



Natural Resources Management (Financial Assistance) Act 1992

Act No. 242 of 1992 as amended

This compilation was prepared on 4 March 2005
taking into account amendments up to Act No. 8 of 2005

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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An Act to grant financial assistance in connection with projects relating to natural resources management, to establish a Natural Resources Management Account, to establish an Australian Landcare Council, and for related purposes

Part 1—Preliminary

1 Short title *[see Note 1]*

This Act may be cited as the *Natural Resources Management (Financial Assistance) Act 1992*.

2 Commencement *[see Note 1]*

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

3 Objects

- (1) This Act makes provision for the funding and administrative arrangements relating to natural resources management in Australia with the following objects.
- (2) This Act's primary object is to facilitate the development and implementation of integrated approaches to natural resources management in Australia that are:
 - (a) for the purpose of achieving efficient, sustainable and equitable management of natural resources in Australia; and
 - (b) consistent with the principles of ecologically sustainable development.
- (3) This Act also has the following objects:
 - (a) to promote community, industry and governmental partnership in the management of natural resources in Australia;

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- (b) to assist in establishing institutional arrangements to develop and implement policies, programs and practices that will encourage sustainable use of natural resources in Australia;
- (c) to assist in enhancing the long term productivity of natural resources in Australia;
- (d) to assist in developing approaches to help resolve conflicts over access to natural resources in Australia.

4 Interpretation

- (1) In this Act, unless the contrary intention appears:

Account means the Natural Resources Management Account continued in existence by section 11.

agreement means an agreement under section 5 or 6.

Chairperson means the Chairperson of the Council.

Council means the Australian Landcare Council established by section 13.

member means a member of the Council, and includes the Chairperson.

natural resources management means:

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

officer means a person appointed or engaged under the *Public Service Act 1999*.

project means a project relating to natural resources management.

State includes the Australian Capital Territory and the Northern Territory.

- (2) A reference in a provision of this Act to an authorised officer is a reference to an officer authorised in writing by the Minister for the purposes of the provision.

Part 2—Financial assistance

5 Agreements with States

- (1) The Commonwealth may, from time to time, enter into an agreement with a State on financial assistance (whether by way of grant or otherwise) to be provided by the Commonwealth to the State, for amounts spent by the State in respect of:
 - (a) projects approved, or to be approved, by the Minister and the appropriate Minister of the State, acting jointly; or
 - (b) projects specified in the agreement.
- (2) An agreement must be in writing.
- (3) Subject to sections 8, 9 and 10, financial assistance is payable to a State in accordance with an agreement.
- (4) The Minister must cause a copy of each agreement under subsection (1) and any agreement amending that agreement to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the agreement is made.
- (5) The Minister may make advances to a State of amounts on account of an amount that may become payable to the State under subsection (3).
- (6) Payments under this section must be paid out of money appropriated by the Parliament for the purpose.

6 Agreements with other persons

- (1) In this section:

person includes an association, authority, body, institution or other organisation, whether incorporated or unincorporated.
- (2) An authorised officer may, on behalf of the Commonwealth, enter into an agreement with a person for the person to carry out a project.

- (3) An agreement must be in writing.
- (4) If an agreement provides for the payment of advances, the Minister may make advances of amounts on account of an amount that may become payable under the agreement.
- (5) Payments under an agreement must be made out of money standing to the credit of the Account.

7 Matters to be provided for in an agreement

An agreement must include provisions relating to the following matters:

- (a) the object of the project or projects to which the agreement relates;
- (b) the conditions subject to which payments under the agreement are to be made;
- (c) the monitoring and evaluation of the project or projects;
- (d) the review of the operation of the agreement;
- (e) the amendment of the agreement by a further agreement as a result of such a review.

8 Payments to be subject to conditions

- (1) In this section and sections 9 and 10:

authorised person means:

- (a) in relation to an agreement under section 5—the Minister or an authorised officer; and
- (b) in relation to an agreement under section 6—an authorised officer.

payee, in relation to an agreement, means the party to which amounts are payable by the Commonwealth under the agreement.

payment includes an advance.

- (2) In addition to any conditions provided for in an agreement, a payment by the Commonwealth under the agreement is subject to the following conditions.

