# Environment Protection and Biodiversity Conservation Regulations 2025

made under the

*Environment Protection and Biodiversity Conservation Act 1999*

## Compilation No. 1

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# About this compilation

### This compilation

This is a compilation of the *Environment Protection and Biodiversity Conservation Regulations 2025* that shows the text of the law as amended and in force on 1 July 2026 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

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The effect of uncommenced amendments is not shown in the text of the compiled law. The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au).

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If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

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### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# Part 1—Preliminary

## 1.01 Name

These Regulations are the *Environment Protection and Biodiversity Conservation Regulations 2025*.

## 1.02A Authority

These Regulations are made under the *Environment Protection and Biodiversity Conservation Act 1999*.

## 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.



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# Part 2—Matters of national environmental significance

## Division 2.1—Nuclear action

### 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 value for the nuclide set out in Part 1 of Schedule 1 to the *Australian Radiation Protection and Nuclear Safety Regulations 2018*; or

(b) if the installation contains only 1 type of nuclide and all sources of that nuclide at or above the activity concentration value mentioned for the nuclide in Part 1 of Schedule 1 to the *Australian Radiation Protection and Nuclear Safety Regulations 2018* are unsealed sources—$10^6$ times the activity value for the nuclide set out in that Part; 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

(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 value for the nuclide set out in Part 1 of Schedule 1 to the *Australian Radiation Protection and Nuclear Safety Regulations 2018*.

***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 value for the nuclide set out



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in Part 1 of Schedule 1 to the *Australian Radiation Protection and Nuclear Safety Regulations 2018*.

***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 value for the nuclide set out in Part 1 of Schedule 1 to the *Australian Radiation Protection and Nuclear Safety Regulations 2018*.

## 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.



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## Division 2.2—Additional matters of national environmental significance

Note: Division 2.2 reserved for future use.



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# Division 2.3—Actions taken to be covered by Division 1 of Part 3 of the Act

## 2.10 Grazing domestic stock

For subsection 25A(1) of the Act and to give effect to Australia's obligations under Article 8 of the Biodiversity Convention, the grazing of domestic stock in the Australian Alps National Parks and Reserves is taken to be an action to which subsections 15B(5) and 15C(9) and (10) of the Act apply.

Note: The Australian Alps National Parks and Reserves were included in the National Heritage List by an instrument published in *Gazette* No. S237 on 7 November 2008.



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# Part 2A—Actions covered by Ministerial declarations

## 2A.01 Criteria for accreditation of management arrangements for Commonwealth managed fisheries

(1) This regulation applies in relation to a decision by the Minister to accredit a management arrangement 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 arrangement 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 arrangement 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 arrangement must be endorsed by the Minister under an agreement made under section 146 of the Act;

(c) the management arrangement must be in the form in which it was endorsed.

(2A) Paragraph (2)(c) does not apply to an amendment of an accredited management arrangement if the Minister:

(a) is satisfied that the actions approved in accordance with the amended arrangement will not have significantly greater impacts on the environment than actions approved in accordance with the existing arrangement; and

(b) has not made a determination under subsection 36A(1) of the Act in relation to the amendment.

(3) In this regulation:

***fishery*** means a fishery to which the *Fisheries Management Act 1991* or the *Torres Strait Fisheries Act 1984* applies.

## 2A.02 Publication of determination about minor amendments to an accredited management arrangement or authorisation process

For subsection 36A(3) of the Act, a determination must be published at an appropriate location on the internet.

## 2A.03 Requirements for a declaration

For paragraph 37C(b) of the Act, the Minister may make a declaration under section 37A of the Act if he or she is satisfied that it meets the following requirements:

(a) an adequate assessment of the relevant impacts of actions which can be taken under the bioregional plan to which the declaration relates has been undertaken as part of the process for developing the bioregional plan;



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(b) the bioregional plan addresses:

(i) the characteristics of the environment in which the actions will take place and which will be impacted by the actions; and

(ii) the identification of matters of national environmental significance likely to be affected by the actions, and the location and characteristics of those matters; and

(iii) identification of the relevant impacts of the action or actions; and

(iv) identification of feasible measures to prevent or mitigate relevant impacts of the action or actions;

(c) the bioregional plan adequately addresses the relevant impacts of actions which can be taken under the plan and details the measures which will be taken to ensure that there are no unacceptable or unsustainable impacts on a matter protected by Part 3 of the Act;

(d) any measures that the Minister may require as a condition of a declaration that are consistent with the bioregional plan;

Example: Environmental monitoring.

(e) the development of the bioregional plan included consultation with:

(i) the Australian community generally; and

(ii) groups who have a special interest in, or are especially affected by, the bioregional plan or actions which can be taken under the bioregional plan;

(f) the consultation included the release of a draft bioregional plan for public comment allowing at least 60 business days for the receipt of comments;

(g) the bioregional plan was revised taking into account any comments received.

## 2A.04 Publication of a declaration or instrument

For subsection 37L(2) of the Act, a declaration made under section 37A of the Act or an instrument made under section 37K of the Act must be published:

(a) in the *Gazette*; and

(b) at an appropriate location on the internet; and

(c) if the information is relevant to Norfolk Island, the Territory of Cocos-Keeling or the Territory of Christmas Island—in the Government Gazette of the relevant territory.



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# 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.

(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:



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(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

(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



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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 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.



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# 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.



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# 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.

(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.



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## 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.



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# 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

(1) 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.

(2) A referral must be accompanied by a fee of $6,577.00, unless:

(a) it is a referral that is:

(i) made under section 69 or 71 of the Act; or

(ii) made in response to a request under section 70 of the Act; or

(b) it is accompanied by an application for a waiver (see regulation 5.21A) or a notification of qualification for an exemption (see regulation 5.23).

Note: For paragraph (a)—other fees under Division 5.6 may apply in relation to a referral of a kind mentioned in subparagraph (a)(i) or (ii).

(3) If a referral is accompanied by an application for a waiver and the application is unsuccessful, a fee of $6,577.00 is payable.

## 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.

(3) For subregulation (2), it would be unreasonable to expect the following classes of information to be included:

(a) information that is confidential;

(b) information that may endanger a species or site of environmental significance if disclosed.



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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 section 76 of the Act.

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 section 489 of the Act.

## 4.04 Notice of proposal to take action to comply with requirement or request

(1) For paragraph 74AA(2)(c) of the Act, the notice must be:

(a) made in writing or electronically; and

(b) given to the Department.

(2) The notice must contain the following:

(a) the identification number allocated by the Department for the action;

(b) a brief description or a descriptive title for the action;

(c) the location of the action;

(d) the name of the person who proposes to take the action;

(e) the name of the designated proponent for the action;

(f) an explanation why the taking of the action is reasonably necessary in order to comply with a requirement or request made under Part 7, 8 or 9 of the Act.



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# Part 4A—Reconsideration of a decision under section 75 of the Act

## 4AA.01 Requirements for requests

(1) For paragraph 78A(2)(c) of the Act, the requirements mentioned in this regulation are specified.

(2) A request must:
  (a) identify the ground or grounds in paragraphs 78(1)(a) to (ca) of the Act that are being relied upon to make the request; and
  (b) include the source of any information provided; and
  (c) provide details of when the information became available.

(3) For a matter protected under Part 3 of the Act, a request in relation to paragraph 78(1)(a) of the Act must also contain:
  (a) any new information that was not considered when the original decision was made; and
  (b) information that demonstrates that a change in the potential impacts of the action is likely to happen with a high degree of certainty.

(4) For a matter protected under Part 3 of the Act, a request in relation to paragraph 78(1)(aa) of the Act must also contain information that:
  (a) identifies the changed circumstances; and
  (b) establishes why the circumstances were unforeseen at the time the original decision was made; and
  (c) demonstrates that a change in the potential impacts of the action is likely to happen with a high degree of certainty.

(5) A request in relation to subparagraph 78(1)(b)(ii) of the Act must also contain information that establishes that the action is not being taken, or will not be taken, in the manner identified in the original decision.

## 4A.01 Notice of the outcome of reconsideration

(1) For subsection 78C(3) of the Act, a notice must be published:
  (a) in the *Gazette*; and
  (b) at an appropriate location on the internet; and
  (c) if the notice is relevant to the Territory of Norfolk Island, the Territory of Cocos (Keeling) Islands or the Territory of Christmas Island—in the Government Gazette of the relevant Territory.

(2) The notice must contain the following:
  (a) the identification number for the action, allocated by the Department;
  (b) a brief description or descriptive title for the action;
  (c) the location of the action;



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(d) the name of the person intending to take the action;

(e) notice of the outcome of the reconsideration under subsection 78C(1) of the Act:

(i) to confirm the decision; or

(ii) to revoke the decision and substitute a new decision.



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# Part 5—Assessing impact of controlled actions

## Division 5.1A—Assessment on referral information

### 5.03A Minister's decision on an assessment on referral information

(1) For subsection 87(4A) of the Act, the criteria for a decision by the Minister are all of the following:

(a) the potential scale and nature of the relevant impacts of the action can be predicted with a high level of confidence;

(b) the relevant impacts are expected to be short term, easily reversible or small in scale;

(c) adequate information is available about relevant impacts on the matters protected;

(d) the action is likely to have a significant impact on only a small number of protected matters or elements of each relevant protected matter;

(e) if the information is available—the person proposing to take the action has a satisfactory record of responsible environmental management and compliance with environmental laws;

(f) the degree of public concern about the action is, or is expected to be, moderately low.

(2) In making a decision on an assessment on referral information, the Minister must not consider financial or economic factors.



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# 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.



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# Division 5.3—Extension of the period of effect of approval

## 5.05 Information for application to Minister to extend the period of effect of approval

For subsection 145C(3) of the Act, the following information is prescribed:

(a) the requested timeframe for the proposed extension to the period for which the approval has effect;

(b) the reasons for the proposed extension;

(c) where applicable, evidence that:

(i) the conditions of approval have been complied with; and

(ii) the conditions of approval have provided, and will continue to provide, adequate protection for matters of national environmental significance; and

(iii) the impacts of the action on matters of national environmental significance have been, and will continue to be, similar in character and magnitude to those identified during the assessment of the action.

## 5.06 Publication of notice of decision to extend the period of effect of approval

(1) For paragraph 145D(4)(b) of the Act, notice of the decision must be published at an appropriate location on the internet.

(2) The notice must contain the following:

(a) the identification number for the action, allocated by the Department;

(b) a descriptive title for the action;

(c) a brief description of the action that may be taken;

(d) the location of the action;

(e) the name of the person to whom the approval was granted;

(f) notice that the period of effect of the approval has been extended;

(g) the period for which the approval has effect;

(h) any conditions attached to the approval;

(i) the date of the decision.



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## Division 5.4—Variations of proposals to take actions

### 5.07 Manner of request to vary a proposal to take an action

For paragraph 156A(3)(a) of the Act, a request under subsection 156A(1) of the Act must be:

(a) made in writing or electronically; and

(b) given or sent to the Department.

### 5.08 Information for a request to vary a proposal to take an action

For paragraph 156A(3)(b) of the Act, a request under subsection 156A(1) of the Act must contain the following information:

(a) details of the proposed variation to the action;

(b) the reasons for the proposed variation;

(c) how the impacts of the proposed variation on matters of national environmental significance compare with those of the original proposal;

(d) if applicable, the impacts of the proposed variation on matters of national environmental significance not considered in the referral or assessment of the original proposal;

(e) if applicable, alternatives, mitigation measures and offsets to compensate for additional impacts on matters of national environmental significance.

### 5.09 Publication of the notice of decision

(1) For subsection 156E(3) of the Act, notice of the decision must be published at an appropriate location on the internet.

(2) The notice must contain the following:

(a) the identification number for the action, allocated by the Department;

(b) a descriptive title for the action;

(c) a brief description of the original action;

(d) the location of the original action;

(e) the name of the person intending to take the action;

(f) notice that the Minister has accepted the variation of the referred action;

(g) a description of the varied action;

(h) the location of the varied action;

(i) the date on which the variation came into effect.



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## Division 5.5—Change of person proposing to take an action

### 5.10 Information for notice of change of person proposing to take an action

For subsection 156F(3) of the Act, a notice under subsection 156F(1) of the Act must contain the following:

(a) the identification number for the action, allocated by the Department;

(b) a brief description or a descriptive title for the action;

(c) the location of the action;

(d) the name and contact details of the person who originally proposed to take the action (the ***first person***);

(e) a declaration of whether:

(i) the first person was exempt from paying the fee mentioned in subregulation 4.02(2), or a fee that would have otherwise been payable under Division 5.6, in relation to the assessment of the impacts of the action, and if so, which fee or fees; or

(ii) all or part of the fee mentioned in subregulation 4.02(2), or a fee that would have otherwise been payable under Division 5.6 by the first person, in relation to the assessment of the impacts of the action, was waived, and if so, which fee or fees and the amount of each fee that was waived;

(f) the name and contact details of the person now proposing to take the action (the ***second person***);

(g) if the second person has an ABN—the second person's ABN;

(h) if the second person has an ACN—the second person's ACN;

(i) a declaration of whether:

(i) the second person would be exempt from paying the fee mentioned in subregulation 4.02(2), or a fee that would otherwise be payable under Division 5.6, in relation to the assessment of the impacts of the action, and if so, which fee or fees; or

(ii) the second person intends to apply for a waiver of all or part of the fee mentioned in subregulation 4.02(2), or a fee that would otherwise be payable under Division 5.6, in relation to the assessment of the impacts of the action, and if so, which fee or fees.

### 5.11 Publication of notice of change of person proposing to take an action

For subsection 156F(5) of the Act, the notice must be published at an appropriate location on the internet.



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# Division 5.6—Fees

## Subdivision A—Definitions and key concepts

### 5.12A Definitions

In this Division:

***aggregated turnover*** has the same meaning as in the *Income Tax Assessment Act 1997*.

***application component***: see subregulation 5.12B(2).

***base fee*** means the fee payable for assessing the impacts of an action and set out in the Subdivision that deals with the approach to be used for assessing the impacts of the action.

***complexity fee***, for an assessment of the impacts of an action, means the sum of the amounts payable for:

(a) each application component; and
(b) each controlling provision component; and
(c) if applicable—the exceptional case component; and
(d) the legislative impact component; and
(e) the project composition component.

***controlling provision component***: see subregulation 5.12B(3).

***exceptional case component***: see subregulation 5.12B(4).

***high complexity***:

(a) in relation to an application component: see subregulation 5.12C(1); and
(b) in relation to a controlling provision component: see subregulation 5.12D(1); and
(c) in relation to a legislative impact component: see subregulation 5.12F(1).

***income year*** has the same meaning as in the *Income Tax Assessment Act 1997*.

***legislative impact component***: see subregulation 5.12B(5).

***low complexity***:

(a) in relation to an application component: see subregulation 5.12C(1); and
(b) in relation to a legislative impact component: see subregulation 5.12F(1).

***matter protected*** by a provision of Part 3 has the same meaning as in section 528 of the Act.

***moderate complexity***:

(a) in relation to an application component: see subregulation 5.12C(1); and



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(b) in relation to a controlling provision component: see subregulation 5.12D(1); and
(c) in relation to a legislative impact component: see subregulation 5.12F(1).

***project component***: see paragraph 5.12G(1)(b).

***project composition component***: see subregulation 5.12B(6).

***referral fee*** means the fee mentioned in subregulation 4.02(2).

***small business entity*** has the meaning given by section 328-110 (other than subsection 328-110(4)) of the *Income Tax Assessment Act 1997*.

***very high complexity***:
(a) in relation to an application component: see subregulation 5.12C(1); and
(b) in relation to a controlling provision component: see subregulation 5.12D(1); and
(c) in relation to a legislative impact component: see subregulation 5.12F(1).

## 5.12B Components of a complexity fee

(1) The complexity fee for an assessment of the impacts of an action includes the following components:
(a) 3 application components;
(b) one or more controlling provision components;
(c) if applicable—the exceptional case component;
(d) a legislative impact component;
(e) a project composition component.

(2) An ***application component*** applies, in relation to the assessment of the impacts of an action, for each of the following types of information required to be included in the referral of the action:
(a) information mentioned in paragraph 4.01(a) or (j) of Schedule 2 (about the proposed action);
(b) information mentioned in item 5.02, 5.04 or 5.05 of Schedule 2 (about the nature and extent of the likely impacts of the action);
(c) information mentioned in item 6.01, 6.02 or 6.03 of Schedule 2 (about measures to avoid or reduce the impacts of the action).

(3) A ***controlling provision component*** applies, in relation to the assessment of the impacts of an action, for each Subdivision of a Division of Part 3 of the Act that includes a controlling provision for the action.

(4) An ***exceptional case component*** applies in relation to the assessment of the impacts of an action if the action is of a kind determined by the Minister under subregulation 5.12E(1).

(5) A ***legislative impact component*** applies, in relation to the assessment of the impacts of an action, for the legislative processes involved in the assessment (whether or not there are any).



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(6) A ***project composition component*** applies, in relation to the assessment of the impacts of an action, for the activities to be carried out in taking the action (known as project components), as determined by the Minister under subregulation 5.12G(1).

## 5.12C Determination for each application component

(1) The Minister may determine that an application component is of ***low complexity***, ***moderate complexity***, ***high complexity*** or ***very high complexity***.

(2) When making a determination under this regulation, the Minister must consider the adequacy of the information provided.

## 5.12D Determination for each controlling provision component

(1) The Minister may determine that a controlling provision component that applies in relation to the assessment of the impacts of an action is of ***moderate complexity***, ***high complexity*** or ***very high complexity***.

(2) When making a determination under this regulation, the Minister must consider the following:

(a) the matters referred to in paragraphs 87(3)(a) to (e) of the Act;

(b) how well understood are the impacts of the action on each matter protected by a controlling provision included in the Subdivision to which the controlling provision component relates;

(c) how well understood are the options for managing or offsetting the impacts of the action on each matter protected by a controlling provision included in the Subdivision to which the controlling provision component relates;

(d) if section 18, 18A, 20 or 20A of the Act is relevant to the action—the number of species and communities to be included in the assessment;

(e) if section 23 or 24A of the Act is relevant to the action—any bioregional plan for a bioregion that includes the area, or any part of the area, in which the action is taken or in which the action has, will have or is likely to have impacts.

*World Heritage property that is also a National Heritage place*

(5) If a declared World Heritage property is also a National Heritage place, the Minister may make a determination under this regulation only in relation to the declared World Heritage property.

*Listed threatened species that are also listed migratory species*

(6) If a listed threatened species is also a listed migratory species, the Minister may make a determination under this regulation only in relation to the listed threatened species.

## 5.12E Determination for an exceptional case component

The Minister may determine, in relation to an action, that:



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(a) both:
(i) the action is of a kind that has not been taken before; and
(ii) the Minister considers that the impacts are uncertain; or
(b) the Minister considers that the impacts of the action on the environment are very high because there are threats of serious or irreversible environmental damage.

## 5.12F Determination for the legislative impact component

(1) The Minister may determine that a legislative impact component is of ***low complexity***, ***moderate complexity***, ***high complexity*** or ***very high complexity***.

(2) When making a determination under this regulation, the Minister must consider:
(a) how many (if any) legislative processes of the following kinds are involved in the assessment of the action:
(i) a specified manner of assessment in accordance with a bilateral agreement, including a declaration described in section 47 of the Act;
(ii) an accredited assessment process mentioned in paragraph 87(1)(a) of the Act;
(iii) the implementation of a project mentioned in paragraph 160(2)(a) of the Act;
(iv) the adoption or implementation of a plan mentioned in paragraph 160(2)(b) or (c) of the Act;
(v) an action prescribed by the regulations for the purposes of paragraph 160(2)(d) of the Act; and
(b) whether any other process related to the action is being carried out under a law of the Commonwealth or of a State or Territory and, if so, the nature of the process and the extent to which steps to be carried out under that process may be coordinated with processes referred to in paragraph (a).

