of Act.....	2
5	Application	2
7	Administrative procedures	2
8	Administrative procedures to be notified.....	3
8A	Reporting obligation – responsible Minister.....	4
8B	Reporting obligation – Minister	4
9	Modification of operation of laws	5
10	Inquiries.....	5
11	Delegation	5
12	Regulations.....	6
13	Transitional matters for <i>Northern Territory Environment Protection Authority Act 2012</i>	6

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Act as in force at 1 January 2013. Any amendments that commence after that date are not included.

ENVIRONMENTAL ASSESSMENT ACT

An act to provide for the assessment of the environmental effects of development proposals and for the protection of the environment

1 Short title

This Act may be cited as the *Environmental Assessment Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Definitions

In this Act, unless the contrary intention appears:

administrative procedures, see section 7(1).

assessment report, see section 7(2)(g).

environment means all aspects of the surroundings of man including the physical, biological, economic, cultural and social aspects.

NT EPA, see section 3 of the *Northern Territory Environment Protection Authority Act*.

proposed action means a matter referred to in section 4(a), (b), (c), (d) or (e).

responsible Minister, in relation to a proposed action, means the Minister primarily responsible for authorising the proposed action.

4 **Object of Act**

Subject to section 6, the object of this Act is to ensure, to the greatest extent practicable, that each matter affecting the environment which is, in the opinion of the NT EPA, a matter which could reasonably be considered to be capable of having a significant effect on the environment, is fully examined and taken into account in, and in relation to:

- (a) the formulation of proposals;
- (b) the carrying out of works and other projects;
- (c) the negotiation, operation and enforcement of agreements and arrangements (including agreements and arrangements with, and with authorities of, the Commonwealth, the States and other Territories);
- (d) the making of, or the participation in the making of, decisions and recommendations; and
- (e) the incurring of expenditure,

by, or on behalf of, a person, either alone or in association with another person.

5 **Application**

This Act binds the Crown in right of the Territory and, so far as the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

7 **Administrative procedures**

- (1) The Administrator may, from time to time, determine, and determine variations of, procedures (***administrative procedures***) for the purpose of achieving the object of this Act, being procedures that are consistent with relevant laws, as affected by the Regulations.
- (2) Without limiting the generality of subsection (1), the administrative procedures may provide for:
 - (a) the supplying to the NT EPA of information for the purpose of consideration, by the NT EPA, of the necessity for assessment of the effect of a proposed action on the environment;
 - (b) authorizing the NT EPA to direct the preparation or obtaining, and the submission to the NT EPA, of a public environmental report or an environmental impact statement;

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- (c) defining, or authorizing the NT EPA to determine the matters to be dealt with by, and the form of, a public environmental report or an environmental impact statement;
 - (d) the making available of a public environmental report or an environmental impact statement, in cases or circumstances specified by or in accordance with those procedures, for public comment;
 - (e) action to be taken in respect of reports resulting from inquiries made under section 10;
 - (f) the revision of a public environmental report or an environmental impact statement;
 - (g) the examination of information supplied in accordance with those procedures by or on behalf of the NT EPA and the making by or on behalf of the NT EPA of comments, suggestions or recommendations concerning the matters to which the information relates, including suggestions or recommendations concerning conditions to which approvals, agreements and other matters should be subject (an **assessment report**);
 - (ga) the making available of assessment reports and other documents, in cases or circumstances specified by or in accordance with those procedures, to the public;
 - (gb) the making of written comments by the Minister in relation to assessment reports;
 - (h) exemptions from all or any of the requirements of those procedures;
 - (j) the establishing and maintaining by or on behalf of the NT EPA of a record in respect of each proposed action in respect of which a public environmental report or an environmental impact statement is prepared and submitted for examination and the making available of the record for public inspection; and
 - (k) the review of the effectiveness of an assessment of a proposed action under those procedures.

8 Administrative procedures to be notified

Where administrative procedures are determined:

- (a) the Minister shall give notice in the *Gazette* of the determination having been made, and of the place where copies of the determination may be purchased or otherwise obtained; and

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- (b) the administrative procedures shall take effect from the date of the *Gazette* in which the notice appears or, where another date is specified in the notice, from the date so specified.

8A Reporting obligation – responsible Minister

- (1) This section applies if:
 - (a) the NT EPA makes an assessment report in relation to a proposed action; and
 - (b) after receiving the assessment report, the responsible Minister makes a decision under an Act in relation to the proposed action.
- (2) The responsible Minister must give the NT EPA notice of the decision as soon as practicable, but within 7 days, after making the decision.
- (3) If the decision is contrary to the assessment report, the responsible Minister must:
 - (a) include in the notice given to the NT EPA under subsection (2) reasons why the decision is contrary to the assessment report; and
 - (b) table the notice in the Legislative Assembly within 6 sitting days after making the decision.