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- (3) If an authorised person informs the payee that the authorised person is satisfied that:
 - (a) the payee has not fulfilled a condition to which the agreement is subject; or
 - (b) a project or any part of a project has not been undertaken in accordance with the agreement;the payee must repay to the Commonwealth the whole, or such part as the Minister specifies, of the payment.
- (4) On demand by an authorised person, the payee must repay to the Commonwealth the amount by which, at the time of the demand, the total of the payments made to the payee under this Act exceeds the total of the amounts that have become payable to the payee under this Act.
- (5) The authorised person may deduct any amount repayable by the payee from any amount payable by the Commonwealth to the payee under this Act.

9 Conditions relating to audit requirements

- (1) An agreement is, except so far as otherwise provided for in the agreement, subject to the following conditions.
- (2) The payee is not entitled to a payment for amounts spent by the payee for the purposes of carrying out a project unless the payee has given to an authorised person:
 - (a) a statement (*the statement*) of the amounts spent in a form approved by an authorised officer; and
 - (b) a certificate mentioned in subsection (3) or (4).
- (3) For the purposes of subsection (2), if the agreement is made under section 5, the certificate:
 - (a) must be given by a person (*the responsible person*) who is the Auditor-General of the State, or the head of the Department or authority of the State responsible for the spending; and
 - (b) is to certify, in relation to each amount shown in the statement as having been spent:
 - (i) that the responsible person is of the opinion that the amount was spent in accordance with the agreement; or

- (ii) that the responsible person has received a certificate from a qualified accountant stating that the qualified accountant is of the opinion that the amount was spent in accordance with the agreement.
- (4) For the purposes of subsection (2), if the agreement is made under section 6, the certificate:
- (a) must be given by a person (*the responsible person*) who is:
 - (i) if the payee is an association, authority, body, institution or other organisation whose accounts are required by law to be audited by the Auditor-General of the Commonwealth or of the State—the head of the association, authority, body, institution or other organisation; or
 - (ii) if subparagraph (i) does not apply—a qualified accountant; and
 - (b) is to certify, in relation to each amount shown in the statement as having been spent, that, in the responsible person's opinion, the amount was spent in accordance with the agreement.
- (5) In subsections (3) and (4):
- qualified accountant* means:
- (a) a person who is registered as a company auditor or a public accountant under a law in force in a State or Territory; or
 - (b) a member of the Institute of Chartered Accountants in Australia or of the Australian Society of Certified Practising Accountants.
- (6) The payee must, at all reasonable times, permit a person authorised in writing by an authorised person to:
- (a) inspect; or
 - (b) take copies of, or extracts from;
- any plans, designs, tenders, records or other documents relating to a project.
- (7) The payee must, on written request by an authorised officer, give to the authorised officer, as soon as practicable after the date specified by the authorised officer in the request, a report:
- (a) on the payee's activities in connection with a project; or

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- (b) containing particulars on matters that are specified by the authorised officer in the request.
- (8) The payee must, as soon as practicable after the completion of a project, give to an authorised officer a final report on the project.

10 Other conditions

- (1) Without precluding or limiting the matters that may be provided for in an agreement, an agreement may provide for the matters mentioned in subsections (2), (3) and (4).
- (2) An agreement may provide for the payment by the payee to the Commonwealth of an amount equal to the whole, or such part as an authorised person determines, of any net income derived by the payee from:
 - (a) property acquired or produced in the course of carrying out a project; or
 - (b) patents for inventions made in the course of carrying out a project.
- (3) An agreement may provide for the assignment by the payee to the Commonwealth of:
 - (a) any property mentioned in paragraph (2)(a); or
 - (b) any patents for inventions mentioned in paragraph (2)(b); or
 - (c) any interest that the payee may have in any such invention.
- (4) An agreement may provide for the payment by the payee to the Commonwealth if any property or interest of a kind mentioned in subsection (3) is disposed of to a person other than the Commonwealth, of an amount equal to the whole, or such part as an authorised person determines:
 - (a) in the case of a disposal by way of sale or assignment for value—of the net proceeds of the sale or assignment; and
 - (b) in any other case—of the value of the property or interest as determined by the authorised person.