(6) When making a determination under this regulation, the Minister must consider the matters referred to in paragraphs 87(3)(a) to (e) of the Act.

## 5.12G Determination for the project composition component

The Minister may determine:
(a) the number of activities that are to be carried out in taking an action that is being assessed; and
(b) that each such activity is a ***project component***.

## 5.12H Making determinations

(1) For the purposes of paragraph 520(4C)(c) of the Act, the making of a determination under regulation 5.12C, 5.12D, 5.12E, 5.12F or 5.12G is a method for working out a fee.



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(2) Regulations 5.12C, 5.12D, 5.12E, 5.12F or 5.12G do not limit the matters that the Minister may consider in making a determination under any of those regulations.

## Subdivision B—Fees

### 5.12J Schedule of fees

(1) When the Minister gives written notice to the person proposing to take an action of the approach to be used for assessing the impacts of the action under subsection 91(1) of the Act, the Minister must also give the person a fee schedule that sets out the following:
  (a) the base fee;
  (b) the complexity fee;
  (c) a breakdown of the complexity fee, itemising the amounts payable for:
    (i) each application component; and
    (ii) each controlling provision component; and
    (iii) if applicable—the exceptional case component; and
    (iv) the legislative impact component; and
    (v) the project composition component;
  (d) the level of complexity determined for the application components, the controlling provision components and the legislative impact component;
  (e) the fees payable for each stage of the assessment.

(2) The fee schedule may set out the estimated amount payable for each application component of the complexity fee, but for all other fees, the fee schedule must set out the actual amount payable.

(3) Before stage 3 of an approach used for assessing the impacts of an action occurs, the Minister must give the person proposing to take the action another fee schedule that sets out the actual amount payable for each application component of the complexity fee, and this amount must not be more than the estimated amount payable for the component.

(4) If the Minister is satisfied that there is an error in a fee schedule given to a person, the Minister may give the person a corrected fee schedule.

### 5.12K Amount of fees

*Base fee*

(1) A base fee is payable for the assessment of the impacts of an action. The amount of the fee depends on the approach to be used for assessing the impacts of the action.

Note: The amount of the base fee is set out in the Subdivision of this Division that deals with the assessment approach.



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## Regulation 5.12K

*Complexity fee—application component*

(2) The amount payable, for an application component for a type of information mentioned in subregulation 5.12B(2), is the amount specified in the table for the type and the level of complexity.

**Complexity fee—application component**

| Item | Type of information | Low complexity | Moderate complexity | High complexity | Very high complexity |
|---|---|---|---|---|---|
| 1 | the type mentioned in paragraph 5.12B(2)(a) | nil | $10,982.00 | $34,949.00 | $62,399.00 |
| 2 | the type mentioned in paragraph 5.12B(2)(b) | nil | $10,982.00 | $34,949.00 | $84,311.00 |
| 3 | the type mentioned in paragraph 5.12B(2)(c) | nil | $10,982.00 | $34,949.00 | $95,311.00 |

*Complexity fee—controlling provision component*

(3) The amount payable for a controlling provision component is:
  (a) for moderate complexity—$6,742.00; and
  (b) for high complexity—$25,615.00; and
  (c) for very high complexity—$48,931.00.

(4) Despite subregulation (3), if:
  (a) the controlling provision component is for Subdivision FA (Great Barrier Reef Marine Park) of Division 1 of Part 3 of the Act (the ***Great Barrier Reef component***); and
  (b) there is also a controlling provision component for Subdivision A (World Heritage) or AA (National Heritage) of Division 1 of Part 3 of the Act;

then the amount payable for the Great Barrier Reef component is:
  (c) for moderate complexity—$3,371.00; and
  (d) for high complexity—$12,808.00; and
  (e) for very high complexity—$24,465.00.

*Complexity fee—exceptional case component*

(5) The amount payable for an exceptional case component is $592,086.00.

*Complexity fee—legislative impact component*

(6) The amount payable for a legislative impact component is:
  (a) for low complexity—nil; and
  (b) for moderate complexity—$8,033.00; and
  (c) for high complexity—$16,065.00; and
  (d) for very high complexity—$33,162.00.



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*Complexity fee—project composition component*

(7) The amount payable for a project composition component is set out in the Subdivision of this Division that deals with the approach to be used for assessing the impacts of the action.

## Subdivision C—Bilateral agreement or accredited assessment process

### 5.13 Application

This Subdivision applies if:

(a) an action is to be assessed in a specified manner for the purposes of a bilateral agreement that includes a declaration described in section 47 of the Act; or

(b) the Minister has decided under section 87 of the Act that the relevant impacts of an action are to be assessed by an accredited assessment process.

### 5.13A Definitions

(1) In this Subdivision:

***assessment report*** has the same meaning as in the section 528 of the Act.

***Environment Minister*** means the Minister administering Chapter 2 of the Act.

***stage 1***:

(a) if the accredited assessment process involves a draft report being prepared in accordance with terms of reference (however described)—stage 1 begins when the terms of reference are given to the Environment Minister for review; and

(b) if paragraph (a) does not apply—stage 1 does not occur.

***stage 2***:

(a) if the accredited assessment process involves a draft report being prepared in accordance with terms of reference (however described)—stage 2 begins when the draft report is given to the Environment Minister for review; and

(b) if paragraph (a) does not apply—stage 2 does not occur.

***stage 3***:

(a) if the accredited assessment process involves the finalisation of a draft report—stage 3 begins when the finalised report is given to the Environment Minister for review; and

(b) if paragraph (a) does not apply—stage 3 does not occur.

***stage 4***: stage 4 begins when an assessment report, prepared by relevant Commonwealth, State or Territory officials under the accredited assessment process, is given to the Environment Minister.

(2) To avoid doubt, if:



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(a) paragraph (b) of the definition of ***stage 1*** or ***stage 2*** applies, no base fee or Part A complexity fee is payable for that stage; and

(b) paragraph (b) of the definition of ***stage 3*** applies, no base fee, Part A complexity fee or Part B complexity fee is payable for that stage.

Note: For ***Part A complexity fee*** and ***Part B complexity fee***, see regulation 5.13C.

## 5.13B Base fee payable in stages

(1) The base fee for the assessment of the action is payable in 4 stages, before each stage begins.

(2) The amount of the base fee payable for each stage is set out in the following table:

**Base fee for assessment by an accredited assessment process**

| Item | Stage | Amount payable |
|---|---|---|
| 1 | stage 1 | $3,961.00 |
| 2 | stage 2 | $3,655.00 |
| 3 | stage 3 | $2,175.00 |
| 4 | stage 4 | $8,355.00 |

## 5.13C Complexity fee payable in stages

*Complexity fee to be split*

(1) The complexity fee is to be split into:

(a) the ***Part A complexity fee***, which is the sum of the fees for:

(i) each controlling provision component; and

(ii) if applicable—the exceptional case component; and

(iii) the legislative impact component; and

(iv) the project composition component; and

(b) the ***Part B complexity fee***, which is the sum of the fee for each application component.

*Part A complexity fee*

(2) The Part A complexity fee for the assessment of the action is payable in 4 stages, before each stage begins.

(3) The percentage of the Part A complexity fee payable for each stage is set out in the following table:

**Part A complexity fee for assessment by an accredited assessment process**

| Item | Stage | Percentage payable |
|---|---|---|
| 1 | stage 1 | 12% |
| 2 | stage 2 | 19% |



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| Part A complexity fee for assessment by an accredited assessment process | | |
|---|---|---|
| **Item** | **Stage** | **Percentage payable** |
| 3 | stage 3 | 20% |
| 4 | stage 4 | 49% |

*Part B complexity fee*

(4) The Part B complexity fee for the assessment of the action is payable in 2 stages as follows:
  (a) 50% before the beginning of stage 3; and
  (b) 50% before the beginning of stage 4.

### 5.13D Amount of project composition component

The amount of the project composition component of the complexity fee is:
  (a) if there is one project component—nil; and
  (b) if there are 2 or more project components—the amount worked out using the following formula:

$$\$18{,}146.00 \times \left( \text{Number of project components} - 1 \right)$$

Note: Regulation 5.12K sets out the amounts of the other components of a complexity fee.

### 5.13E Method for working out complexity fee

For paragraph 520(4C)(c) of the Act:
  (a) the sum of the fees mentioned in paragraph 5.13C(1)(a) is the method for working out the Part A complexity fee; and
  (b) the sum of the fee for each application component, as mentioned in paragraph 5.13C(1)(b), is the method for working out the Part B complexity fee.

## Subdivision D—Assessment on referral information

### 5.14 Application

This Subdivision applies if the Minister has decided under section 87 of the Act that the relevant impacts of an action are to be assessed by assessment on referral information under Division 3A of Part 8 of the Act.

### 5.14A Definitions

In this Subdivision:

***stage 1*** begins when the Secretary starts to prepare a draft recommendation report, as required by subsection 93(2) of the Act.



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***stage 2*** begins when the Secretary starts to finalise the draft recommendation report, as required by subsection 93(4) of the Act.

***stage 3*** begins when the Secretary gives the Minister the finalised recommendation report, as required by subsection 93(5) of the Act.

## 5.14B Base fee payable in stages

(1) The base fee for the assessment of the action is payable in 3 stages, before each stage begins.

(2) The amount of the base fee payable for each stage is set out in the following table:

**Base fee for assessment on referral information**

| Item | Stage | Amount payable |
|---|---|---|
| 1 | stage 1 | $4,561.00 |
| 2 | stage 2 | $2,739.00 |
| 3 | stage 3 | $1,664.00 |

## 5.14C Complexity fee payable in stages

(1) The complexity fee for the assessment of the action is payable in 3 stages, before each stage begins.

(2) The percentage of the complexity fee payable for each stage is set out in the following table:

**Complexity fee for assessment on referral information**

| Item | Stage | Percentage payable |
|---|---|---|
| 1 | stage 1 | 51% |
| 2 | stage 2 | 31% |
| 3 | stage 3 | 18% |

## 5.14D Amount of project composition component

The amount of the project composition component of the complexity fee is:

(a) if there is one project component—nil; and

(b) if there are 2 or more project components—the amount worked out using the following formula:

$$\$8{,}964.00 \times \left( \text{Number of project components} - 1 \right)$$

Note: Regulation 5.12K sets out the amounts of the other components of a complexity fee.



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### 5.14E Method for working out complexity fee

For the purposes of paragraph 520(4C)(c) of the Act, the sum of the fees for the following components is the method for working out the complexity fee referred to in regulation 5.14C:

(a) each controlling provision component;
(b) if applicable—the exceptional case component;
(c) the legislative impact component;
(d) the project composition component.

## Subdivision E—Assessment on preliminary documentation

### 5.15 Application

This Subdivision applies if the Minister has decided under section 87 of the Act that the relevant impacts of an action are to be assessed by assessment on preliminary documentation under Division 4 of Part 8 of the Act.

### 5.15A Definitions

(1) In this Subdivision:

***stage 1***:

(a) if section 95A of the Act applies—stage 1 begins when the request under subsection 95A(2) of the Act starts to be prepared; and
(b) if section 95A of the Act does not apply—stage 1 does not occur.

***stage 2***:

(a) if section 95A of the Act applies—stage 2 begins when the Minister receives the information requested under subsection 95A(2) of the Act; and
(b) if section 95A of the Act does not apply—stage 2 does not occur.

***stage 3***: stage 3 begins when the designated proponent has given the Minister a copy of the document and comments as required by paragraph 95B(1)(b) of the Act or a written statement as required by subsection 95B(3) of the Act, as applicable.

***stage 4***: stage 4 begins when a recommendation report starts to be prepared under subsection 95C(1) of the Act.

(2) To avoid doubt, if paragraph (b) of the definition of ***stage 1*** or ***stage 2*** applies, no base fee or Part A complexity fee is payable for that stage.

Note: For ***Part A complexity fee***, see regulation 5.15C.

### 5.15B Base fee payable in stages

(1) The base fee for the assessment of the action is payable in 4 stages, before each stage begins.



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(2) The amount of the base fee payable for each stage is set out in the following table:

| **Base fee for assessment on preliminary documentation** | | |
|---|---|---|
| **Item** | **Stage** | **Amount payable** |
| 1 | stage 1 | $2,074.00 |
| 2 | stage 2 | $2,289.00 |
| 3 | stage 3 | $852.00 |
| 4 | stage 4 | $2,795.00 |

## 5.15C Complexity fee payable in stages

*Complexity fee to be split*

(1) The complexity fee is to be split into:
  (a) the ***Part A complexity fee***, which is the sum of the fees for:
    (i) each controlling provision component; and
    (ii) if applicable—the exceptional case component; and
    (iii) the legislative impact component; and
    (iv) the project composition component; and
  (b) the ***Part B complexity fee***, which is the sum of the fees for each application component.

*Part A complexity fee*

(2) The Part A complexity fee for the assessment of the action is payable in 4 stages, before each stage begins.

(3) The percentage of the Part A complexity fee payable for each stage is set out in the following table:

| **Part A complexity fee for assessment on preliminary documentation** | | |
|---|---|---|
| **Item** | **Stage** | **Percentage payable** |
| 1 | stage 1 | 12% |
| 2 | stage 2 | 19% |
| 3 | stage 3 | 20% |
| 4 | stage 4 | 49% |

*Part B complexity fee*

(4) The Part B complexity fee for the assessment of the action is payable in 2 stages as follows:
  (a) 50% before the beginning of stage 3; and
  (b) 50% before the beginning of stage 4.



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### 5.15D Amount of project composition component

The amount of the project composition component of the complexity fee is:

(a) if there is one project component—nil; and

(b) if there are 2 or more project components—the amount worked out using the following formula:

$$\$8{,}010.00 \times \left( \text{Number of project components} - 1 \right)$$

Note: Regulation 5.12K sets out the amounts of the other components of a complexity fee.

### 5.15E Method for working out complexity fee

For paragraph 520(4C)(c) of the Act:

(a) the sum of the fees mentioned in paragraph 5.15C(1)(a) is the method for working out the Part A complexity fee; and

(b) the sum of the fee for each application component, as mentioned in paragraph 5.15C(1)(b), is the method for working out the Part B complexity fee.

## Subdivision F—Public environment reports

### 5.16 Application

This Subdivision applies if the Minister has decided under section 87 of the Act that the relevant impacts of an action are to be assessed by a public environment report under Division 5 of Part 8 of the Act.

### 5.16A Definitions

(1) In this Subdivision:

***PER guidelines***, in relation to a designated proponent, has the same meaning as in subsection 96A(1) of the Act.

***stage 1***:

(a) if the Minister decides under paragraph 96A(2)(a) of the Act that standard guidelines are not appropriate for the preparation of the draft report—stage 1 begins when the tailored guidelines start to be prepared; and

(b) otherwise—stage 1 does not occur.

***stage 2***: stage 2 begins when the draft report is given to the Minister, as required by paragraph 98(1)(ab) of the Act.

***stage 3***: stage 3 begins when the designated proponent has given the Minister the documents required under subsection 99(3) of the Act.

***stage 4***: stage 4 begins when a recommendation report starts to be prepared under subsection 100(1) of the Act.



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(2) To avoid doubt, if paragraph (b) of the definition of ***stage 1*** applies, no base fee or Part A complexity fee is payable for that stage.

Note: For ***Part A complexity fee***, see regulation 5.16C.

## 5.16B Base fee payable in stages

(1) The base fee for the assessment of the action is payable in 4 stages, before each stage begins.

(2) The amount of the base fee payable for each stage is set out in the following table:

**Base fee for assessment by a public environment report**

| Item | Stage | Amount payable |
|---|---|---|
| 1 | stage 1 | $4,715.00 |
| 2 | stage 2 | $5,394.00 |
| 3 | stage 3 | $7,119.00 |
| 4 | stage 4 | $8,355.00 |

## 5.16C Complexity fee payable in stages

*Complexity fee to be split*

(1) The complexity fee is to be split into:
- (a) the ***Part A complexity fee***, which is the sum of the fees for:
  - (i) each controlling provision component; and
  - (ii) if applicable—the exceptional case component; and
  - (iii) the legislative impact component; and
  - (iv) the project composition component; and
- (b) the ***Part B complexity fee***, which is the sum of the fee for each application component.

*Part A complexity fee*

(2) The Part A complexity fee for the assessment of the action is payable in 4 stages, before each stage begins.

(3) The percentage of the Part A complexity fee payable for each stage is set out in the following table:

**Part A complexity fee for assessment by a public environment report**

| Item | Stage | Percentage payable |
|---|---|---|
| 1 | stage 1 | 12% |
| 2 | stage 2 | 19% |
| 3 | stage 3 | 20% |



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| Part A complexity fee for assessment by a public environment report | | |
|---|---|---|
| **Item** | **Stage** | **Percentage payable** |
| 4 | stage 4 | 49% |

*Part B complexity fee*

(4) The Part B complexity fee for the assessment of the action is payable in 2 stages as follows:
  (a) 50% before the beginning of stage 3; and
  (b) 50% before the beginning of stage 4.

### 5.16D Amount of project composition component

The amount of the project composition component of the complexity fee is:
  (a) if there is one project component—nil; and
  (b) if there are 2 or more project components—the amount worked out using the following formula:

$$\$25{,}583.00 \times \left( \text{Number of project components} - 1 \right)$$

Note: Regulation 5.12K sets out the amounts of the other components of a complexity fee.

### 5.16E Method for working out complexity fee

For paragraph 520(4C)(c) of the Act:
  (a) the sum of the fees mentioned in paragraph 5.16C(1)(a) is the method for working out the Part A complexity fee; and
  (b) the sum of the fee for each application component, as mentioned in paragraph 5.16C(1)(b), is the method for working out the Part B complexity fee.

## Subdivision G—Environmental impact statements

### 5.17 Application

This Subdivision applies if the Minister has decided under section 87 of the Act that the relevant impacts of an action are to be assessed by an environmental impact statement under Division 6 of Part 8 of the Act.

### 5.17A Definitions

(1) In this Subdivision:

***EIS guidelines***, in relation to a designated proponent, has the same meaning as in subsection 101A(1) of the Act.

***stage 1***:



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(a) if the Minister decides under paragraph 101A(2)(b) of the Act that standard guidelines are not appropriate for the preparation of the draft statement—stage 1 begins when the tailored guidelines start to be prepared; and

(b) otherwise—stage 1 does not occur.

***stage 2***: stage 2 begins when the draft report is given to the Minister, as required by paragraph 103(1)(ab) of the Act.

***stage 3***: stage 3 begins when the designated proponent has given the Minister the documents required under subsection 104(3) of the Act.

***stage 4***: stage 4 begins when a recommendation report starts to be prepared under subsection 105(1) of the Act.

(2) To avoid doubt, if paragraph (b) of the definition of ***stage 1*** applies, no base fee or Part A complexity fee is payable for that stage.

Note: For ***Part A complexity fee***, see regulation 5.17C.

## 5.17B Base fee payable in stages

(1) The base fee for the assessment of the action is payable in 4 stages, before each stage begins.

(2) The amount of the base fee payable for each stage is set out in the following table:

**Base fee for assessment by an environmental impact statement**

| Item | Stage | Amount payable |
|---|---|---|
| 1 | stage 1 | $4,715.00 |
| 2 | stage 2 | $5,394.00 |
| 3 | stage 3 | $7,119.00 |
| 4 | stage 4 | $8,355.00 |

## 5.17C Complexity fee payable in stages

*Complexity fee to be split*

(1) The complexity fee is to be split into:

(a) the ***Part A complexity fee***, which is the sum of the fees for:

(i) each controlling provision component; and

(ii) if applicable—the exceptional case component; and

(iii) the legislative impact component; and

(iv) the project composition component; and

(b) the ***Part B complexity fee***, which is the sum of the fee for each application component.