8B Reporting obligation – Minister

- (1) This section applies if the Minister makes a comment in relation to an assessment report under the administrative procedures.
- (2) The Minister must give the NT EPA notice of the comment, including a copy of the comment, as soon as practicable, but within 7 days, after making the comment.
- (3) If the comment is contrary to the assessment report, the Minister must:
 - (a) include in the notice given to the NT EPA under subsection (2) reasons why the comment is contrary to the assessment report; and
 - (b) table the notice in the Legislative Assembly within 6 sitting days after making the comment.

9 Modification of operation of laws

Without limiting a power or duty of a minister or statutory corporation, apart from this Act, to take into account matters relating to the environment in the exercise of the power or the performance of the duty, the Regulations may:

- (a) make provision for or in relation to requiring or permitting a minister or statutory corporation to take into account, either generally or in accordance with the Regulations, matters affecting the environment in the taking of an action or the making of a decision or recommendation; and
- (b) prescribe matters necessary or convenient to be prescribed as incidental to a provision so made, including matters relating to procedures and times,

and Regulations so made have effect notwithstanding any other law in force in the Territory.

10 Inquiries

Where, in the opinion of the Minister or the NT EPA, a matter to which this Act relates cannot be determined except by an inquiry, the *Inquiries Act* shall be used to inquire into that matter and, for that purpose, the Minister shall, if he is not the Minister responsible for the administration of that Act, be deemed to be the Minister so responsible.

11 Delegation

- (1) The Minister may, by instrument in writing, delegate to a person, or the holder from time to time of a particular designation or office, any of his powers and functions under this Act, including powers and functions conferred or imposed upon him under the administrative procedures, other than this power of delegation.
- (2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purpose of this Act, be deemed to have been exercised or performed by the Minister.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

12 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular:

- (a) making provision for and in relation to ensuring the confidentiality of information obtained in or in connection with carrying out or giving effect to, or securing the observance of, the administrative procedures;
- (b) making provision for and in relation to the granting of exemptions, either unconditionally or subject to conditions, from the provisions of the Regulations;
- (c) providing for the recovery of costs and expenses, and fixing the fees to be paid, in respect of any matters under the Regulations;
- (d) empowering the Minister or other persons to give directions to particular persons for the purposes of the Regulations;
- (e) empowering the Minister to make provision by order with respect to any matter with respect to which provision can be made by the Regulations;
- (f) prescribing the manner in which notices, orders, directions or instructions under the Regulations may be given or in which documents may be served; and
- (g) prescribing penalties not exceeding \$10,000 for an offence against the Regulations or for a failure to comply with the requirements of a determination under section 7.

13 Transitional matters for *Northern Territory Environment Protection Authority Act 2012*

- (1) Anything done or omitted to be done under this Act (except sections 8 and 10) by, to, or in relation to, the Minister before the commencement day that is of ongoing effect becomes, on the commencement day, a thing done or omitted to be done by, to, or in relation to, the NT EPA.
- (2) In this section:

commencement day means the day on which section 51 of the *Northern Territory Environment Protection Authority Act 2012* commences.

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2**LIST OF LEGISLATION*****Environmental Assessment Act 1982 (Act No. 65, 1982)***

Assent date 8 October 1982
 Commenced 4 July 1984 (*Gaz G26*, 4 July 1984, p 3)

Environmental Assessment Amendment Act 1994 (Act No. 73, 1994)

Assent date 30 December 1994
 Commenced 30 December 1994

Northern Territory Environment Protection Authority Act 2012 (Act No. 28, 2012)

Assent date 6 December 2012
 Commenced 1 January 2013 (*Gaz S82*, 21 December 2012)

3**LIST OF AMENDMENTS**

s 3 amd No. 28, 2012, s 44
 s 4 amd No. 28, 2012, s 45
 s 6 rep No. 73, 1994, s 2
 s 7 amd No. 73, 1994, s 3; No. 28, 2012, s 46
 s 8 amd No. 28, 2012, s 47
 ss 8A – 8B ins No. 28, 2012, s 48
 s 10 amd No. 28, 2012, s 49
 s 11 amd No. 73, 1994, s 4; No. 28, 2012, s 50
 s 12 amd No. 73, 1994, s 5; No. 28, 2012, s 50
 s 13 ins No. 28, 2012, s 51