Part 3—Natural Resources Management Account

11 Natural Resources Management Account

- (1) There is continued in existence the Natural Resources Management Account.

Note: The Account was established by subsection 5(3) of the *Financial Management Legislation Amendment Act 1999*.

- (2) The Account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

- (3) If interest is received by the Commonwealth from the investment of an amount standing to the credit of the Account, an amount equal to the interest must be credited to the Account.

- (4) There must be credited to the Account amounts equal to the following:

- (a) amounts, being gifts or bequests, given or made for the purposes of the Account;
- (b) amounts paid or repaid to the Commonwealth in accordance with:
 - (i) an agreement under section 6 of the *Soil Conservation (Financial Assistance) Act 1985* that has effect under section 25; or
 - (ii) an agreement under section 6;
- (c) amounts received by the Commonwealth from the disposal of property or interests acquired by the Commonwealth in accordance with an agreement under section 6.

Note: An Appropriation Act provides for amounts to be credited to a Special Account if any of the purposes of the Account is a purpose that is covered by an item in the Appropriation Act.

- (5) Amounts are to be debited from the Account for the following purposes:

- (a) making payments (including advances) in accordance with:
 - (i) an agreement under section 6 of the *Soil Conservation (Financial Assistance) Act 1985* that has effect under section 25; or

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- (ii) an agreement under section 6;
- (b) making payments in respect of the expenses incurred by the Council in the performance of its functions;
- (c) making payments in respect of other costs of administration of this Act that the Minister considers appropriate to be debited from the Account.

12 Application of gifts or bequests

- (1) In spite of anything in this Act (other than subsection (2) of this section) or in the *Financial Management and Accountability Act 1997* (other than section 39 of that Act):
 - (a) any money held by the Minister for Finance on trust for the purposes of the Account must be dealt with in accordance with the obligations of that Minister as a trustee of the trust; and
 - (b) any money accepted by the Minister for Finance for the purposes of the Account subject to a condition must be dealt with in accordance with the obligations imposed on that Minister by the condition.
- (2) Separate accounts must be kept of money standing to the credit of the Account representing amounts of money to which subsection (1) applies.

Part 4—Australian Landcare Council

Division 1—The Council

13 Australian Landcare Council

- (1) There is to be an Australian Landcare Council.
- (2) The functions of the Council are:
 - (a) to make recommendations to the Minister and the Minister for the Arts, Sport, the Environment and Territories on:
 - (i) matters concerning natural resources management; and
 - (ii) priorities and strategies for natural resources management; and
 - (b) to investigate and report to the Commonwealth Government on matters concerning natural resources management referred to it by either of the Ministers.

14 Constitution of Council

- (1) The Council is to consist of at least 12 members.
- (2) The members are to be appointed by the Minister.
- (3) The members are to hold office on a part-time basis.
- (4) A member (other than a member mentioned in subsection (6)) is to be a person with experience in, or special knowledge of, any aspects of natural resources management.
- (5) A member (other than the Chairperson or a member mentioned in subsection (6)) holds office for a term, not exceeding 3 years, specified in the instrument of appointment.
- (6) A member who is an officer holds office as a member during the pleasure of the Minister.
- (7) The Minister must, when appointing members to the Council, ensure that the majority of the members are not persons employed by the Commonwealth or a State.

Division 2—Meetings of the Council

15 Convening of meetings

- (1) Meetings must be held at such times and places as the Council from time to time determines.
- (2) The Chairperson may at any time convene a meeting.

16 Presiding at meetings

- (1) Subject to subsection (2), the Chairperson must preside at all meetings.
- (2) If the Chairperson is absent from a meeting, the members present must elect one of their number to preside at the meeting.

17 Quorum

At a meeting, the number of members equal to two-thirds of the current membership constitutes a quorum.

18 Voting at meetings

- (1) All questions arising at a meeting must be determined by a majority of the votes of the members present and voting.
- (2) The member presiding at a meeting has a deliberative vote and, if necessary, also has a casting vote.