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*Part A complexity fee*

(2) The Part A complexity fee for the assessment of the action is payable in 4 stages, before each stage begins.

(3) The percentage of the Part A complexity fee payable for each stage is set out in the following table:

**Part A complexity fee for assessment by an environmental impact statement**

| Item | Stage | Percentage payable |
|---|---|---|
| 1 | stage 1 | 12% |
| 2 | stage 2 | 19% |
| 3 | stage 3 | 20% |
| 4 | stage 4 | 49% |

*Part B complexity fee*

(4) The Part B complexity fee for the assessment of the action is payable in 2 stages, as follows:
  (a) 50% at the beginning of stage 3; and
  (b) 50% at the beginning of stage 4.

## 5.17D Amount of project composition component

The amount of the project composition component of the complexity fee is:
  (a) if there is one project component—nil; and
  (b) if there are 2 or more project components—the amount worked out using the following formula:

$$\$25{,}583.00 \times \left( \text{Number of project components} - 1 \right)$$

Note: Regulation 5.12K sets out the amounts of the other components of a complexity fee.

## 5.17E Method for working out complexity fee

For paragraph 520(4C)(c) of the Act:
  (a) the sum of the fees mentioned in paragraph 5.17C(1)(a) is the method for working out the Part A complexity fee; and
  (b) the sum of the fee for each application component, as mentioned in paragraph 5.17C(1)(b), is the method for working out the Part B complexity fee.



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## Subdivision H—Action management plans

### 5.18 Fee for the approval of an action management plan

(1) This regulation applies if a person proposing to take an action elects, or is taken to have elected, under section 132B of the Act to submit an action management plan for approval.

Note: An election is taken to have been made if an approval is varied to add a condition requiring an action management plan, see subsection 143(1A) of the Act.

(2) For subsection 520(4A) of the Act, the fee for assessing the action management plan is $2,690.00.

(3) For subparagraph 520(4C)(e)(i) of the Act, the fee is payable before the assessment of the action management plan begins.

### 5.18A Inviting public comment before approving action management plan

For subsection 134A(2) of the Act:

(a) an action management plan and invitation to comment must be published on the internet; and

(b) the invitation to comment must include:

(i) the decision approving the taking of the action to which the plan relates; and

(ii) any conditions that are attached to the approval.

### 5.18B Variation of action management plan

(1) This regulation applies if, under section 143A of the Act, the holder of an approval applies to the Minister for the variation of an action management plan.

(2) For subparagraph 143A(2)(b)(i) of the Act, the application must:

(a) state the following information:

(i) the holder's contact details;

(ii) if the holder has an ABN—the holder's ABN;

(iii) if the holder has an ACN—the holder's ACN;

(iv) the referral number; and

(b) be accompanied by the following:

(i) a draft of the proposed variation;

(ii) an explanation of the differences between the plan as approved and the plan as proposed to be varied;

(iii) a written statement that sets out the reasons why the holder considers that the proposed variation is required and identifies any impacts on matters protected by a provision of Part 3 that would, or would be likely to, arise if the plan were implemented as varied.

(3) For subparagraph 143A(2)(b)(ii) of the Act, the following application fees are prescribed:



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(a) subject to paragraph (5)(b) of this regulation, if the applicant considers that the variation is of an administrative nature—a fee of $710.00;

(b) in any other case—a fee of $2,690.00.

Note: The application must be accompanied by the application fee and the Minister need not consider the application if it is not. See paragraph 143A(2)(b) of the Act and section 521A of the Act.

(5) If the Minister considers that a proposed variation of an action management plan by the holder of an approval is not of an administrative nature, then:

(a) the Minister must notify the holder of the approval of that fact; and

(b) the holder of the approval must pay the difference between the fee paid and the fee set out in paragraph (3)(b).

(6) For paragraph 520(4C)(c) of the Act, the Minister's notification mentioned in paragraph (5)(a) is taken to be a method for working out the application fee for a variation of an action management plan.

## Subdivision I—Other fees

### 5.19 Request to provide specified information

(1) Subject to subregulation (2), if the Minister makes a request for specified information to be provided under:

(a) section 76, 89 or 132 of the Act; or

(b) subsection 134(3D) of the Act;

the information provided in response to the request must be accompanied by a fee of $1,701.00.

Note: The Minister need not consider the information if it is not accompanied by the fee. See section 521A of the Act.

(2) If the Minister makes a request for specified information to be provided under section 132 or subsection 134(3D) of the Act in relation to an action that has been, is being, or is to be, assessed by:

(a) a public environment report under Division 5 of Part 8 of the Act; or

(b) an environmental impact statement under Division 6 of Part 8 of the Act;

the information provided in response to the request must be accompanied by a fee of $7,476.00.

Note: The Minister need not consider the information if it is not accompanied by the fee. See section 521A of the Act.

(3) Despite subregulations (1) and (2), no fee is payable in relation to:

(a) a request referred to in subsection 76(4) or 89(2) of the Act (about assessments by a State or Territory); or

(b) a request made under section 132 of the Act to a person who is neither the person proposing to take the action nor the designated proponent of the action.



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### 5.19A Request for reconsideration of a decision under subsection 75(1) of the Act

If the Minister is requested, under section 78A of the Act, by:

(a) the person proposing to take an action; or

(b) the designated proponent of the action (if the designated proponent is not the person proposing to take the action);

to reconsider a decision made under subsection 75(1) of the Act about the action, the request must be accompanied by a fee of $6,577.00.

Note: The Minister need not consider the request if it is not accompanied by the fee. See section 521A of the Act.

### 5.19B Request to vary a condition attached to an approval

If, under subsection 143(1B) of the Act, the holder of an approval requests the Minister to vary a condition attached to an approval of an action, the request must be accompanied by a fee of $2,690.00.

Note: The Minister need not consider the request if it is not accompanied by the fee. See section 521A of the Act.

### 5.19C Request for Minister's consent to transfer of approval

If a person requests the Minister to decide under section 145B of the Act whether or not to consent to the transfer of an approval, the request must be accompanied by a fee of $1,967.00.

Note: The Minister need not consider the request if it is not accompanied by the fee. See section 521A of the Act.

### 5.19D Application to extend period of effect of approval

If a person applies to the Minister under subsection 145C(1) of the Act to extend the period for which an approval has effect, the application must be accompanied by a fee of $2,690.00.

Note: The Minister need not consider the application if it is not accompanied by the fee. See section 521A of the Act.

### 5.19E Request to vary proposal to take an action

If a person requests the Minister under subsection 156A(1) of the Act to accept a variation of a proposal to take an action, the request must be accompanied by a fee of $1,353.00.

Note: The Minister need not consider the request if it is not accompanied by the fee. See section 521A of the Act.



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## Subdivision J—Reconsideration of fees

### 5.20 Application for reconsideration of fee

*Requirements of an application*

(1) For paragraph 514Y(3)(a) of the Act, an application must:
  (a) be in writing; and
  (b) set out the following:
    (i) the applicant's name and contact details;
    (ii) if the applicant has an ABN—the applicant's ABN;
    (iii) if the applicant has an ACN—the applicant's ACN;
    (iv) the referral number;
    (v) the kind of fee to be reconsidered;
    (vi) the amount of the fee;
    (vii) the method that was used to work out the fee; and
  (c) acknowledge that as a result of the reconsideration:
    (i) a new fee may be worked out; and
    (ii) the new fee may be higher than the original fee.

*Limit on application by a transferee*

(2) To avoid doubt, if:
  (a) section 145B of the Act applies in relation to an action; and
  (b) the transferor mentioned in subsection 145B(1) of the Act applied for a reconsideration of the referral fee or any other fee payable under this Division in relation to the assessment of the impacts of the action;

the transferee mentioned in subsection 145B(1) of the Act may not apply for a reconsideration of a fee in respect of which an application has previously been made.

*Limit on application by a second person in case of a change of person taking action*

(3) To avoid doubt, if:
  (a) section 156F of the Act applies in relation to an action; and
  (b) the first person mentioned in subsection 156F(1) of the Act applied for a reconsideration of the referral fee or any other fee payable under this Division in relation to the assessment of the impacts of the action;

the second person mentioned in subsection 156F(1) of the Act may not apply for a reconsideration of a fee in respect of which an application has previously been made.

### 5.20A Reconsideration results in higher fee

(1) If:



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(a) the method used to work out a fee is reconsidered under section 514YA of the Act; and

(b) as a result of the reconsideration, a new fee is worked out by using the method again; and

(c) the new fee is higher than the original fee;

the person must pay the new fee, or if the person had paid the original fee, the amount by which the new fee is higher than the original fee.

(2) The amount of the new fee or by which the new fee is higher than the original fee:

(a) is a debt due by the person to the Commonwealth; and

(b) may be recovered by action in a court of competent jurisdiction.

## Subdivision K—Waiver of fees

### 5.21 Waiver of all or part of a fee

(1) For subparagraph 520(4C)(e)(iv) of the Act, the Minister may, at the Minister's discretion, waive all or a part of a fee that would otherwise be payable under this Division in the following circumstances:

(a) in respect of an action that has been, is being, or is to be, assessed—the Minister considers that the action's primary objective is to protect the environment, or protect and conserve heritage, in a way that is consistent with the objects of the Act;

(b) the Minister considers that:

(i) it is in the public interest to do so; or

(ii) there are other exceptional circumstances justifying the waiver.

(2) The Minister's power under subregulation (1) may be exercised:

(a) on the Minister's own initiative; or

(b) on the application of a person proposing to take an action.

### 5.21A Application for waiver of fee

(1) A person proposing to take an action may apply for all or part of a fee to be waived.

(2) The application may be made:

(a) if the Minister has made a determination under subsection 70(3) of the Act in relation to a requested person—within 10 business days of a copy of the determination being given to the requested person; and

(b) if a referral is made and a person is informed of the referral under section 73 of the Act—within 10 business days of the person being so informed; and

(c) if section 145B of the Act applies in relation to the action—at the same time as the Minister's consent is sought under that section; and



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(d) if section 156F of the Act applies in relation to the action—at the same time as notification is given to the Minister under subsection 156F(1); and

(e) in any other case—at any time before, or at the same time as, a referral is made under section 68 of the Act.

(3) The application must:

(a) be in writing; and

(b) set out the following:

(i) the applicant's name and contact details;

(ii) if the applicant has an ABN—the applicant's ABN;

(iii) if the applicant has an ACN—the applicant's ACN;

(iv) having regard to paragraphs 5.21(1)(a) and (b), the grounds on which the applicant considers that a waiver should be made and the reasons why it should be made.

(4) The Minister must consider the application within 20 business days after it is made.

(5) As soon as practicable after considering the application, the Minister must advise the person, by written notice, whether all or part of a fee has been waived and of the reasons for the Minister's decision.

(6) To avoid doubt, the fact that, after considering the application, the Minister decides not to waive all or part of a fee does not prevent the Minister later waiving all or part of the fee on the Minister's own initiative.

## Subdivision L—Refunds of fees

### 5.22 Refunds of a fee

(1) For subparagraph 520(4C)(e)(vi) of the Act, this regulation sets out the circumstances in which a fee may be refunded, in whole or in part.

(2) If a person pays a fee that the person is not required to pay, the Department must, on behalf of the Commonwealth, refund the fee.

(3) If a person overpays a fee, the Department must, on behalf of the Commonwealth, refund the amount of the excess.

(4) If a person pays a fee that is reduced after a reconsideration under Part 19A of the Act, the Department must, on behalf of the Commonwealth, refund the amount by which the fee is reduced.

Note: For the appropriation for the refund, see section 77 of the *Public Governance, Performance and Accountability Act 2013*.

### 5.22A Refunds of a referral fee

(1) For subparagraph 520(4C)(e)(vi) of the Act, if:

(a) a person refers a proposal to take an action under Division 1 of Part 7 of the Act; and



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(b) the person pays the referral fee; and

(c) the Minister decides not to accept the referral under section 74A of the Act;

the Department must, on behalf of the Commonwealth, refund the referral fee.

(2) The Department must, on behalf of the Commonwealth, refund the amount of a referral fee paid by a person if:

(a) the referral is withdrawn under section 170C of the Act before the Minister publishes an invitation under paragraph 74(3)(b) of the Act in relation to the referral; and

(b) the Minister is satisfied that:

(i) there has not been any substantial work done on the referral; and

(ii) in the circumstances it would be appropriate to refund the referral fee.

Note: For the appropriation for the refund, see section 77 of the *Public Governance, Performance and Accountability Act 2013*.

## 5.22B Working out the amount of a partial refund

(1) If:

(a) the Department has partially completed a particular stage of assessment of the relevant impacts of an action; and

(b) any of the following are satisfied:

(i) the Minister considers that there are exceptional circumstances justifying a refund of part of a fee that has been paid for that stage of assessment;

(ii) the Minister makes a declaration under section 155 of the Act that Chapter 4 of the Act no longer applies to the action and considers that there should be a refund of part of the fee for the stage of assessment that is being carried out when the declaration takes effect;

(iii) a person withdraws the referral of the proposal to take the action under section 170C of the Act and the Minister considers that there should be a refund of part of the fee for the stage of assessment that is being carried out when written notice of the withdrawal is given to the Minister;

the Minister must work out the amount of the refund using the method set out in subregulation (2).

(2) For the purposes of paragraph 520(4C)(d) of the Act, the following method is prescribed:

(a) first, the Minister must consider:

(i) the steps that the Department has carried out under the relevant assessment approach for the particular stage of assessment; and

(ii) the remaining steps to be carried out under the relevant assessment approach to complete that stage;

(b) second, the Minister must estimate an appropriate portion of the fee payable for the particular stage of assessment that the Minister considers is attributable to the steps mentioned in subparagraphs (a)(i) and (ii).



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## Subdivision M—Exemptions from fees

### 5.23 Qualification for an exemption

(1) For subparagraph 520(4C)(e)(v) of the Act, a person proposing to take an action qualifies for an exemption from the referral fee, or one or more fees that would otherwise be payable under this Division, if:

(a) at the time the fee or fees would be payable, the person is:

(i) an individual; or

(ii) a small business entity; and

(b) the person notifies the Secretary of that fact in accordance with this regulation.

(2) The person may notify the Secretary:

(a) in respect of the referral fee—at the same time as the person refers the proposal to take the action; and

(b) in respect of any fee that would otherwise be payable under this Division—at any time, but only in respect of fees that would be payable after the notification is given.

(3) The notification must:

(a) be in writing; and

(b) set out the following:

(i) the person's name and contact details;

(ii) if the person is not the designated proponent—the designated proponent's name and contact details;

(iii) if available—the referral number;

(iv) the fee or fees for which the person qualifies for an exemption; and

(c) include a declaration that the person is not taking the action on behalf of, or for the benefit of, any other person or entity; and

(d) if the person is a small business entity—state the day or income year from which the person became a small business entity.

Note: The Secretary may ask a person to provide evidence that the person is a small business entity, see regulation 5.23A.

(4) To avoid doubt:

(a) a person may not give a notification in respect of a fee that has already been paid, even if the person could have given a notification under this regulation in respect of the fee; and

(b) a person is not entitled to a refund of a fee that is paid before a notification is given under this regulation.

### 5.23A Secretary may request evidence

For the purpose of verifying that a person is a small business entity, the Secretary may request the person to provide evidence to support the person's notification that the person is a small business entity.



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### 5.23B Person exempt from paying fee to notify Secretary if circumstances change

(1) If the declaration mentioned in paragraph 5.23(3)(c) in a person's notification ceases to be true, the person must advise the Secretary, in writing, of that fact before the person is required to pay another fee under this Division.

(2) If a person ceases to be a small business entity, the person must advise the Secretary, in writing, of that fact before the person is required to pay another fee under this Division.

(3) A person commits an offence if:
  (a) the person is required to advise the Secretary of a fact under this regulation; and
  (b) the person fails to advise the Secretary, in writing and within 10 business days, after the person first becomes aware of the fact.

Penalty: 50 penalty units.

(4) An offence against subregulation (3) is an offence of strict liability.

### 5.23C Effect of ceasing to qualify for an exemption

If regulation 5.23B applies and a person ceases to be qualified for an exemption, the person:
  (a) is not, as a result of ceasing to be so qualified, required to pay:
    (i) any fee that was not paid because the person qualified for an exemption; or
    (ii) a fee for the stage of assessment that is being carried out when the person ceases to be so qualified; but
  (b) is required to pay any fee that is payable after the person ceases to be so qualified.

## Subdivision N—Miscellaneous rules relating to fees

### 5.24 Fees and transfer of approvals

(1) This regulation applies if:
  (a) section 145B of the Act applies in relation to an action; and
  (b) any of the following are satisfied:
    (i) the transferor mentioned in subsection 145B(1) of the Act paid the referral fee or any other fee payable under this Division in relation to the assessment of the impacts of the action;
    (ii) the transferor mentioned in subsection 145B(1) of the Act was exempt from paying a referral fee or a fee that would have otherwise been payable under this Division in relation to the assessment of the impacts of the action;



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(iii) all or part of a fee that would have otherwise been payable under this Division by the transferor mentioned in subsection 145B(1) of the Act in relation to the assessment of the impacts of the action was waived.

(2) For subparagraph 520(4C)(e)(ii) of the Act:

(a) the Secretary must give the transferee mentioned in subsection 145B(1) of the Act a copy of the fee schedule relating to the assessment of the impacts of the action (see regulation 5.12J); and

(b) in a case described in subparagraph (1)(b)(i)—the transferee mentioned in subsection 145B(1) of the Act must pay any fee that is, or will become, payable under this Division in relation to the assessment of the impacts of the action; and

(c) in a case described in subparagraph (1)(b)(ii) or (iii)—the transferee mentioned in subsection 145B(1) of the Act must pay:

(i) if the referral fee was waived or the transferor was exempt from paying the referral fee—the referral fee; and

(ii) any other fee that would have been payable under this Division in relation to the assessment of the impacts of the action.

Note: The transferee may apply for a waiver (see regulation 5.21A) or qualify for an exemption (see regulation 5.23) in relation to some or all fees. However, the transferee's ability to apply for a reconsideration of some or all fees may be limited (see subregulation 5.20(2)).

## 5.24A Fees and lapsed proposals

(1) For subparagraph 520(4C)(e)(vi) of the Act, if the Minister makes a declaration under section 155 of the Act that Chapter 4 of the Act no longer applies to a controlled action, the person proposing to take the action:

(a) is not entitled to a refund of:

(i) the referral fee; or

(ii) any fees paid for a completed stage of assessment; but

(b) may be entitled to a partial refund for the stage of assessment that is being carried out when the declaration takes effect.

Note: For paragraph (b), see regulation 5.22B.

(2) To avoid doubt, once the declaration takes effect, fees are no longer payable under this Division in respect of the action.

## 5.24B Fees and a change of person proposing to take action

(1) This regulation applies if:

(a) section 156F of the Act applies in relation to an action; and

(b) any of the following are satisfied:

(i) the first person mentioned in subsection 156F(1) of the Act paid the referral fee or any other fee payable under this Division in relation to the assessment of the impacts of the action;

(ii) the first person mentioned in subsection 156F(1) of the Act was exempt from paying a referral fee or a fee that would have otherwise



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been payable under this Division in relation to the assessment of the impacts of the action;

(iii) all or part of a fee that would have otherwise been payable under this Division by the first person mentioned in subsection 156F(1) of the Act in relation to the assessment of the impacts of the action was waived.

(2) For subparagraph 520(4C)(e)(ii) of the Act:

(a) the Secretary must give the second person mentioned in subsection 156F(1) of the Act a copy of the fee schedule relating to the assessment of the impacts of the action (see regulation 5.12J); and

(b) in a case described in subparagraph (1)(b)(i)—the second person mentioned in subsection 156F(1) of the Act must pay any fee that is, or will become, payable under this Division in relation to the assessment of the impacts of the action; and

(c) in a case described in subparagraph (1)(b)(ii) or (iii)—the second person mentioned in subsection 156F(1) of the Act must pay:

(i) if the referral fee was waived or the first person was exempt from paying the referral fee—the referral fee; and

(ii) any other fee that would have been payable under this Division in relation to the assessment of the impacts of the action.