Division 3—Provisions relating to members

19 Chairperson

- (1) There is to be a Chairperson of the Council.
- (2) The Chairperson is to be appointed by the Minister.
- (3) The Minister must not appoint an officer as the Chairperson.
- (4) The Chairperson holds office as Chairperson during the pleasure of the Minister.
- (5) The Minister may terminate a person's appointment as Chairperson at any time.
- (6) If a person's appointment as Chairperson is terminated, the person ceases to be a member.

20 Deputy member

- (1) A member may, with the Minister's approval, appoint a person to be the deputy of the member.
- (2) A member may revoke the appointment of a person as the member's deputy but the revocation is not effective until the member has given notice of the revocation in writing to the Minister.
- (3) The deputy of a member is entitled:
 - (a) in the event of the absence of the member from a meeting of the Council, to attend that meeting; and
 - (b) when so attending a meeting, to be taken to be a member.
- (4) A deputy member is not entitled to preside at a meeting of the Council.

21 Remuneration and allowances

- (1) Each member is to be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that

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remuneration by the Tribunal is in operation, is to be paid such remuneration as is prescribed.

- (2) Each member is to be paid such allowances as are prescribed.
- (3) Subsections (1) and (2) do not apply to a member who is an officer or a person employed by a State.
- (4) Subsections (1) and (2) have effect subject to the *Remuneration Tribunal Act 1973*.

22 Termination of appointment and resignation

- (1) The Minister may terminate the appointment of a member or deputy member for misbehaviour or physical or mental incapacity.
- (2) The Minister must terminate the appointment of a member or deputy member if the member or deputy member, without reasonable excuse, fails to comply with section 23.
- (3) A member may resign the office of member by giving a signed notice of resignation to the Minister.
- (4) The deputy of a member may resign the office of deputy member by giving a signed notice of resignation to the member.
- (5) A member whose deputy resigns must, as soon as practicable after being given the signed notice of resignation, give that notice to the Minister.

23 Disclosure of interests

- (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Council 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 Council.
- (2) The disclosure must be recorded in the minutes of the meeting and, unless the Minister or the Council otherwise determines, the member must not:
 - (a) be present during any deliberation of the Council with respect to that matter; or

- (b) take part in any decision of the Council in relation to that matter.
- (3) For the purposes of the making of a determination by the Council under subsection (2) in relation to a member who has made a disclosure under subsection (1), the member must not:
 - (a) be present during any deliberation of the Council for the purpose of making the determination; or
 - (b) take part in the making of the determination.

Part 5—Miscellaneous

24 Repeal of Acts

The following Acts are repealed:

- (a) *National Water Resources (Financial Assistance) Act 1978*;
- (b) *Soil Conservation (Financial Assistance) Act 1985*.

25 Transitional arrangements

- (1) Subject to the provisions of any agreement under this Act, on and after this Act's commencement, every agreement under section 4 of the *National Water Resources (Financial Assistance) Act 1978* has effect as if that Act had not been repealed.
- (2) Subject to the provisions of any agreement under this Act, on and after this Act's commencement, every agreement under section 4 or 6 of the *Soil Conservation (Financial Assistance) Act 1985* has effect as if that Act had not been repealed.
- (3) If, at the time immediately before this Act commences, no report had been prepared under section 19 of the *Soil Conservation (Financial Assistance) Act 1985* for a period ending at that time (whether the period is a period of 12 months or not), then:
 - (a) the Soil Conservation Advisory Committee constituted under section 10 of that Act at that time must, in spite of anything in this or that Act, as soon as practicable, prepare and give to the Minister a report on the operation of that Act and agreements and arrangements made under that Act during that period; and
 - (b) the Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

26 Annual report in relation to operation of the Act etc.

- (1) The Minister must, for each financial year, cause a report to be prepared and included in the annual report of the Department for that financial year on:

- (a) the operation of this Act; and
 - (b) agreements made under this Act;
- during that financial year.
- (2) The first report must relate to the period beginning on the day on which this Act commences and ending on 30 June 1993.

27 Annual report of the Council

- (1) The Council must, as soon as practicable after each 30 June, prepare and give to the Minister a report on the activities of the Council during the year ending on that date.
- (2) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

28 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

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

Table of Acts**Notes to the *Natural Resources Management (Financial Assistance) Act 1992*****Note 1**

The *Natural Resources Management (Financial Assistance) Act 1997* as shown in this consolidation comprises No. 242, 1992 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions see Table A.