Note: The second person may apply for a waiver (see regulation 5.21A) or qualify for an exemption (see regulation 5.23) in relation to some or all fees. However, the second person's ability to apply for a reconsideration of some or all fees may be limited (see subregulation 5.20(3)).

## 5.24C Fees and government agencies

For subparagraph 520(4C)(a)(iii) of the Act and to avoid doubt, regulation 4.02 and the regulations in this Division apply to:

(a) a Commonwealth agency (other than a Minister); and

(b) an agency of a State or self-governing Territory (other than a Minister of the State or Territory); and

(c) a local government body of a State or self-governing Territory.



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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*.

## 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;

(b) the kind of authorisation of the action that the Commonwealth agency or employee proposes to give.

## 6.03 Notice of decision that the Minister's advice is not required

(1) For paragraph 161A(3)(b) of the Act, the notice must be published at an appropriate location on the internet.

(2) The notice must contain the following:

(a) the identification number for the action, allocated by the Department;

(b) a brief description or a descriptive title for the action;

(c) identification of the paragraph of subsection 160(2) of the Act that applies to the action;

(d) for an action prescribed by regulations made for paragraph 160(2)(d) of the Act—identification of the category of action prescribed by the Regulations;

(e) the name of the agency or employee of the Commonwealth that referred the action to the Minister under subsection 160(1) of the Act;

(f) notice that assessment and advice is not required under Subdivision A of Division 4 of Part 11 of the Act.



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# Part 6A—Publication of information relating to assessments

## 6A.01 Request for commercial-in-confidence information not to be disclosed

For subsection 170BA(3) of the Act, a request under subsection 170BA(2) of the Act must contain the following information:

(a) a statement clearly identifying the information that the designated proponent does not want disclosed (the ***relevant information***);

(b) evidence that release of the relevant information would cause competitive detriment to the person proposing to take the action;

(c) confirmation that the relevant information is not in the public domain;

(d) confirmation that the relevant information is not required to be disclosed under another law of the Commonwealth or a law of a State or a Territory;

(e) confirmation that the relevant information is not readily discoverable.



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# Part 6B—Withdrawal of referrals

## 6B.01 Publication of a notice withdrawing a referral

(1) For subsection 170C(3) of the Act, the notice must be published at an appropriate location on the internet.

(2) The notice must contain the following:

(a) the identification number for the action, allocated by the Department;

(b) the name of the person originally proposing to take the action;

(c) a brief description or descriptive title for the action;

(d) the location of the action;

(e) notice that the referral of the action has been withdrawn;

(f) the date on which the referral of the action was withdrawn.



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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: | very low | low | limited |
| | and: | | | |
| | (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 |
| 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:



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| Item | Criterion | Category | | |
|---|---|---|---|---|
| | | **Critically endangered** | **Endangered** | **Vulnerable** |
| 1 | Its decline in geographic distribution is: | very severe | severe | substantial |
| 2 | Its geographic distribution is: | very restricted | restricted | limited |
| | and the nature of its distribution makes it likely that the action of a threatening process could cause it to be lost in: | the immediate future | the near future | the medium-term future |
| 3 | For a population of a native species that is likely to play a major role in the community, there is a: | very severe decline | severe decline | substantial decline |
| | to the extent that restoration of the community is not likely to be possible in: | the immediate future | the near future | the medium-term future |
| 4 | The reduction in its integrity across most of its geographic distribution is: | very severe | severe | substantial |
| | 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: | very severe | severe | substantial |
| | 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: | very severe | severe | serious |
| | or | | | |
| | (b) intensification, across most of its geographic distribution, in degradation, or disruption of important community processes, that is: | very severe | severe | serious |
| 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).



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# Division 7.2—Nominations for listing

## 7.03 Notices inviting nominations for an assessment period

(1) For paragraph 194E(3)(a) of the Act, a notice under subsection 194E(1) of the Act must be published:
  (a) at an appropriate location on the internet; and
  (b) in a daily newspaper that circulates in each State and self-governing Territory.

(2) For paragraph 194E(3)(b) of the Act, a nomination to include a species, an ecological community or a threatening process in a list must:
  (a) be made in writing or electronically; and
  (b) be of a length, size and form that can be:
    (i) understood by the public; and
    (ii) published on the internet.

(3) For paragraph 194E(3)(c) of the Act, a nomination must include the following:
  (a) the name of each person making the nomination (each ***nominee***);
  (b) if applicable, the name of the organisation each nominee represents;
  (c) each nominee's:
    (i) postal address; and
    (ii) telephone number; and
    (iii) if applicable, email address;
  (d) if the Minister has determined a conservation theme as a priority theme for the assessment period—a statement indicating how the nomination fits within the conservation theme;
  (e) if the nomination is of a native species—the information set out in regulation 7.04;
  (f) if the nomination is of an ecological community—the information set out in regulation 7.05;
  (g) if the nomination is of a threatening process—the information set out in regulation 7.06;
  (h) for information under paragraph (e), (f) or (g):
    (i) the source of the information; and
    (ii) when the information became available.

## 7.04 Nominations of native species

(1) A nomination of a native species must include information about the species, including the following:
  (a) the scientific name of the species, if any;
  (b) any common names by which the species is known to a person making the nomination;
  (c) if the species is not conventionally accepted:



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(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:

(A) evidence that a scientific institution has a specimen of the species; and

(B) 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 species' known or estimated current and past distribution, including a map, if available;

(e) the following information about the population of the species:

(i) the number of mature individuals;

(ii) whether there are smaller populations of the species within the total population and, if so, the degree of geographic separation between the smaller populations within the total population;

(iii) any biological, geographic, human-induced or other barriers enforcing separation;

(iv) whether the population trend is increasing or decreasing, or whether the population is static;

(v) estimated generation length, and the method used to estimate the generation length;

(f) the habitat requirements for the species;

(g) information about the species' life cycle, including:

(i) age at sexual maturity; and

(ii) life expectancy; and

(iii) natural mortality rates;

(h) for fauna:

(i) feeding behaviour and food preferences; and

(ii) daily and seasonal movement patterns;

(i) for flora—pollination and seed dispersal mechanisms.

(2) The nomination must also include the following:

(a) a description of past, current and future threats to the survival of the species, including:

(i) whether the threats are actual or potential; and

(ii) how and where the species is affected by the threats; and

(iii) how the threats are being, or could be, abated;

(b) a statement setting out:

(i) the category in subsection 178(1) of the Act under which the nominee considers the species should be listed; and

(ii) the reasons why the species should be listed under that category, by reference to the criteria in regulation 7.01.



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(3) However, if information required for subregulation (1) or (2) is not available because of a lack of scientific data or analysis, those subregulations are satisfied if the nomination includes:
  (a) the information that is available; and
  (b) a statement identifying the data or analysis that is not available.

(4) For sub-subparagraph (1)(c)(ii)(B), a person has ***relevant expertise*** if the person has worked with, or is a published author on, the class of species nominated.

## 7.05 Nominations of ecological communities

(1) A nomination of an ecological community must include information about the ecological community, including the following:
  (a) the name of the ecological community;
  (b) any other names by which the ecological community is known;
  (c) a description of the key components of the ecological community including:
    (i) biological components; and
    (ii) non-biological components; and
    (iii) the key interactions and functional processes;
  (d) a description of the characteristic features that distinguish the ecological community from other ecological communities;
  (e) information about each key species in the ecological community;
  (f) the ecological community's known or estimated current and past national distribution, including a map.

(2) The nomination must also set out the following:
  (a) a description of past, current and future threats to the survival of the ecological community, including:
    (i) whether the threats are actual or potential; and
    (ii) how and where the ecological community is affected by the threats; and
    (iii) how the threats are being, or could be, abated;
  (b) a statement setting out:
    (i) the category in subsection 181(1) of the Act under which the nominee considers the ecological community should be listed; and
    (ii) the reasons why the ecological community should be listed under that category, by reference to the criteria in regulation 7.02.

(3) However, if information required for subregulation (1) or (2) is not available because of a lack of scientific data or analysis, those subregulations are satisfied if the nomination includes:
  (a) the information that is available; and
  (b) a statement identifying the data or analysis that is not available.



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## 7.06 Nominations of threatening processes

(1) A nomination of a threatening process must include the following:

(a) a name for the threatening process;

(b) 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;

(c) the identity of any species:

(i) that is not a species listed in a category in the list mentioned in section 178 of the Act; and

(ii) that, by reference to the criteria prescribed in regulation 7.01, could become eligible for listing in 1 of those categories, other than the category of conservation dependent, because of the threatening process;

(d) the identity of any ecological community:

(i) that is not an ecological community listed in the category in the list mentioned in section 181 of the Act; and

(ii) that, by reference to the criteria prescribed in regulation 7.02, could become eligible for listing in 1 of those categories because of the threatening process;

(e) the identity of any species:

(i) that is included in the list mentioned in section 178 of the Act; and

(ii) that, by reference to the criteria prescribed in regulation 7.01, the person making the nomination considers will become eligible to be listed in a category representing a higher degree of endangerment because of the threatening process;

(f) the identity of any ecological community:

(i) that is included in the list mentioned in section 181 of the Act; and

(ii) that, by reference to the criteria prescribed in regulation 7.02, the person making the nomination considers will become eligible to be listed in a category representing a higher degree of endangerment because of the threatening process;

(g) the identity of 2 or more species:

(i) that are listed in the list mentioned in section 178 of the Act, other than in the category of conservation dependent; and

(ii) that, by reference to the criteria prescribed in regulation 7.01, the person making the nomination considers to be adversely affected by the threatening process;

(h) the identity of 2 or more ecological communities:

(i) that are listed in the list mentioned in section 181 of the Act; and

(ii) that, by reference to the criteria prescribed in regulation 7.02, the person making the nomination considers to be adversely affected by the threatening process.



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(2) However, if information required for subregulation (1) is not available because of a lack of scientific data or analysis, that subregulation is satisfied if the nomination includes:

(a) the information that is available; and

(b) a statement identifying the data or analysis that is not available.

## 7.07 Notice inviting comments on items in finalised priority assessment list

(1) For paragraph 194M(4)(a) of the Act, a notice under subsection 194M(1) of the Act must be published at an appropriate location on the internet.

(2) For paragraph 194M(4)(b) of the Act, comments must be made in writing or electronically.



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## 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 CEO under the following provisions of the Act:

(a) paragraph 199(2)(b);

(b) paragraph 214(2)(b);

(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; and

(e) the name, postal address and telephone number of the person who took the action.



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# 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.

(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.



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(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.



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## Division 7.5—Recovery plans and threat abatement plans

### 7.10A Publication of notice

(1) For paragraph 269AA(8)(a) of the Act, a notice under paragraph 269AA(5)(b) of the Act must be published:
  (a) at an appropriate location on the internet; and
  (b) in a daily newspaper that circulates in the relevant State or self-governing Territory.

(2) For paragraph 269AA(8)(b) of the Act, comments must be made in writing or electronically.

### 7.10B Publication of recovery plan decision

For subsection 269AA(9) of the Act, a notice must be published at an appropriate location on the internet.

### 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
  (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:



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(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.



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# 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.



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# Part 8—Interacting with cetaceans and whale watching

## Division 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 Park Authority under section 188 of the *Great Barrier Reef Marine Park Regulations 2019*.

### 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 speed of less than 6 knots, away from a cetacean that is approaching so that the vessel remains at least 300 metres away from the cetacean.

Note: A boat travelling at a speed that is the equivalent of a brisk walking pace is not exceeding 6 knots.



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(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 speed of less than 6 knots 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
(c) if the cetacean shows signs of being disturbed, immediately withdraw the vessel from the caution zone at a constant speed of less than 6 knots; 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.



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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.

(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 speed of less than 6 knots.

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

(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



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(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.

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:



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(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*.



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# 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.

## 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 regulations 8.05 and 8.06.

(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.



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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)).



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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);

(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;



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(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;

(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 the Territory of 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

(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.



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(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.



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# 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;
(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;



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(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 the Territory of Norfolk Island by the Commonwealth 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



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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 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.



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# 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).

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



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biochemical compounds comprising or contained in the biological resources unless a 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.



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# 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.

(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



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(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; and
(c) in a daily newspaper that circulates throughout Australia.

(3) The Minister must register any person who applies in writing for registration.

(4) Registration has effect for the period specified in the notice.



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# 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.

(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.



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# 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;

(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.



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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 take an action:
  (a) that results in the death or injury of a member of a protected species; or
  (b) that involves the taking, trading, keeping or moving of 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
  (b) is provided for by, and taken in accordance with, a declaration by the Director to which regulation 20.05 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:



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(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; or

(k) is declared by the Minister under paragraph 28(2)(c) or subsection 28(3) or (4) of the Act to be an action to which section 28 of the Act does not apply; or

(l) is an action in respect of which the Minister has granted an exemption to a specified person under subsection 158(3) or 303A(3) of the Act.

## 9.03A Permit to carry out prohibited action

The CEO may issue a permit, in accordance with Part 17, authorising a person to carry out an action that is otherwise prohibited under this Part.

## 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.



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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):

(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. In 2025 the Index Herbariorum could be accessed at https://sweetgum.nybg.org/science/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;



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(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 CITES specimen mentioned in Schedule 4A is taken to be an export of a personal or household effect if:

(a) the export is not of a kind mentioned in paragraph 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:
  (i) is the personal property of the person exporting it; and
  (ii) is not being exported for commercial purposes; and
(d) the specimen was legally acquired; and
(e) at the time of export, the specimen:
  (i) is worn, carried or included in the personal baggage of the person exporting it; or
  (ii) is a part of a collection of the person's household effects that is being moved.

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

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

(a) the import is not of a kind mentioned in paragraph 3(a) or (b) of Article VII of CITES; and
(b) a permit is not required to export the specimen from the country where the specimen was taken from the wild; and
(c) the specimen:
  (i) is the personal property of the person importing it; and
  (ii) is not being imported for commercial purposes; and
(d) the specimen was legally acquired; and
(e) at the time of import, the specimen:



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(i) is worn, carried or included in the personal baggage of the person importing it; or

(ii) is a part of a collection of the person's household effects that is being moved; and

(f) the import is not of a kind mentioned in regulation 9A.04.

## 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);

(vii) Family Rhinocerotidae (rhinoceroses); and

(b) the following species are specified:

(i) *Ammotragus lervia* (Barbary sheep);

(ii) *Cephalophus jentinki* (Jentink's duiker);

(iii) *Equus zebra hartmannae* (Hartmann's mountain zebra);

(iv) *Hippopotamus amphibius* (hippopotamus);

(v) *Kobus leche* (lechwe);

(vi) *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;



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(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;

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

Note: National codes of practice dealing with how to humanely deal with certain species (such as kangaroos, wallabies and crocodiles) have been developed and could in 2025 be viewed on the Department's website.

## 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.06A Amendment of list of specimens suitable for import

For paragraph 303ED(3)(b) of the Act, the report specified is a report of an assessment undertaken for the purpose of importing a biological control agent or releasing a biological control agent.

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

(1) 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.

(2) For paragraph 303EE(4)(b) of the Act, the report specified is a report of an assessment undertaken for the purpose of importing a biological control agent or releasing a biological control agent.



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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;

(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 primarily 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 an animal bred in captivity 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;

(b) the specimen will not be used primarily 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 an animal bred in captivity 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



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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 primarily 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 an animal bred in captivity 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.

## 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 primarily 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



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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:

(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.

## 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



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(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 is satisfied that:

(a) each animal bred under the program is bred in captivity; and

(b) there are no reasons why the program should not be an approved captive breeding program.

(1A) In considering whether there are any reasons why the program should not be an approved captive breeding program, the Minister may consider whether the operator of the program:

(a) has, in the 10 years before the operator applies under subregulation (2) for a decision, been convicted of an offence mentioned in subregulation 9A.21A(1); or

(b) is subject to proceedings for an offence mentioned in subregulation 9A.21A(1).

(1B) If the Minister is satisfied about the matters mentioned in subregulation (1), the Minister must tell the operator of the program in writing.

(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:

(a) enough information for the Minister to decide whether each live animal bred under the program is bred in captivity; and

(b) a declaration stating whether the applicant:

(i) has, in the 10 years before making the application, been convicted of an offence mentioned in subregulation 9A.21A(1); or

(ii) is subject to proceedings for an offence mentioned in subregulation 9A.21A(1).

(4) The Minister may:

(a) ask the applicant for more information; and



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(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:
(a) enough information for the Minister to decide:
(i) whether each live animal bred under the program is bred in captivity; and
(ii) whether the program meets the CITES requirements for a CITES-registered captive breeding program; and
(b) a declaration stating whether the applicant:
(i) has, in the 10 years before making the application, been convicted of an offence mentioned in subregulation 9A.21A(1); or
(ii) is subject to proceedings for an offence mentioned in subregulation 9A.21A(1).

(4) The Minister may apply to the CITES Secretariat to register the program if the Minister is satisfied that:
(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; and
(c) there are no reasons why the program should not be registered with the CITES Secretariat as a captive breeding program.

(4A) In considering whether there are any reasons why the program should not be registered with the CITES Secretariat as a captive breeding program, the Minister may consider whether the applicant:
(a) has, in the 10 years before making the application, been convicted of an offence mentioned in subregulation 9A.21A(1); or



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(b) is subject to proceedings for an offence mentioned in subregulation 9A.21A(1).

(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 is satisfied that:
(a) each live plant propagated under the program is artificially propagated; and
(b) there are no reasons why the program should not be an approved artificial propagation program.

(1A) In considering whether there are any reasons why the program should not be an approved artificial propagation program, the Minister may consider whether the operator of the program:
(a) has, in the 10 years before the operator applies under subregulation (2) for a decision, been convicted of an offence mentioned in subregulation 9A.21A(1); or
(b) is subject to proceedings for an offence mentioned in subregulation 9A.21A(1).

(1B) If the Minister is satisfied about the matters mentioned in subregulation (1), the Minister must tell the operator of the program in writing.

(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:
(a) enough information for the Minister to decide whether each live plant propagated under the program is artificially propagated; and
(b) a declaration stating whether the applicant:
(i) has, in the 10 years before making the application, been convicted of an offence mentioned in subregulation 9A.21A(1); or



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(ii) is subject to proceedings for an offence mentioned in subregulation 9A.21A(1).

(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 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:
(a) under the program:
(i) 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
(ii) collection of aquaculture species, for breeding, will not have an adverse effect on the conservation status of a species or ecosystem; and
(iii) environmental impacts are considered before aquaculture specimens may be released; and
(b) there are no reasons why the program should not be an approved aquaculture program.

(1A) In considering whether there are any reasons why the program should not be an approved aquaculture program, the Minister may consider whether the operator of the program:
(a) has, in the 10 years before the operator applies under subregulation (2) for a decision, been convicted of an offence mentioned in subregulation 9A.21A(1); or
(b) is subject to proceedings for an offence mentioned in subregulation 9A.21A(1).

(2) If the Minister is satisfied about the matters mentioned in subregulation (1), the Minister must tell the operator of the program in writing.



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(2A) A person may apply in writing to the Minister to make a decision under subregulation (1) about a program.

(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
  (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;
  (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;



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(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.

## 9A.21A Relevant offences

(1) For subregulation 9A.16(1A), paragraphs 9A.16(3)(b) and 9A.17(3)(b), subregulations 9A.17(4A) and 9A.18(1A), paragraph 9A.18(3)(b) and subregulation 9A.19(1A), 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 of the *Crimes Act 1914*, or section 11.1, 11.4 or 11.5 of the *Criminal Code*, in relation to an offence mentioned 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: Section 6 of the *Crimes Act 1914* relates to an accessory to 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; section 11.5 relates 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



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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), a person making a declaration is taken to have been convicted of an offence if, in the 10 years before making the application that includes the declaration, the person:

(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 person for another offence.

## 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

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



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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.

(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—Management principles for protected areas

## Division 10.1—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.



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# Division 10.2—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;
  (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 Nominations of places for inclusion in the National Heritage List

For paragraphs 324J(3)(b) and (c) of the Act, a nomination of a place for inclusion in the National Heritage List must:



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(a) be in writing or electronic form; and
(b) be made on a form approved by the Minister; and
(c) include the full name, signature, address, telephone number and e-mail address (if any) of the person making the nomination; and
(d) include the following:
(i) the name of the place, and any alternative name;
(ii) a description of the location of the place;
(iii) a map or plan showing the location and boundaries of the place;
(iv) a statement of the heritage significance of the place;
(v) a statement identifying 1 or more National Heritage criteria that the place satisfies;
(vi) evidence showing how the place satisfies the criterion or criteria.

### 10.01BA Comments to Australian Heritage Council on finalised priority assessment list

For paragraph 324JG(4)(b) of the Act, comments must be in writing and address one or more of the following:
(a) whether the place meets any National Heritage criteria;
(b) if the place meets any National Heritage criteria—a statement about how it meets those criteria;
(c) whether the place should be included in the National Heritage List;
(d) any other matter upon which comment was invited by the Australian Heritage Council.

### 10.01BB Comments to Australian Heritage Council on listing of place under threat of significant adverse impact

For paragraph 324JN(3)(b) of the Act, comments must be in writing and address one or more of the following:
(a) whether the place meets any National Heritage criteria;
(b) if the place meets any National Heritage criteria—a statement about how it meets those criteria;
(c) whether the place should be included in the National Heritage List;
(d) any other matter upon which comment was invited by the Australian Heritage Council.

### 10.01BC Publication of Minister's decision on listing of place under threat of a significant adverse impact

For subsection 324JQ(7) of the Act, a copy or summary of the instrument referred to in subsection 324JQ(1) of the Act must be published at an appropriate location on the internet.



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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.



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# Division 10.2A—Adding additional values for National Heritage and Commonwealth Heritage places

## 10.01BD Purpose of Division

(1) For sections 324N and 341N of the Act, the regulations under this Division provide for:

(a) the specification in the National Heritage List of additional National Heritage values in relation to National Heritage places; and

(b) the specification in the Commonwealth Heritage List of additional Commonwealth Heritage values in relation to Commonwealth Heritage places.

(2) In this Division:

***assessed value*** means a heritage value assessed by the Australian Heritage Council under regulation 10.01BF.

***assessment completion time*** means the time specified under subregulation 10.01BE(2).

***proposed value*** means a request by the Minister for an assessment of a heritage value under subregulation 10.01BE(1).

## 10.01BE Minister may request assessment of additional heritage values for National Heritage or Commonwealth Heritage places

(1) If the Minister considers that:

(a) a National Heritage place has, or may have, an additional National Heritage value; or

(b) a Commonwealth Heritage place has, or may have an additional Commonwealth Heritage value;

he or she may request the Australian Heritage Council to assess the additional heritage value for the National Heritage place or Commonwealth Heritage place.

(2) A request under subregulation (1) must set a time period for the completion of the assessment.

## 10.01BF Australian Heritage Council to assess additional heritage values and give assessments to Minister

(1) If the Minister has requested an assessment of a heritage value under subregulation 10.01BE(1), the Australian Heritage Council must, within the assessment completion time:

(a) make a written assessment of whether the proposed value meets any of the:

(i) National Heritage criteria (for a proposed value which relates to a National Heritage place); or



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(ii) Commonwealth Heritage criteria (for a proposed value which relates to a Commonwealth Heritage place); and

(b) give to the Minister:

(i) the written assessment or a copy of it; and

(ii) a copy of any comments mentioned in paragraph (2)(a).

(2) In making an assessment under paragraph (1)(a), the Australian Heritage Council may, subject to subregulation (3);

(a) consider any comments received under subregulations (5) to (7); and

(b) request and consider information or advice from any source.

(3) In making an assessment, the Australian Heritage Council must only consider the matters mentioned in paragraph (1)(a).

(4) If, in making an assessment, the Australian Heritage Council considers that a proposed value might be an:

(a) additional National Heritage value for a National Heritage place; or

(b) additional Commonwealth Heritage value for a Commonwealth Heritage place;

the Council must comply with the requirements of subregulation (5).

(5) For subregulation (4), the Australian Heritage Council must:

(a) take all practicable steps:

(i) to identify each person who is an owner or occupier of all or part of the place; and

(ii) if the proposed value might be an indigenous heritage value—to identify each indigenous person who has rights or interests in all or part of the place; and;

(iii) to advise each person identified that the Council is assessing whether the proposed value meets any of the criteria mentioned in paragraph (1)(a); and;

(b) give persons advised at least 20 business days to comment in writing on the possible inclusion of the proposed value in the National Heritage List or Commonwealth Heritage List.

(6) If the Australian Heritage Council is satisfied that there are likely to be at least 50 persons identified in subparagraph (5)(a)(i), the Council may satisfy the requirements of subregulation (5) for those persons by including the information mentioned in subparagraph (5)(a)(iii) and paragraph (5)(b) in one or more of the following:

(a) advertisements in a newspaper, or newspapers, circulating in the area in which the place is located;

(b) letters addressed to ‘The owner or occupier’ and left at all the premises that are wholly or partly within the place;

(c) displays in public buildings at or near the place.

(7) If:



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(a) the Australian Heritage Council considers that the place might have an indigenous heritage value; and

(b) there are indigenous persons who:

(i) have rights or interests in all or part of the place; and

(ii) are neither owners nor occupiers of all or part of the place; and

(c) the Council is satisfied that there is a body, or there are bodies, that can appropriately represent those indigenous persons in relation to those rights and interests;

the Council may satisfy the requirements of subregulation (4) for those indigenous persons by giving the information mentioned in subparagraph (5)(a)(iii) and paragraph (b) to that body or those bodies.

## 10.01BG Time by which assessments to be provided to Minister

(1) An assessment under subregulation 10.01BF(1) must be completed by the assessment completion time or by such time as extended by this regulation.

(2) The Australian Heritage Council may request the Minister to extend the assessment completion time (or that time as previously extended) if the Council considers that it needs more time to make the assessment.

(3) The Minister may, in response to a request under subregulation (2), extend the assessment completion time (or that time as previously extended) by such period as the Minister considers appropriate. However, the total length of all extensions must not be more than 5 years.

(4) An extension under subregulation (3) must be in writing.

(5) If the Minister grants an extension under this regulation, the Minister must publish particulars of the extension as he or she considers appropriate.

## 10.01BH Decision about inclusion of a value of a place in the National Heritage List or Commonwealth Heritage List

*Minister to decide whether or not to include proposed additional value*

(1) After receiving an assessment from the Australian Heritage Council under regulation 10.01BF, the Minister must:

(a) by instrument published in the *Gazette*, include in the National Heritage List, or the Commonwealth Heritage List, the assessed value for the National Heritage place, or Commonwealth Heritage place; or

(b) in writing, decide not to include the assessed value in the National Heritage List or Commonwealth Heritage List.

(2) Subject to subregulation (3), the Minister must comply with subregulation (1) within 90 business days after the day on which the Minister receives the assessment.

(3) The Minister may, in writing, extend or further extend the period for complying with subregulation (1).



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(4) Particulars of an extension or further extension under subregulation (3) must be published at an appropriate location on the internet.

(5) For the purpose of deciding what action to take under subregulation (1) about the assessed value, the Minister must have regard to:
  (a) the assessment by the Australian Heritage Council under regulation 10.01BF; and
  (b) any comments which were given to the Minister under subparagraph 10.01BF(1)(b)(ii).

(6) For subregulation (5), the Minister may request and consider information or advice from any source.

*Additional requirements if Minister decides to include value*

(7) If the Minister includes the assessed value in the National Heritage List or the Commonwealth Heritage List, he or she must, within a reasonable time:
  (a) take all practicable steps to:
    (i) identify each person who is an owner or occupier of all or part of the place; and
    (ii) advise each person identified that the assessed value has been included in the National Heritage List, or the Commonwealth Heritage List, for the place; and
  (b) publish a copy of the instrument mentioned in paragraph (1)(a) at an appropriate location on the internet.

(8) If the Minister is satisfied that there are likely to be at least 50 persons identified in subparagraph (7)(a)(i), the Minister may satisfy the requirements of paragraph (7)(a) for those persons by including the advice mentioned in that paragraph in one or more of the following:
  (a) advertisements in a newspaper, or newspapers, circulating in the area in which the assessed place is located;
  (b) letters addressed to 'The owner or occupier' and left at all the premises that are wholly or partly within the assessed place;
  (c) displays in public buildings at or near the assessed place.

*Additional requirements if the Minister decides not to include value*

(9) If the Minister decides not to include the assessed value in the National Heritage List or the Commonwealth Heritage List, he or she must, within 10 business days after making the decision, publish the decision at an appropriate location on the internet.



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# Division 10.3—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.



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# Division 10.4—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.



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# Division 10.5—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;
  (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.

## 10.03AB Nominations of places for inclusion in the Commonwealth Heritage List

For paragraphs 341H(3)(b) and (c) of the Act, a nomination of a place for inclusion in the Commonwealth Heritage List must:



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(a) be in writing or electronic form; and
(b) be made on a form approved by the Minister; and
(c) include the full name, signature, address, telephone number and e-mail address (if any) of the person making the nomination; and
(d) include the following:
(i) the name of the place, and any alternative name;
(ii) a description of the location of the place;
(iii) a map or plan showing the location and boundaries of the place;
(iv) a statement of the heritage significance of the place;
(v) a statement identifying 1 or more Commonwealth Heritage criteria that the place satisfies;
(vi) evidence showing how the place satisfies the criterion or criteria.

### 10.03AC Comments to Australian Heritage Council on finalised priority assessment list

For paragraph 341JF(4)(b) of the Act, comments must be in writing and address one or more of the following:
(a) whether the place meets any Commonwealth Heritage criteria;
(b) whether the place meets any Commonwealth Heritage criteria and if so, how it meets those criteria;
(c) whether the place should be included in the Commonwealth Heritage List;
(d) any other matter upon which comment was invited by the Australian Heritage Council.

### 10.03AD Comments to Australian Heritage Council on listing of place under threat of a significant adverse impact

For paragraph 341JM(3)(b) of the Act, comments must be in writing and address one or more of the following:
(a) whether the place meets any Commonwealth Heritage criteria;
(b) whether the place meets any Commonwealth Heritage criteria and if so, how it meets those criteria;
(c) whether the place should be included in the Commonwealth Heritage List;
(d) any other matter upon which comment was invited by the Australian Heritage Council.

### 10.03AE Publication of Minister's decision on listing of place under threat of a significant adverse impact

For subsection 341JP(7) of the Act, a copy or summary of the instrument referred to in subsection 341JP(1) must be published at an appropriate location on the internet.



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### 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(2).

### 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.

### 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,



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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 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;



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(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;
(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.



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# Division 10.6—Australian IUCN reserves

## 10.03H IUCN categories for Commonwealth reserves

For paragraph 346(1)(e) of the Act, the categories in the following table are prescribed.

| Item | IUCN category number | IUCN category |
|---|---|---|
| 1 | Ia | Strict nature reserve |
| 2 | Ib | Wilderness area |
| 3 | II | National park |
| 4 | III | Natural monument |
| 5 | IV | Habitat/species management area |
| 6 | V | Protected landscape/seascape |
| 7 | VI | Managed resource protected area |

## 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.



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# Part 11—Commonwealth reserves

## Division 11.1—Application

### 11.01 Application of Part 11

This Part applies to Commonwealth reserves.



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# 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.

(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.



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(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.

## 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.

(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



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(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
(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:



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(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.



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# 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 and other decisions made by the Director

In making a determination, imposing a prohibition or restriction, or making a decision to approve or provide something, under this Part to control an activity in a Commonwealth reserve, the Director may take into account the possible effect of the activity, including 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; or
(g) be inconsistent with a management plan in operation for the reserve.

### 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;
(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.



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## 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*.



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# 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 in the performance of his or her duties; 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 indigenous tradition governing the rights of that person with respect to that land, 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

(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) 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 at a particular time in accordance with a written or verbal direction:



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(i) that is given to the person before or at the time the activity is to be carried out; and

(ii) that directs the person to carry out the activity at that time; and

(iii) that is given by:

(A) the Director; or

(B) a ranger or warden in the performance of his or her duties; or

(C) 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 and Waters (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).

(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.

## 12.06A Strict liability applies to being in a Commonwealth reserve for offences

In this Part, strict liability applies to the physical element of an offence that is constituted by the circumstance of being in a Commonwealth reserve.

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

## 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 industrial waste);

(ba) 12.14A (Dumping of domestic waste);

(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 in a total fire ban);

(ha) 12.30A (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 (Use of roads or tracks by vehicles);

(p) 12.43 (Speed limits and one-way traffic);



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(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;

(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 and Waters (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) or section 354A 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.

## 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.



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(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 and Waters (Jervis Bay Territory) Act 1986*.

(3) In this regulation:

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

## 12.11 Excavating, building and works

(1) 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.

Note: Subsection 354(1) of the Act provides that a person must not do particular acts in a Commonwealth reserve except in accordance with a management plan in operation for the reserve. Section 354A of the Act sets out offences in relation to those particular acts.

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

## 12.12 Damaging, defacing features etc

A person commits an offence if the person, in a Commonwealth reserve, damages, defaces, obstructs, removes or interferes with:

(a) a natural feature; or
(b) an object, sign or structure; or
(c) a road or track.

Penalty: 50 penalty units.

## 12.13 Damaging etc heritage

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

Penalty: 50 penalty units.

Note: Subsection 354(1) of the Act provides that a person must not do particular acts in a Commonwealth reserve except in accordance with a management plan in operation for the reserve. Section 354A of the Act sets out offences in relation to those particular acts.

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

## 12.14 Dumping of industrial waste

(1) This regulation applies to the following industrial waste:

(a) solid material;
(b) liquid or gaseous material.



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(2) For subregulation (1), ***industrial waste*** means unwanted by-products from commercial, industrial or trade activities.

(3) A person commits an offence if the person discharges, disposes of or leaves in a Commonwealth reserve industrial waste mentioned in paragraph (1)(a).

Penalty: 50 penalty units.

(4) Subject to subregulation (5), a person commits an offence if the person discharges, disposes of, releases or leaves in a Commonwealth reserve industrial waste mentioned in paragraph (1)(b) if the discharge, disposal, release or leaving of the industrial waste 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.

(5) A person may discharge, dispose of, release or leave material mentioned in subregulation (4) in a Commonwealth reserve if the person discharges, disposes of, releases or leaves the industrial waste in an area or a receptacle determined or provided for the purpose by the Director under regulation 12.14B.

(6) An offence against subregulation (3) or (4) is an offence of strict liability.

## 12.14A Dumping of domestic waste

(1) This regulation applies to domestic waste including litter, dung and sewage.

(2) For subregulation (1), ***domestic waste*** means waste created by humans (other than industrial waste).

(3) Subject to subregulation (4), a person commits an offence if the person discharges, disposes of, releases or leaves in a Commonwealth reserve domestic waste if the discharge, disposal, release or leaving of the waste 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 may discharge, dispose of, release or leave domestic waste in a Commonwealth reserve if the person discharges, disposes of, releases or leaves the domestic waste in an area or a receptacle determined or provided for the purpose by the Director under regulation 12.14B.

(5) An offence against subregulation (3) is an offence of strict liability.

## 12.14B Where industrial or domestic waste may be dumped

(1) For regulations 12.14 and 12.14A, the Director may:



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(a) determine that an area or a receptacle in a Commonwealth reserve may be used for the discharge, disposal of, release or leaving of industrial or domestic waste; or

(b) provide a receptacle in a Commonwealth reserve where industrial or domestic waste may be discharged, disposed of, released or left.

(2) The Director may determine conditions that apply to the discharge, disposal of, release or leaving of industrial or domestic waste in an area or a receptacle determined or provided under subregulation (1).

(3) If the Director determines or provides an area or a receptacle under subregulation (1) and that area or receptacle is on land, the Director must erect on that land at, or as near as practicable to, the area or receptacle a sign identifying the area or receptacle as an area or a receptacle that has been determined or provided.

(4) If the Director determines under subregulation (2) that any of the following conditions apply to the use of the area or receptacle, the sign mentioned in subregulation (3) must specify the conditions:

(a) that the area or receptacle is not to be used during a specified period;

(b) that the area or receptacle is to be used in a specified manner;

(c) the kinds of industrial or domestic waste that may, or may not, be discharged, disposed of, released or left in the area or receptacle.

(5) If:

(a) the Director determines or provides an area or a receptacle under subregulation (1); and

(b) that area or receptacle is not on land; and

(c) it is practical to do so;

the Director must erect on land as near as practicable to the area or receptacle a sign that complies with the requirements in subregulations (3) and (4).

(6) Notice of a determination under subregulation (1) must:

(a) be published in the *Gazette*; and

(b) state the location of the area or receptacle where waste may be discharged, disposed of, released or left; and

(c) state the conditions (if any) relating to the kinds of waste that may, or may not be discharged, disposed of, released or left.

## 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.

(2) However, subregulation (1) does not apply to:

(a) use or possession of the item mentioned in that subregulation 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 mentioned in that subregulation by a person on a vessel if:

(i) the item is stowed securely; and

(ii) the vessel is in passage through a marine area or anchored or moored in a marine area.

(3) Also, paragraph (1)(a) does not apply to a police officer who is acting in that capacity.



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(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 Cooinda.

(4A) Paragraph (1)(b) does not apply to the use or possession of a spear in an area if the Director has made a determination under paragraph 12.35(3)(b) that a spear may be used for taking fish in the area.

(4B) Paragraph (1)(d) does not apply to the use or possession of a spear gun in an area if the Director has made a determination under paragraph 12.35(3)(b) that a spear gun may be used for taking fish in the area.

(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.

(6A) Paragraph (1)(h) does not apply to the use or possession, in an area of water, of a device that can be used, or is designed, for taking fish if the Director has made a determination under paragraph 12.35(3)(b) that a device of that kind may be used for taking fish in the area.

(7) An offence against subregulation (1) is an offence of strict liability.

## 12.19 Taking animals into Commonwealth reserve

(1) A person commits an offence if the person allows an animal owned by, or in the possession 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.



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(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) taking a dead non-native animal or a dead native fish into a Commonwealth reserve as bait for fishing in accordance with a determination under subparagraph 12.35(3)(b)(xii); or
  (d) a person if the animal is confined to a vessel and the person is on the 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.

(5) A person commits an offence if the person:
  (a) takes the carcass of an animal into a Commonwealth reserve as food; and
  (b) dismembers, disembowels or skins the carcass within 50 metres of an area of water in the reserve.

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.

(7) An offence against subregulation (1), (4) or (5) is an offence of strict liability.

## 12.19A Offences in relation to non-native species

(1) A person commits an offence if:
  (a) the person takes an action; and
  (b) the action is taken in a Commonwealth reserve; and
  (c) the action:
    (i) results in the death or injury of a member of a non-native species in the reserve; or
    (ii) involves taking, trading, keeping or moving a member of a non-native species in the reserve.



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Penalty: 50 penalty units.

(2) However, subregulation (1) does not apply to a person who is permitted by these Regulations to take the action that:
  (a) may result in the death or injury of a member of a non-native species in the reserve; or
  (b) involves taking, trading, keeping or moving a member of a non-native species in the reserve.