Table of Acts

| Act | Number and Year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|----------------|--|--|
| <i>Natural Resources Management (Financial Assistance) Act 1992</i> | 242, 1992 | 24 Dec 1992 | 24 Dec 1992 | |
| <i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i> | 152, 1997 | 24 Oct 1997 | Schedule 2 (items 1056–1068): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) (a) | — |
| <i>Public Employment (Consequential and Transitional) Amendment Act 1999</i> | 146, 1999 | 11 Nov 1999 | Schedule 1 (item 686): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (b) | — |
| <i>Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 2) 1999</i> | 170, 1999 | 10 Dec 1999 | Schedule 4: Royal Assent (c) | Sch. 4 (item 24) |
| <i>Financial Framework Legislation Amendment Act 2005</i> | 8, 2005 | 22 Feb 2005 | S. 4 and Schedule 1 (items 256–263, 496): Royal Assent | S. 4 and Sch. 1 (item 496) |

Act Notes

- (a) The *Natural Resources Management (Financial Assistance) Act 1992* was amended by Schedule 2 (items 1056–1068) of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (b) The *Natural Resources Management (Financial Assistance) Act 1992* was amended by Schedule 1 (item 686) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
 - (2) Subject to this section, this Act commences at the commencing time.
- (c) The *Natural Resources Management (Financial Assistance) Act 1992* was amended by Schedule 4 only of the *Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 2) 1999*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

Table of Amendments**Table of Amendments**

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

| Provision affected | How affected |
|-----------------------------------|--|
| Title..... | am. No. 152, 1997; No. 170, 1999; No. 8, 2005 |
| S. 4 | am. No. 152, 1997; Nos. 146 and 170, 1999; No. 8, 2005 |
| S. 6 | am. No. 152, 1997; No. 8, 2005 |
| Heading to Part 3 | rs. No. 152, 1997; No. 8, 2005 |
| S. 11 | am. No. 152, 1997; No. 170, 1999 rs. No. 8, 2005 |
| S. 12 | am. No. 152, 1997; No. 8, 2005 |
| Heading to Part 4 | rs. No. 170, 1999 |
| Heading to Div. 1 of Part 4 | rs. No. 170, 1999 |
| Heading to s. 13..... | rs. No. 170, 1999 |
| S. 13 | am. No. 170, 1999 |
| Heading to s. 14..... | am. No. 170, 1999 |
| S. 14 | am. No. 170, 1999 |
| Heading to Div. 2 of Part 4 | rs. No. 170, 1999 |
| S. 15 | am. No. 170, 1999 |
| Ss. 19, 20 | am. No. 170, 1999 |
| S. 23 | am. No. 170, 1999 |
| Heading to s. 27..... | am. No. 170, 1999 |
| S. 27 | am. No. 170, 1999 |

Table A

Table A

Application, saving or transitional provisions

Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 2) 1999
(No. 170, 1999)

Schedule 4

Part 3—Transitional

24 Transitional—continuity of membership etc. not affected by amendments

The amendments made by this Schedule do not affect:

- (a) the continuity, after this Schedule commences, of the existence of body that is renamed by those amendments as the Australian Landcare Council; or
- (b) the continuing validity of the appointment of the members, the Chairperson, and any deputy members, of the Council.

Financial Framework Legislation Amendment Act 2005 (No. 8, 2005)

4 Saving of matters in Part 2 of Schedule 1

- (1) If:
 - (a) a decision or action is taken or another thing is made, given or done; and
 - (b) the thing is taken, made, given or done under a provision of a Part 2 Act that had effect immediately before the commencement of this Act;

then the thing has the corresponding effect, for the purposes of the Part 2 Act as amended by this Act, as if it had been taken, made, given or done under the Part 2 Act as so amended.

Table A

(2) In this section:

Part 2 Act means an Act that is amended by an item in Part 2 of Schedule 1.

Schedule 1

496 Saving provision—Finance Minister’s determinations

If a determination under subsection 20(1) of the *Financial Management and Accountability Act 1997* is in force immediately before the commencement of this item, the determination continues in force as if it were made under subsection 20(1) of that Act as amended by this Act.