(3) An offence against subregulation (1) is an offence of strict liability.

## 12.19B Offences in relation to native species

(1) A person commits an offence if:
  (a) the person takes an action; and
  (b) the action is taken in a Commonwealth reserve; and
  (c) the action:
    (i) results in the death or injury of a member of a native species in the reserve; or
    (ii) involves taking, trading, keeping or moving a member of a native species in the reserve.

Penalty: 50 penalty units.

Note: Subsection 354(1) of the Act provides that a person must not do particular acts in a Commonwealth reserve except in accordance with a management plan in operation for the reserve. Section 354A of the Act sets out offences in relation to those particular acts.

(2) Without limiting subregulation (1), a person commits an offence under that subregulation if the person takes an action that:
  (a) causes disturbance or harm to the member of the native species; or
  (b) causes disturbance or harm to the habitat of the native species.

(3) However, subregulation (1) does not apply to a person who is permitted by these Regulations to take the action that:
  (a) may result in the death or injury of a member of a native species in the reserve; or
  (b) involves taking, trading, keeping or moving a member of a native species in the reserve.

(4) An offence against subregulation (1) is an offence of strict liability.

## 12.19C Complying with a direction in relation to native species

(1) A ranger or warden may direct a person to cease an action in a Commonwealth reserve that may:
  (a) result in the death or injury of a member of a native species in the reserve, or involve taking, trading, keeping or moving a member of a native species in the reserve; or



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(b) cause disturbance or harm to a member of a native species in the reserve; or

(c) cause disturbance or harm to the habitat of a native species in the reserve.

(2) A person must comply with a direction given under subregulation (1).

Penalty: 50 penalty units.

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

## 12.19D Removal of shells

A person commits an offence if the person:

(a) takes in a Commonwealth reserve a shell that had been the outer covering of an animal; and

(b) removes the shell from the Commonwealth reserve.

Penalty: 20 penalty units.

## 12.20 Taking plants into Commonwealth reserve

(1) A person commits an offence if the person takes a plant into, or possesses 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.

(5) For subregulation (3), 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.

(6) An offence against subregulation (1) is an offence of strict liability.



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## 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 Jabiru 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 Jabiru 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) The Director may, in writing, direct a person 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.

(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 commits an offence if the person enters or remains in a Commonwealth reserve, or a part of a Commonwealth 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 who is performing his or her duties as a member or officer with respect to that land in the reserve.



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(3) For subregulation (1), the Director may prohibit or restrict all persons, or a specified class of persons, from entering or remaining in a Commonwealth reserve or a part of a Commonwealth reserve.

(3A) For subregulation (3), a prohibition or restriction may apply at all times, at specified times, or for a specified period.

(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.

## 12.23A Prohibited or restricted activity in a Commonwealth reserve

(1) A person commits an offence if the person engages in an activity, or an activity in a class of activities, in a Commonwealth reserve, or a part of a Commonwealth 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 who is performing his or her duties as a member or officer with respect to that land in the reserve.

(3) For subregulation (1), the Director may prohibit or restrict all persons, or a specified class of persons, from engaging in an activity, or an activity in a class of activities, in a Commonwealth reserve or part of a Commonwealth reserve.

(4) For subregulation (3), a prohibition or restriction may apply at all times, at specified times, or for a specified period.

(5) Notice of a prohibition or restriction must be published, unless the prohibition or restriction is in relation to 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.

(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.



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(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.

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

## 12.26 Adventurous activity

(1) In this regulation, ***adventurous activity*** means:
  (a) climbing, abseiling on, or jumping from, a rock face; or
  (b) bungee jumping or BASE-jumping; or
  (c) hang gliding or paragliding; or
  (d) an activity determined by the Director under subregulation (4) to be an adventurous activity.

(2) A person commits an offence if:
  (a) the person carries out an adventurous activity in an area of a Commonwealth reserve; and
  (b) the area is not provided for the activity in a determination made by the Director under subregulation (5).

Penalty: 30 penalty units.

(3) A person commits an offence if:
  (a) the person carries out an adventurous activity in an area of a Commonwealth reserve that is provided for the activity in a determination made by the Director under subregulation (5); and



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(b) the person contravenes a condition specified in a determination made by the Director under subregulation (5) for carrying out the activity in the area.

Penalty: 30 penalty units.

(4) For paragraph (d) of the definition of ***adventurous activity***, the Director may determine that an activity is an adventurous activity.

(5) The Director may determine one or more of the following:
(a) that an adventurous activity may be carried out in a specified Commonwealth reserve;
(b) that an adventurous activity may only be carried out in the reserve in a specified area of the reserve;
(c) that an adventurous activity may only be carried out in the reserve in a specified manner;
(d) that an adventurous activity may only be carried out in the reserve by specified persons or a specified class of persons;
(e) that an adventurous activity may be carried out in the reserve at all times, or only at specified times or during a specified period.

(6) Notice of a determination made 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; or
(d) activate, in a situation that is not an emergency, a device that is provided by the Director to allow contact to be made with a warden or ranger in an emergency.

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
- (j) that camping in the area is subject to specified restrictions on:
  - (i) digging trenches; or
  - (ii) the use of trees or structures.

(5) The Director must provide notice of a determination under subregulation (3) or (4) on a sign located in or near the camping area concerned 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.



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## 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 in a total fire ban

(1) A person commits an offence if the person lights, maintains or uses a fire in a Commonwealth reserve, or in a part of a Commonwealth reserve, when a total fire ban declared under subregulation (2) by the Director is in force for the reserve or the part of the reserve.

Penalty: 50 penalty units.

(2) For subregulation (1), the Director may declare that a specified period is a period of total fire ban for a Commonwealth reserve or a part of a Commonwealth reserve.

(3) Notice of a declaration made under subregulation (2) must:
- (a) state that during the period of total fire ban, lighting, maintaining or using 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 to the reserve.

(4) However, the Director does not need to comply with:
- (a) paragraph (3)(b) if:
  - (i) no newspaper circulates in that area; or
  - (ii) the circumstances that make the total fire ban necessary were not known in sufficient time for publication in a newspaper; or
- (b) paragraph (3)(c) if it is not practicable to display a notice at each entrance to the reserve.

(5) If the Director relies on subregulation (4), 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.

(6) An offence against subregulation (1) is an offence of strict liability.

## 12.30A Lighting fires

(1) This regulation does not apply to a Commonwealth reserve, or a part of a Commonwealth reserve, during a period declared by the Director under



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subregulation 12.30(2) as a period of total fire ban for the reserve or the part of the reserve.

(2) A person commits an offence if the person lights, maintains or uses a fire in a Commonwealth reserve, or in a part of a Commonwealth reserve, other than in:

(a) a portable gas or electric barbecue or stove used in accordance with a determination made by the Director under subregulation (3) (if any);

(b) a fireplace:

(i) provided by the Director for this paragraph; and

(ii) that is used in accordance with a determination made by the Director under subregulation (3) (if any);

(c) a fireplace of a kind:

(i) approved by the Director for this paragraph; and

(ii) that is used in accordance with a determination made by the Director under subregulation (3) (if any);

(d) a place:

(i) approved by the Director for this paragraph; and

(ii) that is used in accordance with a determination made by the Director under subregulation (3) (if any).

Penalty: 50 penalty units.

(3) The Director may determine that a person using a portable barbecue or stove, a fireplace, a fireplace of a kind, or a place mentioned in subregulation (2):

(a) must ensure that there is no flammable material within a specified distance from the barbecue or stove, fireplace, fireplace of a kind, or place; and

(b) may only use the barbecue or stove in a specified place; and

(c) may only use the barbecue or stove, fireplace, fireplace of a kind, or place, in a specified manner; and

(d) may only use the barbecue or stove, fireplace, fireplace of a kind, or place, during a specified period.

(4) A person commits an offence if the person who lights, maintains or uses a fire in a Commonwealth reserve leaves the fire unattended.

Penalty: 50 penalty units.

(5) A person who lights or uses a fire for cooking or heating in part of a Commonwealth reserve commits an offence if the person uses any fuel that is prohibited under the management plan in operation for the reserve to be used in that part of the reserve.

Penalty: 15 penalty units.

(6) An offence against subregulation (2), (4) or (5) is an offence of strict liability.



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## 12.30B Signs relating to lighting fires

If the Director makes a determination under subregulation 12.30A(3), the Director must erect a sign, as near as is practicable to the fireplace or place, specifying:

(a) the conditions set out in the determination; and

(b) that the fireplace or place is not to be used during a period declared by the Director under subregulation 12.30(2) to be a period of total fire ban.

## 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.

(2) Subregulation (1) does not apply to a gathering that is:

(a) organised by the Director; or

(b) a family group or family groups; or

(c) a group or gathering, or a type of group or gathering, determined by the Director under subregulation (3).

(3) For paragraph (2)(c), the Director may make a determination specifying that a group or gathering, or a type of group or gathering, is not a gathering to which subregulation (1) applies.

## 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.



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Penalty: 20 penalty units.

## 12.34 Commercial fishing

(1) A person commits an offence if the person carries out commercial fishing in a Commonwealth reserve and the person is not authorised by:
  (a) a law of the Commonwealth, a State or a self-governing Territory; or
  (b) a permit issued by the Director.

Penalty: 50 penalty units.

Note: Subsection 354(1) of the Act provides that a person must not do particular acts in a Commonwealth reserve except in accordance with a management plan in operation for the reserve. Section 354A of the Act sets out offences in relation to those particular acts.

(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 Commonwealth reserve, commits an offence if the person does not comply with a determination for the reserve, or the part of the reserve, 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.

(6) An offence against subregulation (1) or (2) is an offence of strict liability.

## 12.35 Fishing other than commercial fishing

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

(2) A person commits an offence if the person takes fish in a Commonwealth reserve in contravention of a determination made by the Director under subregulation (3).

Penalty: 50 penalty units.

Note: Paragraph 354(1)(a) of the Act provides that a person must not kill, injure, take, trade, keep or move a member of a native species in a Commonwealth reserve except in



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accordance with a management plan in operation for the reserve. Section 354A sets out the offence in relation to that paragraph.

(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, quantities or combinations of fishing gear must not be carried or used; and

(ii) that specified kinds, quantities or combinations of fishing gear may be carried or used; and

(iii) that specified kinds, quantities or combinations of fishing gear must be carried or used by a person who is fishing or intending to fish; and

(iv) that specified methods of taking fish may, or must not, be used by a person who is fishing or intending to fish; and

(v) that equipment that allows a person to breathe under the surface of the water may be used; and

(vi) the kind of fish that a person may take, or must not take; and

(vii) the maximum number of fish, or maximum number of a species of fish, that a person may possess in a day; and

(viii) the minimum or maximum size of fish, or minimum or maximum size of a species of fish, that a person may take; and

(ix) the maximum number of fillets of fish, or the maximum number of fillets of a species of fish, that a person may possess in a day; and

(x) the minimum or maximum size of fillets of fish, or minimum or maximum size of fillets of a species of fish, that a person may possess; and

(xi) 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

(xii) the type or origin of bait that may be used; and

(xiii) that the cleaning or filleting of fish may be undertaken in an area of water.

(4) A person who is fishing in an area of water commits an offence if the person:

(a) uses equipment that allows the person to breathe under the surface of the water; or

(b) attracts or takes fish using, or installs, 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 attached to a line; or

(iv) a spear or spear gun of a kind specified in a determination under paragraph 12.35(3)(b) as a spear or spear gun that may be used in the area of water; or



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

(d) tethers fish (whether or not alongside a boat).

Penalty: 30 penalty units.

(4A) Subregulation (4) does not apply to an action taken by a person if the action is in accordance with a determination made under subregulation (3) for the area of water.

(5) A person commits an offence if, in a Commonwealth reserve, the person:

(a) uses a live animal as bait for fishing; or

(b) uses a member of a native species, other than a species of fish, as bait for fishing; or

(c) leaves a fishing line unattended while the fishing line is being used for fishing; or

(d) cleans or fillets fish:

(i) if the person is on land—within 50 metres of any area of water, except at a facility provided by the Director for that purpose; or

(ii) if the person is in an area of water—within 1 kilometre of land.

Penalty: 15 penalty units.

(5A) Subregulation (5) does not apply to an action taken by a person if the action is in accordance with a determination made under subregulation (3).

(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.

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

## 12.36 Commercial activities

(1) A person commits an offence if the person carries out a commercial activity in a Commonwealth reserve.

Penalty: 50 penalty units.

Note: Subsection 354(1) of the Act provides that a person must not do particular acts in a Commonwealth reserve except in accordance with a management plan in operation for the reserve. Section 354A of the Act sets out offences in relation to those particular acts.

(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:



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

(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.

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

## 12.37 Sale of liquor

A person must not sell liquor in Kakadu National Park.

Penalty: 50 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.

(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.



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## Subdivision 12.2.3—Traffic

### 12.41 Use of roads or tracks by vehicles

(1) A person commits an offence if the person operates a motor vehicle, or tows a vehicle, in a Commonwealth reserve other than:
  (a) on a vehicle access road or a vehicle access track; or
  (b) in a camping area or parking area.

  Penalty: 50 penalty units.

(2) A person commits an offence if the person operates a motor vehicle, or tows a vehicle, on a vehicle access road or vehicle access track in contravention of a prohibition or restriction imposed by the Director under subregulation 12.42(1).

  Penalty: 50 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 who is performing his or her duties as a member or officer with respect to that land in the reserve.

(4) An offence against subregulation (1) or (2) is an offence of strict liability.

### 12.42 Prohibitions or restrictions on use of roads or tracks

(1) The Director may prohibit or restrict:
  (a) the use of motor vehicles or a class of motor vehicles on a vehicle access road or vehicle access track in a Commonwealth reserve; or
  (b) a class of persons from using motor vehicles on a vehicle access road or vehicle access track in a Commonwealth reserve.

(2) If the Director makes a prohibition or restriction under subregulation (1), the Director must erect a sign on or near the vehicle access road or vehicle access track in accordance with subregulation 12.44A(1).

### 12.43 Speed limits and one-way traffic

(1) A person must not:
  (a) operate a motor vehicle on a vehicle access road or a vehicle access track at more than the maximum speed for that part of the road or track; or
  (b) operate a motor vehicle in a parking area or camping area at more than 20 kilometres per hour; or
  (c) operate a motor vehicle on a vehicle access road or a vehicle access track along a one-way traffic carriageway except in the direction indicated on a traffic sign mentioned in subregulation 12.44A(2) 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 vehicle access road or a vehicle 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 vehicle access road or a vehicle 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 12.44A(2), 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) the side or shoulder of a vehicle access road or a vehicle 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
- (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 12.44A(3) and (4), near any area affected by the action.

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

## 12.44A Signs for controlling traffic

(1) A sign displayed under subregulation 12.42(2) in relation to a vehicle access road or a vehicle access track:



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(a) must indicate the motor vehicles, or classes of motor vehicles, that may access the road or track; and

(b) may include such other information that the Director considers relevant to the road or track.

Example: The sign may include the words 'SERVICE ROAD—WALKERS ONLY' or 'AUTHORISED PERSONS ONLY'.

(2) A sign displayed under paragraph 12.43(1)(c) to indicate that a vehicle access road or a vehicle access track is 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.

(3) A sign displayed under subregulation 12.44(3) to prohibit the parking or stopping of vehicles must:

(a) indicate the area within which a vehicle must not park or stop; and

(b) if parking or stopping is prohibited during specified periods—specify the period during which vehicles may be parked or stopped; and

(c) if parking or stopping is restricted during specified periods—specify the restriction that applies to vehicles parking or stopping during specified periods.

(4) A sign displayed under subregulation 12.44(3) to designate a part of the reserve within which vehicles may be parked or stopped must, in addition to including words designating that part:

(a) if parking or stopping is permitted only during a specified period—specify the period within which vehicles may be parked or stopped; and

(b) if parking or stopping is restricted during specified periods—specify the restriction that applies to vehicles parking or stopping during specified periods; and

(c) if parking or stopping is restricted to, or prohibited for, a class of vehicles—specify the class of vehicles to which the restriction or prohibition applies.

## 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.



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## 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.

## 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



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(b) for a motor cycle or trailer—the permit or voucher is fixed to, or displayed on, the motor cycle or trailer.

(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
(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



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(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.

## 12.54 Vehicles to stop as required

(1) A person commits an offence if:

(a) a ranger, warden or person authorised to operate an entrance station requires the person to stop at a location in a Commonwealth reserve until the ranger, warden or person authorised to operate the entrance station indicates that the person may proceed; and

(b) the person proceeds beyond the location before the ranger, warden or person authorised to operate the entrance station has indicated that the person 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 subregulation (1) or (2) is an offence of strict liability.

(4) The Director may authorise a person, in writing, to operate an entrance station.

Note: The authorisation may be given as part of a contract of employment.



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## 12.55 Walking or riding on roads or marked tracks

(1) A person commits an offence if the person walks or rides in a Commonwealth reserve other than on:

(a) a vehicle access road or a vehicle access track; or

(b) a track for walking or riding provided by the Director.

Penalty: 15 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 in operation for the reserve.

(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 who is performing his or her duties as a member or officer with respect to that land in the reserve.

(4) The Director may prohibit or restrict a person:

(a) walking; or

(b) riding:

(i) any non-motorised vehicle; or

(ii) a particular type of non-motorised vehicle; or

(iii) a vehicle in a class of non-motorised vehicles;

on a vehicle access road, vehicle access track or track for walking or riding in part, or all, of a Commonwealth reserve.

Note: Under subregulation 12.42(1), the Director may also prohibit or restrict the use of a motor vehicle on a vehicle access road or vehicle access track.

(5) If the Director prohibits or restricts a person walking or riding on a vehicle access road, vehicle access track or track for walking or riding under subregulation (4), the Director must erect a sign, in accordance with regulation 12.55A, on or near the vehicle access road, vehicle access track or track for walking or riding.

(6) A person commits an offence if:

(a) the person walks or rides on a vehicle access road, vehicle access track or track for walking or riding in a Commonwealth reserve; and

(b) there is a sign, erected under subregulation (5), indicating that the person is restricted or prohibited from walking or riding on the road or track at that time.

Penalty: 30 penalty units.

(7) An offence against subregulation (1) or (6) is an offence of strict liability.

(8) In this regulation:



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***ride*** means to ride a non-motorised vehicle such as a pedal-powered bicycle.

***track for walking or riding*** means a track for walking or riding that has been provided by the Director in accordance with subregulation (2).

## 12.55A Signs for controlling pedestrian and non-motorised vehicles etc

A sign displayed under subregulation 12.55(5) in relation to a vehicle access road, vehicle access track or track for walking or riding:

(a) must indicate the non-motorised vehicles, types of non-motorised vehicles, classes of non-motorised vehicles, or walkers that may or may not access the road or track; and

(b) may include such other information that the Director considers relevant to the road or track.

Example: The sign may include the words 'SERVICE ROAD—WALKERS ONLY' or 'AUTHORISED PERSONS ONLY'.

## 12.56 Use of vessels

(1) A person commits an offence if the person uses a vessel in an area of water in a Commonwealth reserve in contravention of a determination by the Director under subregulation (2).

Penalty: 50 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;

(viii) that a vessel may be anchored but not moored, or moored but not anchored;

(ix) that a vessel must not be left unattended when anchored or moored, either at all times or at specified times;

(x) that a vessel cannot be anchored or moored within a certain area.

(3) If the Director makes a determination to include a condition mentioned in any of subparagraphs (2)(b)(iv) to (x), the determination must specify the launching area, anchoring area, mooring area, or area within which vessels cannot be



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anchored or moored, 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.

(5) An offence against subregulation (1) is an offence of strict liability.

## 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 in subparagraph (2)(b)(iv), (v), (vi) or (viii), 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.

(3) If the Director makes a determination to include a condition mentioned in subparagraph 12.56(2)(b)(vii) or (ix), the Director must erect at the designated area a sign stating the conditions under which anchoring or mooring may be carried out.

(3A) If the Director makes a determination under subparagraph 12.56(2)(b)(x), the Director must erect at the area specified in the determination a sign specifying the area in which vessels cannot be anchored or moored.



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(4) However, if it is not practicable to display a sign mentioned in subregulation (1), (2), (3) or (3A) 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 commits an offence if, in or over a Commonwealth reserve, the person:
  (a) taxis an aircraft, except in a landing area; or
  (b) lands an aircraft, except in a landing area; or
  (c) causes an aircraft to take off, except from a landing area; or
  (d) operates an aircraft (including as mentioned in paragraph (a), (b) or (c)) in contravention of a determination made by the Director under subregulation (4).

Penalty: 30 penalty units.

(2) A person commits an offence if the person:
  (a) jumps, parachutes or otherwise disembarks from an aircraft when the aircraft is in airspace above a Commonwealth reserve; or
  (b) jumps, parachutes or otherwise disembarks from an aircraft and is likely to land in a Commonwealth reserve.

Penalty: 30 penalty units.

(3) A person commits an offence if the person uses an aircraft to drop or lower an object into a Commonwealth reserve.

Penalty: 30 penalty units.

(4) For subregulation (1), the Director may determine one or more of the following:
  (a) that an area is a landing area;
  (b) that a landing area may only be used in a specified manner;
  (c) that a landing area may only be used by an aircraft or a class of aircraft;
  (d) that a landing area may be used at all times, or only at specified times or during a specified period;
  (e) that an aircraft, or a class of aircraft, may only be used in a specified manner in the airspace above a Commonwealth reserve or part of a Commonwealth reserve;
  (f) that an aircraft, or a class of aircraft, may be used at all times, or only at specified times or during a specified period.

Note A landing area may be used other than as specified in the determination if it is necessary to do so in an aircraft-related emergency.

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



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## Subdivision 12.2.4—Administration

### 12.59 Obligation to produce permit

(1) A person authorised by a permit to carry on an activity in a Commonwealth reserve commits an offence if the person does not, when requested by the warden or ranger, produce the permit for inspection by the warden or ranger.

Penalty: 10 penalty units.

(2) An offence against this subregulation (1) is an offence of strict liability.

### 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, ranger or person authorised to collect the charge:

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

(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.

Penalty: 20 penalty units.

(2) However, the person must comply with the request only if the warden, ranger or person authorised to collect the charge:

(a) is a member of a police force who is in uniform; or



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(b) is an officer of Customs who is in uniform; or

(c) produces, for inspection by the person:

(i) written evidence that the warden is a member of a police force or is an officer of Customs; or

(ii) the warden's or ranger's identity card; or

(iii) written evidence that the person making the request is a person authorised to collect the charge.

(3) The warden, ranger, person authorised to collect the charge or Director must give a receipt to a person who pays a charge under subregulation (1) for the amount paid by the person.

(3A) A person commits an offence if:

(a) the Director has determined a charge for a vehicle for entering or using a Commonwealth reserve or part of a Commonwealth reserve; and

(b) the person drives a vehicle into or in the Commonwealth reserve or the part of the Commonwealth reserve; and

(c) the person does not clearly display in the vehicle evidence of payment of the charge.

Penalty: 20 penalty units.

(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.

(5) The Director may authorise, in writing, a person performing duties at a specified reserve to:

(a) collect fees or charges in relation to the reserve; and

(b) ask a person to comply with subregulation (1).

(6) An offence against subregulation (1) or (3A) is an offence of strict liability.

## 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.

(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



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(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

(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:



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(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 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.

## 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



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(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:
(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



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(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.

## 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
(e) any other expenses of the Director for the animal.



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(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.

(9) The Director may authorise an officer of the Authority to carry out, within the Jabiru Township, the powers of the ranger or warden that are set out in this regulation.

## 12.66 Control of non-native species

(1) 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.

(2) The Director may authorise an officer of the Authority to carry out, within the Jabiru Township, the powers of the ranger or warden that are set out in this regulation.



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# 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 industrial waste);
(fa) regulation 12.14A (Dumping of domestic waste);
(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 in a total fire ban);
(ma) regulation 12.30A (Lighting fires);
(n) regulation 12.34 (Commercial fishing);
(o) regulation 12.35 (Fishing other than commercial fishing);
(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).

(3) The Director may issue a permit under subregulation 12.06(2), authorising a person to carry out in a conservation zone an activity that is prohibited under a provision mentioned in one of paragraphs (2)(b) to (r), as if the reference to Commonwealth reserves in regulation 12.02 were a reference to conservation zones.



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# Part 13A—List of Overseas Places of Historic Significance to Australia

## 13A.01 Removing or varying place or statement

For subsection 390L(2) of the Act, the Minister must have regard to whether:

(a) the place has outstanding significance to Australia because of the importance of the place in the course, or pattern, of Australia's history; and

(b) the place has outstanding significance to Australia because of the special association of the place with the life or works of a person, or group of persons, of importance in Australia's history.



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# 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, if a ranger or an authorised officer finds a person committing, or has reasonable grounds to believe that a person has committed, an offence against the Act or these Regulations, the ranger or authorised officer may ask the person to:
  (a) tell the ranger or authorised officer the person's name and address; and
  (b) show the ranger or authorised officer an identification document that confirms the person's name and address.

(1A) If the ranger or authorised officer asks a person to comply with paragraphs (1)(a) and (b), the ranger or authorised officer must warn the person that:
  (a) the person is obliged by law to comply with the request; and
  (b) the person may be liable to pay a penalty if he or she does not comply.

(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 14.1A—Detention of suspected foreign offenders

## 14.01A Training for officers and detention officers

For subclause 6(1) of Schedule 1 to the Act, the minimum training for officers and detention officers is:

(a) the course of training provided by the Australian Fisheries Management Authority or the NEPA known as Authorised Officer Training, which provides training on the following matters:
  (i) conducting searches;
  (ii) maintaining the health, safety and welfare of detainees;
  (iii) controlling persons by the use of empty-hand techniques;
  (iv) the use of authorised officers' powers under the *Fisheries Management Act 1991*, the *Torres Strait Fisheries Act 1984* and the Act; or

(b) a course on the use of authorised officers' powers under Schedule 1 to the Act, as approved by the CEO.

## 14.01B Personal identifiers

For paragraph 26(1)(g) of Schedule 1 to the Act, the following identifiers are prescribed:

(a) a sample of a person's handwriting;

(b) a photograph of a tattoo, scar or other identifying mark on a person, if the obtaining of the photograph does not involve:
  (i) the removal of any of the person's clothing; or
  (ii) the carrying out of an intimate forensic procedure within the meaning of section 23WA of the *Crimes Act 1914*.

Note: Subsection 23WA(1) of the *Crimes Act 1914* provides that ***intimate forensic procedure*** means any of the following forensic procedures:

(a) an external examination of the genital or anal area, the buttocks or, in the case of a female or a transgender person who identifies as a female, the breasts;
(b) the taking of a sample of blood;
(c) the taking of a sample of saliva, or a sample by buccal swab;
(d) the taking of a sample of pubic hair;
(e) the taking of a sample by swab or washing from the external genital or anal area, the buttocks or, in the case of a female or a transgender person who identifies as a female, the breasts;
(f) the taking of a sample by vacuum suction, by scraping or by lifting by tape from the external genital or anal area, the buttocks or, in the case of a female or a transgender person who identifies as a female, the breasts;
(g) the taking of a dental impression;
(h) the taking of a photograph or video recording of, or an impression or cast of a wound from, the genital or anal area, the buttocks or, in the case of a female or a transgender person who identifies as a female, the breasts.



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## 14.01C Personal identifiers detainees must provide

For paragraph 28(2)(e) of Schedule 1 to the Act, the following types of personal identifier are prescribed:

(a) an audio or a video recording of the detainee (other than a video recording under clause 37 of Schedule 1 to the Act);

(b) an iris scan of the detainee's eyes;

(c) a sample of the detainee's handwriting;

(d) a photograph of a tattoo, scar or other identifying mark of the detainee, if the obtaining of the photograph does not involve:

(i) the removal of any of the detainee's clothing; or

(ii) the carrying out of an intimate forensic procedure within the meaning of section 23WA of the *Crimes Act 1914*.

Note: See the note after regulation 14.01B for the meaning of ***intimate forensic procedure*** for section 23WA of the *Crimes Act 1914*.

## 14.01D Personal identifiers officers must require non-citizens to provide by way of identification tests

For paragraph 29(1)(a) of Schedule 1 to the Act, the following types of personal identifier are prescribed:

(a) fingerprints or handprints of the non-citizen (including those taken using paper and ink, or digital livescanning technologies);

(b) a measurement of the non-citizen's height and weight;

(c) a photograph or other image of the non-citizen's face and shoulders;

(d) an audio or a video recording of the non-citizen (other than a video recording made under clause 37 of Schedule 1 to the Act);

(e) an iris scan of the non-citizen's eyes;

(f) the non-citizen's signature;

(g) a sample of the non-citizen's handwriting;

(h) a photograph of a tattoo, scar or other identifying mark of the non-citizen, if the obtaining of the photograph does not involve:

(i) the removal of any of the non-citizen's clothing; or

(ii) the carrying out of an intimate forensic procedure within the meaning of section 23WA of the *Crimes Act 1914*.

Note: See the note after regulation 14.01B for the meaning of ***intimate forensic procedure*** for section 23WA of the *Crimes Act 1914*.

## 14.01E Information to be provided before carrying out identification tests

(1) For paragraph 30(1)(b) of Schedule 1 to the Act, the authorised officer must, before carrying out an identification test, inform the non-citizen of the following matters:

(a) the reason why a personal identifier is required to be provided;

(b) how a personal identifier may be collected;

(c) how any personal identifier that is collected may be used;



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(d) if the non-citizen is a minor or an incapable person—how a personal identifier is to be obtained from a minor or incapable person.

Note: See Division 3 of Part 5 of Schedule 1 to the Act in relation to the identification of minors and incapable persons.

(2) The authorised officer must also inform the non-citizen:

(a) that a personal identifier may be produced in evidence in relation to the non-citizen in a court or tribunal; and

(b) that the *Privacy Act 1988* applies to personal information, including personal identifiers, and that the non-citizen has a right to make a complaint to the Privacy Commissioner about the handling of the non-citizen's personal information; and

(c) that:

(i) the *Freedom of Information Act 1982* gives a person access to certain information and documents in the possession of the Government of the Commonwealth and of its agencies; and

(ii) the non-citizen has a right, under that Act, to seek:

(A) access to that information or those documents; and

(B) amendment of records containing personal information that is incomplete, incorrect, out of date or misleading.

(3) For subclause 30(3) of Schedule 1 to the Act, the approved officer complies with clause 30 by giving the non-citizen the form mentioned in that subclause at a time that gives the non-citizen enough time to read and understand the form before the identification test is conducted.

## 14.01F Other personal identifiers

For subclauses 41(3) and 53(3) and paragraph 42(3)(a) of Schedule 1 to the Act, the following types of personal identifier are prescribed:

(a) fingerprints or handprints of a non-citizen (including those taken using paper and ink, or digital livescanning technologies);

(b) a measurement of a non-citizen's height and weight;

(c) a photograph or other image of a non-citizen's face and shoulders;

(d) an audio or a video recording of a non-citizen (other than a video recording made under clause 37 of Schedule 1 to the Act);

(e) an iris scan of a non-citizen's eyes;

(f) a non-citizen's signature;

(g) a sample of a non-citizen's handwriting;

(h) a photograph of a tattoo, scar or other identifying mark of a non-citizen.

## 14.01G Providing video recordings—permitted provision

For paragraph 42(2)(f) of Schedule 1 to the Act, the Australian Human Rights Commission is prescribed.



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## 14.01H Authorising disclosure of identifying information

(1) For subclause 54(1) of Schedule 1 to the Act, the following Agencies are prescribed:

(a) the Department of Foreign Affairs and Trade;

(c) the Department of Home Affairs.

(2) For paragraph 54(1)(d) of Schedule 1 to the Act, each of the bodies mentioned in the following table are prescribed.

| Item | Name of body |
|---|---|
| 1 | Attorney-General's Department |
| 2 | Australian Criminal Intelligence Commission |
| 4 | Australian Federal Police |
| 6 | Australian Fisheries Management Authority |
| 7 | Australian Securities and Investments Commission |
| 8 | Australian Security Intelligence Organisation |
| 9 | Australian Taxation Office |
| 10 | Australian Transaction Reports and Analysis Centre (AUSTRAC) |
| 12 | Department of Agriculture, Fisheries and Forestry |
| 13 | Department of Defence |
| 14 | Department of Foreign Affairs and Trade |
| 15 | Department of Health, Disability and Ageing |
| 16 | Department of Home Affairs |
| 17 | Department of Prime Minister and Cabinet |
| 18 | Great Barrier Reef Marine Park Authority |
| 18A | National Environmental Protection Agency |
| 19 | New South Wales Department of Climate Change, Energy, the Environment and Water |
| 20 | New South Wales Department of Primary Industries and Regional Development |
| 22 | New South Wales Office of the Director of Public Prosecutions |
| 23 | New South Wales Police Force |
| 24 | Office of Public Prosecutions, Victoria |
| 25 | Department of Justice and Community Safety Victoria |
| 26 | Agriculture Victoria |
| 27 | Victorian Department of Energy, Environment and Climate Action |
| 28 | Victoria Police |
| 28A | Victorian Fisheries Authority |
| 29 | Queensland Department of Justice |
| 30 | Queensland Department of the Environment, Tourism, Science and Innovation |
| 31 | Queensland Department of Primary Industries |
| 32 | Queensland Office of the Director of Public Prosecutions |



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| Item | Name of body |
|---|---|
| 33 | Queensland Police Service |
| 34 | Office of the Director of Public Prosecutions for Western Australia |
| 36 | Western Australian Department of Biodiversity, Conservation and Attractions |
| 37 | Western Australian Department of Primary Industries and Regional Development |
| 38 | Western Australian Department of Justice |
| 39 | Western Australia Police Force |
| 40 | South Australian Department for Environment and Water |
| 41 | South Australian Attorney-General's Department |
| 42 | Department of Primary Industries and Regions, South Australia |
| 43 | South Australian Office of the Director of Public Prosecutions |
| 44 | South Australia Police |
| 45 | Tasmanian Department of Justice |
| 46 | Department of Natural Resources and Environment Tasmania |
| 47 | Tasmanian Office of the Director of Public Prosecutions |
| 48 | Tasmania Police |
| 49 | Northern Territory Department of Agriculture and Fisheries |
| 50 | Northern Territory Department of the Attorney-General and Justice |
| 51 | Northern Territory Department of Lands, Planning and Environment |
| 52 | Northern Territory Director of Public Prosecutions |
| 53 | Northern Territory Police, Fire and Emergency Services |

(3) For paragraph 54(1)(e) of Schedule 1 to the Act, the following international organisations are prescribed:

(a) Interpol;

(b) the United Nations;

(c) any of the Intergovernmental Organisations known as 'Regional Fisheries Bodies' mentioned in the following table.

| Item | Name of Intergovernmental Organisation |
|---|---|
| 1 | Advisory Committee on Fishery Research (ACFR) |
| 2 | Asia-Pacific Fishery Commission (APFIC) |
| 3 | Ministerial Conference on Fisheries Cooperation among African States bordering the Atlantic Ocean (ATLAFCO) |
| 4 | Bay of Bengal Programme (BOBP-IGO) |
| 5 | Commission for Small-Scale and Artisanal Fisheries and Aquaculture of Latin America and the Caribbean (COPPESAALC) |
| 6 | Comisión Interamericana del Atún Tropical (CIAT) |
| 7 | Comisión Permanente del Pacifico Sur (CPPS) |
| 8 | Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) |
| 9 | Commission for the Conservation of Southern Bluefin Tuna (CCSBT) |



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| Item | Name of Intergovernmental Organisation |
|---|---|
| 10 | Committee for Inland Fisheries and Aquaculture of Africa (CIFAA) |
| 11 | Coordinating Working Party on Fishery Statistics (CWP) |
| 12 | Council of the Eastern Pacific Tuna Fishing Agreement (CEPTFA) |
| 13 | European Inland Fisheries and Aquaculture Advisory Commission (EIFAAC) |
| 14 | Fishery Committee for the Eastern Central Atlantic (CECAF) |
| 15 | Pacific Islands Forum Fisheries Agency (FFA) |
| 16 | General Fisheries Commission for the Mediterranean (GFCM) |
| 17 | Indian Ocean Tuna Commission (IOTC) |
| 18 | Inter-American Tropical Tuna Commission (IATTC) |
| 20 | International Commission for the Conservation of Atlantic Tunas (ICCAT) |
| 21 | International Council for Exploration of the Sea (ICES) |
| 22 | International Pacific Halibut Commission (IPHC) |
| 23 | International Whaling Commission (IWC) |
| 24 | Sub-Regional Fisheries Commission (SRFC) |
| 25 | Lake Victoria Fisheries Organization (LVFO) |
| 26 | Latin American Fisheries Development Organization (OLDEPESCA) |
| 27 | Marine Mammal Commission (MMC) |
| 28 | Mekong River Commission (MRC) |
| 29 | Network of the Aquaculture Centres in Asia-Pacific (NACA) |
| 30 | North Atlantic Fisheries Organisation (NAFO) |
| 31 | North Atlantic Salmon Conservation Organization (NASCO) |
| 32 | North East Atlantic Fisheries Commission (NEAFC) |
| 33 | North Pacific Anadromous Fish Commission (NPAFC) |
| 34 | North Pacific Marine Science Organisation (PICES) |
| 35 | Northwest Atlantic Fisheries Organization (NAFO) |
| 36 | Pacific Salmon Commission (PSC) |
| 37 | Regional Commission for Fisheries (RECOFI) |
| 39 | Regional Fisheries Committee for the Gulf of Guinea (COREP) |
| 40 | Pacific Community (PC) |
| 41 | Southeast Asian Fisheries Development Center (SEAFDEC) |
| 42 | South East Atlantic Fisheries Organisation (SEAFO) |
| 43 | Southwest Indian Ocean Fisheries Commission (SWIOFC) |
| 44 | Western and Central Pacific Fisheries Commission (WCPFC) |
| 45 | Western Central Atlantic Fishery Commission (WECAFC) |
| 46 | Western Indian Ocean Tuna Organization (WIOTO) |
| 47 | South Pacific Regional Fisheries Management Organisation (SPRFMO) |



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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 section 142B of the Act or 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 section 142B of the Act or 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 the Act or 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
  - (ii) if a further period is allowed by the Director or CEO 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 or CEO, 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



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(ii) the Director or CEO 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 criminal 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.

(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 can be no more than 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.



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## 14.05 Extension of time to pay

(1) On written application by a person on whom an infringement notice has been served, the Director or CEO 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 or CEO 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 or CEO 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 or CEO 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.

(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 or CEO, if satisfied that in all the circumstances it is proper to do so, may withdraw an infringement notice.



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(2) If, before the end of 28 days after receiving an infringement notice, a person gives the Director or CEO notice under paragraph 14.03(2)(h), the Director or CEO must decide whether to withdraw the infringement notice.

(3) The Director or CEO 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 or CEO 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 or CEO 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 section 142B of the Act or these Regulations; and
  (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 or CEO 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 or CEO 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 criminal 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.



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## 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.

## 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 or CEO 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 or CEO 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;
  (e) a certificate signed by the Director or CEO 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 or CEO, a ranger or an authorised officer is taken to have been signed by that officer unless the contrary is proved.



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## 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 section 142B of the Act or 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.



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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 Review Tribunal Act 2024*.

### 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 17.09(2) or 17.12(4); or
  (b) that is taken to be a decision under these Regulations by subsection 108(2) of the *Administrative Review Tribunal Act 2024*.

(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
  (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 Review Tribunal Act 2024*, the person may apply to the Administrative Review Tribunal for review of the reconsideration.

(8) The person may apply to the Administrative Review Tribunal for the review of a decision by the Director made under subregulation (6).



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## 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.



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# Part 15—Committees

## Division 15.1A—Independent Expert Scientific Committee on Unconventional Gas Development and Large Coal Mining Development

### 15.01A Functions of the Committee

(1) For paragraph 505D(1)(h) of the Act, this regulation prescribes other functions of the Independent Expert Scientific Committee on Unconventional Gas Development and Large Coal Mining Development.

*Providing certain advice to the Minister*

(2) The Committee has the function of providing scientific advice to the Minister at the same time that the Committee provides that advice, in the performance of the Committee's function under paragraph 505D(1)(b) or (2)(b) of the Act, to a Minister of a declared State or Territory.

*Publishing certain advice etc.*

(3) The Committee has the function of:
  (a) publishing the following on the internet:
    (i) the scientific advice provided by the Committee in the performance of its function under paragraph 505D(1)(a), (1)(b), (2)(a) or (2)(b) of the Act;
    (ii) the date on which the advice was finalised by the Committee;
    (iii) if the advice was provided in the performance of the Committee's function under paragraph 505D(1)(a) or (1)(b) of the Act—information identifying each proposed unconventional gas development and large coal mining development to which the advice relates;
    (iv) any other information in relation to the advice that the Committee considers appropriate; and
  (b) publishing that advice and information on the internet within 10 business days of the advice being provided to the Minister, or the Minister of a declared State or Territory, that requested the advice.

(4) In this regulation:

***business day*** means a day that is not a Saturday, a Sunday or a public holiday in the Australian Capital Territory.



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# 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.



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# 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.

(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
  (c) if the material is relevant to the Territory of Cocos (Keeling) Islands, the Territory of Christmas Island or the Territory of 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 in the manner mentioned for the material in subregulation (1), (2) or (3) instead.

(5) A notice under subregulation (4) must state:



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(a) that the material is publicly available; and
(b) where the material may be viewed or obtained.



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# 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 for material under the following provisions of the Act:
- (a) subsection 95(2);
- (aa) subsection 95A(3);
- (ab) subsection 95B(2);
- (ac) subsection 95B(4);
- (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.

(2) The material must be published:
- (a) for material to which paragraph (1)(ac), (c), (e), (f), (g) or (h) applies—at an appropriate location on the internet; and
- (b) for material to which paragraph (1)(a), (aa), (ab) or (ac) 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), (aa), (ab) or (ac) do 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) Material in relation to an action to be taken in an external Territory must be published:
- (a) in the government gazette of the external Territory; or
- (b) in a newspaper that circulates in the external Territory; or
- (c) in a newspaper that circulates in:
  - (i) the State or Territory that is nearest to the external Territory; or
  - (ii) the region where the action is likely to have a significant impact on a matter protected by a provision of Part 3 of the Act.

(4) Material in relation to an action to be taken in a Commonwealth marine area that is not the coastal sea of an external Territory must be published in a newspaper that circulates in:



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(a) the State or Territory that is nearest to the Commonwealth marine area; or
(b) the region where the action is likely to have a significant impact on a matter protected by a provision of Part 3 of the Act.

(5) However, if material to which subregulation (1) applies is more than 200 words, a notice may be published instead in accordance with this regulation.

(6) The material or notice must state:
(a) the provision of the Act that requires the material to be published; and
(b) the identification number for the action, allocated by the Department; and
(c) a descriptive title for the action; and
(d) the location of the action; and
(e) the name of the person intending to take the action; and
(f) each matter protected by a provision of Part 3 of the Act; and
(g) where a copy of the material may be viewed or obtained:
(i) in electronic and hard copy form; and
(ii) at a reasonable cost or without charge.

(7) The notice must be approved by the Secretary before it is first published.

## 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) subsection 95(2);
(aa) subsection 95A(3);
(ab) subsection 95B(2);
(ac) subsection 95B(4);
(b) paragraph 98(1)(c);
(c) subsection 99(4);
(d) paragraph 103(1)(c);
(e) subsection 104(4).

(1A) If requested by the Secretary in writing, preliminary material to which paragraph (1)(a), (aa), (ab) or (ac) applies must be published at a suitable location on the internet.

(1B) The draft report and draft statement to which paragraph (1)(b) or (d) applies must be published at a suitable location on the internet.

(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



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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.

(2A) If the area where the action is likely to have a significant impact is an external Territory, the designated proponent does not need to comply with subparagraph (2)(a)(ii).

(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) The designated proponent must comply with any direction from the Secretary to:

(a) supply a specified number of copies of the material for public display; and

(b) display the material in a particular location.

(5) A notice published for subsection 95(2) or 95A(3) or paragraph 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 paragraph 95(2)(c) or 95A(3)(d) or subparagraph 98(1)(c)(ii) or 103(1)(c)(ii) of the Act.

(6) A notice published for subsection 95B(4) of the Act must state that no comments were received.

## 16.04A Additional publication requirements for persons with special needs

(1) The designated proponent must ensure that a person with special needs has reasonable access to the material in regulation 16.04 in a form that satisfies the person's needs.

Example: A spoken presentation may satisfy the needs of a person who is illiterate or an electronic version of the material may satisfy the needs of a person who is visually impaired.

(2) A ***person with special needs*** includes:

(a) a person who is illiterate or for whom English is a second language; and

(b) a person with a vision impairment.

(3) The Secretary may give a direction to a designated proponent about how to ensure a person with special needs has reasonable access to the material.

## 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) paragraph 324J(2)(a);
- (aa) paragraph 324JG(4)(a);
- (ab) paragraph 324JN(3)(a);
- (b) paragraph 324M(1)(b);
- (c) subsection 324S(3);
- (d) paragraph 324S(6)(a);
- (e) paragraph 341H(2)(a);
- (ea) paragraph 341JF(4)(a);
- (eb) paragraph 341JM(3)(a);
- (f) paragraph 341M(1)(b);
- (g) subsection 341S(3);
- (h) paragraph 341S(6)(b).

(2) The material to which paragraphs (1)(a), (aa), (ab), (b), (e), (ea), (eb) and (h) 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 the Territory of Norfolk Island—in the government gazette of the Territory; and
- (c) in a daily newspaper that circulates throughout Australia.

(4) The material to which paragraphs (1)(c) and (f) apply must, if it is relevant to the Territory of Cocos (Keeling) Islands, the Territory of Christmas Island or the Territory of Norfolk Island, be published in the government gazette of the Territory.

(5) The material to which paragraphs (1)(d) and (g) apply must be published:
- (a) on the internet; and
- (b) in the *Gazette*.

## Subdivision 16.2.3—Bioregional plans

### 16.05B Public consultation

(1) For subsection 176(1) of the Act, the Minister must publish a notice:
- (a) at a suitable location on the internet; and
- (b) in a national or State daily newspaper that circulates in the State or Territory that is nearest to the bioregion.

(2) However, if it is unclear which State or Territory is nearest to the bioregion, the notice must be published:



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(a) at a suitable location on the internet; and
(b) in a national or State daily newspaper that circulates generally in each State or Territory that is near to the bioregion.

(3) The notice must state:
(a) the requirement under the Act for the Minister to carry out public consultation on the draft of the bioregional plan; and
(b) a brief description of the draft of the plan, including the location of the bioregion; and
(c) where the draft of the plan may be viewed and a copy obtained; and
(d) that public comment is invited on the draft of the plan; and
(e) the final day for providing public comment on the draft of the plan, being a day not less than 60 days from the day the notice is published; and
(f) the address for sending public comment.



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# 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 the Territory of 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 the Territory of 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 the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands—the office of the Administrator of the affected Territory.

## 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 the Territory of 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 the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands—the office of the Administrator of the affected Territory.



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# Part 17—Permits

## 17.01 Application of Part 17

This Part applies to permits issued:

(a) by the CEO 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 303CG;
  (ii) section 303DG;
  (iii) section 303EN;
  (iv) section 303GB;
  (v) section 303GC;
  (vi) 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 CEO 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 (the ***applicant***) may apply for a permit to which this Part applies to be issued to that person, other than a permit issued under section 303GB of the Act.

(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 and contact details of each person to whom the permit is to be issued;
  (c) if the applicant is a company or other incorporated body:
    (i) the name, business address and postal address of the company or incorporated body; and
    (ii) if the applicant is a company—the full name of each of the directors of the company; and
    (iii) the full name and contact details of the person completing the application form; and



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(iv) the ACN or ABN of the company or other incorporated body (if applicable).

(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 threatened species, the category 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 the following:

(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:

(A) result in the death or injury of a member of a native species or a non-native species; or

(B) involve taking, trading, keeping or moving a member of a native species or non-native species; or

(C) result in damage to or destruction of the nest or dwelling place of a member of a native species or non-native species;

(iii) for a permit to which paragraph 17.01(a), (ab) or (b) applies—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;

(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



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(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) for each person to whom the permit is to be issued, a declaration stating whether the person:

(i) has, in the 10 years before the application for the permit is made, been convicted of an offence mentioned in subregulation 17.07(1); or

(ii) is subject to proceedings for an offence mentioned in subregulation 17.07(1);

(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.

## 17.03 Issue of permit

(1) The Minister, Director or CEO may issue a permit only if:

(a) for a permit to which paragraph 17.01(ab) applies—the requirements mentioned in subregulation 17.03A(6) are met; and

(b) 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

(c) for a permit to which paragraph 17.01(c) or (d) applies—the circumstances mentioned in subregulation 17.05(1) apply; 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 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.

(2) In considering whether to issue a permit, the Minister, Director or CEO may consider whether a person to whom the permit is to be issued:

(a) has, in the 10 years before the application for the permit is made, been convicted of an offence mentioned in subregulation 17.07(1); or



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(b) is subject to proceedings for an offence mentioned in subregulation 17.07(1).

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.

(2A) For subregulation (2), a person includes the following:

(a) a company and each director of the company;

(b) an incorporated body (other than a company) and each officer of the body.

(3) The Minister, Director or CEO 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, Director or CEO 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

(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(1)(a), the requirements are:

(a) for an application for access to biological resources for commercial purposes:



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(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

(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, Uluṟu-Kata Tjuṯa 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.



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(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*.

(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 the following information:

(i) the provision of the Act or these Regulations for which it is issued;

(ii) the activity that is permitted;

(iii) when the permit commences and expires;

(iv) the conditions subject to which it is issued;

(v) the name and address of each person to whom the permit 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.

## 17.05 Circumstances that must apply

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



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| Item | Activity | Circumstances |
|---|---|---|
| 1 | Any activity | It must not be inconsistent with:<br>(a) if there is a management plan in force for the reserve—the plan; and<br>(b) if there is no management plan in force for the reserve—the purposes for which the reserve is declared; and<br>(c) if the activity is in a jointly managed reserve—any lease of indigenous people's land in the reserve. |
| 2 | Any activity | It must not be likely to:<br>(a) endanger public safety; or<br>(b) unduly damage the reserve; or<br>(c) unduly interfere with the preservation or conservation of biodiversity or heritage in the reserve; or<br>(d) unduly interfere with the protection of other features or facilities in the reserve; or<br>(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<br>(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<br>(g) interfere with the privacy of other persons in the reserve. |
| 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. |
| 4 | An activity prohibited under regulation 12.20 or 12.21 | The plant must not be a member of a species that is:<br>(a) included in a list mentioned in section 301A of the Act; or<br>(b) determined by the Director in a management plan for the reserve to be a pest species. |
| 5 | An activity prohibited under regulation 12.31 | 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.<br>2. No permit may have already been issued for the place and time covered by the proposed permit. |
| 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 | 1. The activity must benefit the public or persons using the reserve.<br>2. If the activity is to sell liquor in a reserve in the Northern Territory, the requirements mentioned in subregulation (2) must be met. |
| 9 | An activity prohibited under regulation 12.37 | The requirements mentioned in subregulation (2) must be met. |



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Regulation 17.06

| Item | Activity | Circumstances |
|---|---|---|
| 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:<br>(a) to cause the condition of the track or road to which the permit relates to deteriorate significantly; or<br>(b) to cause the condition of another part of the reserve to be significantly degraded. |
| 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 2019* 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.

## 17.07 Relevant offences

(1) For paragraph 17.02(2)(i), subregulations 17.03(2) and 17.11(3A), and paragraph 17.11(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;



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(c) offences under section 6 of the *Crimes Act 1914*, or section 11.1, 11.4 or 11.5 of the *Criminal Code*, in relation to an offence mentioned 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: Section 6 of the *Crimes Act 1914* relates to an accessory to 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), a person is taken to have been convicted of an offence if, in the 10 years before the application is made, the person:

(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 person for another offence.

## 17.08 Contravention of condition of permit

A holder of a permit to which paragraph 17.01(ab), (b), (c) or (d) 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 each 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 each 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).

(2A) The CEO may, by written notice to each holder of a permit issued by the CEO, vary or revoke a condition of the permit, or impose a further condition on the permit, in accordance with subregulation (3).



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(3) However, the Minister, Director or CEO may take action under subregulation (1), (2) or (2A) 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(1).

(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), (c) or (d) applies:
    (i) the reference number given to the permit; and
    (ii) a statement of the reasons the holder thinks the condition of the permit should be varied or revoked.

(7) If a condition of a permit must be varied, revoked or imposed to make sure that matters or circumstances, about which the Minister, Director or CEO must be satisfied when issuing the permit, continue to apply, the Minister, Director or CEO 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) If the Minister, Director or CEO varies or revokes a condition, or imposes a further condition, under subregulation (7), the Minister, Director or CEO must give each holder of the permit written notice of that variation, revocation or imposition.

## 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.

(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:
  (a) for a permit issued by the Minister—the Minister; or



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(b) for a permit issued by the Director—the Director; or
(c) for a permit issued by the CEO—the CEO.

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.

(2A) The CEO may transfer a permit issued by the CEO.

(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
(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.

(3A) In considering whether to transfer a permit, the Minister, Director or CEO may consider whether the proposed transferee:
(a) has, in the 10 years before the application for the transfer is made, been convicted of an offence mentioned in subregulation 17.07(1); or
(b) is subject to proceedings for an offence mentioned in subregulation 17.07(1).

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.

(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;
(d) full name and contact details for the proposed transferee;
(e) the relevant qualifications or experience of the proposed transferee;
(f) a declaration from the proposed transferee stating whether he or she:
(i) has, in the 10 years before the application for the transfer is made, been convicted of an offence mentioned in subregulation 17.07(1); or



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(ii) 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.

(7) The Minister, Director or CEO must give the holder of the permit and the proposed transferee written notice of a decision whether or not to transfer a permit under subregulation (1), (2) or (2A).

## 17.12 Suspension or cancellation of a permit

(1) Subregulations (2), (3), (3A) 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.

(3A) The CEO may, by written notice to a holder of a permit issued by the CEO, cancel the permit.

(4) The Minister, Director or CEO 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.



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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.

(2A) The administration component of a fee, for an application in relation to an activity mentioned in an item of Part 1A of Schedule 11, is the amount mentioned in the item as the rounded administration component.

Note: The administration component of a fee mentioned in an item in Part 1A of Schedule 11 is subject to increase under regulation 18.03.

(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.



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Regulation 18.03

## 18.03 Increase in administration component of fees

(1) This regulation applies to the administration component of a fee for an application in relation to an activity mentioned in an item of Part 1A of Schedule 11.

(2) The amount of the administration component mentioned in the item is increased on each 1 July, in accordance with the formula:

$$Fee \times Increase\ amount + Fee$$

Where:

***fee*** is the unrounded amount of the administration component worked out under this subregulation for the previous 1 July.

***increase amount*** is 0.02.

(3) If the amount of the administration component worked out under subregulation (2) would be an amount of dollars and cents, the amount is to be rounded to the nearest whole dollar and, if the amount to be rounded is 50 cents, the amount is to be rounded up.

## 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, Director or CEO is satisfied that the variation or imposition helps to achieve the objects of the Act;

(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



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(ii) the Minister or Director is satisfied that the applicant has paid a fee to an appropriate authority for the same activity;

(f) if:

(i) the permit is issued under section 303CG, 303DG, 303EN, 303GB, 303GC 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; and

(iii) the Minister is satisfied that the activity is to be carried out primarily for a non-commercial purpose;

(g) if:

(i) the applicant is a wildlife rescue organisation; and

(ii) the applicant has agreed to care for wildlife that has been seized under the Act; and

(iii) the permit is issued under section 201, 216, 238 or 258 of the Act;

(h) if:

(i) the applicant is an overseas relevant CITES authority; and

(ii) the applicant has agreed to accept seized wildlife specimens for repatriation to that overseas country; and

(iii) the permit is issued under section 303CG, 303DG, 303GB or 303GC of the Act.



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# 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 2004*.

## 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.

(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.

Note: For delegation by the CEO, see section 59 of the *National Environmental Protection Agency Act 2025*.

## 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;



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(c) Australian Rail Track Corporation Limited (ABN 75 081 455 754, ACN 081 455 754).



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# Part 20—Application and transitional provisions

## 20.01 Instruments made and other things done under the *Environment Protection and Biodiversity Conservation Regulations 2000*

*Instruments made*

(1) If:

(a) an instrument (the ***subordinate instrument***) was made for a particular purpose under the *Environment Protection and Biodiversity Conservation Regulations 2000* (the ***old Regulations***) before the old Regulations were repealed; and

(b) the subordinate instrument was in effect or in force immediately before the commencement of these Regulations; and

(c) the subordinate instrument could be made for that purpose under a provision of these Regulations;

then, despite the repeal of the old Regulations by these Regulations, the subordinate instrument continues in effect or in force, on and after the commencement of these Regulations, as if it were made for that purpose under that provision of these Regulations.

*Other things done*

(2) If:

(a) any other thing was done for a particular purpose under the old Regulations before the old Regulations were repealed; and

(b) the thing could be done for that purpose under these Regulations;

the thing has effect for the purposes of these Regulations as if it had been done for that purpose under these Regulations.

(3) Without limiting subregulation (2), a reference in that subregulation to a thing being done includes a reference to the following:

(a) advice or a notice being given;

(b) an application being made;

(c) an authorisation being given.

*Instruments taken to have been made and things taken to have been done*

(4) To avoid doubt:

(a) paragraph (1)(a) includes a reference to an instrument taken to have been made; and

(b) paragraph (2)(a) includes a reference to a thing taken to have been done;

under the old Regulations because of an application or transitional provision of the old Regulations.



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## 20.02 Fees

*General rule*

(1) If, immediately before these Regulations commence, a fee that was payable under the *Environment Protection and Biodiversity Conservation Regulations 2000* (the ***old Regulations***) has not been paid, the fee continues to be payable on and after that commencement under these Regulations as if it had become payable under these Regulations.

(2) If, immediately before these Regulations commence, a fee would have become payable under the old Regulations after the old Regulations are repealed, the fee becomes payable under these Regulations in the same way it would have become payable under the old Regulations but for their repeal.

(3) Subregulations (1) and (2) have effect in relation to a fee only to the extent that regulation 20.01 does not have effect in relation to that fee.

*Certain pre-1 October 2016 fees*

(4) Despite regulation 20.01 and subregulations (1) and (2) of this regulation, if:

(a) a person was given a fee schedule setting out a fee under regulation 5.12J of the old Regulations before 1 October 2016; and

(b) the fee was not paid before 1 October 2016; and

(c) the Minister did not, before these Regulations commence, give the person a revised fee schedule setting out the fee under subregulation 20.11(3) of the old Regulations;

the Minister must give the person a revised fee schedule setting out the amount of the fee worked out in accordance with Division 5.6 of Part 5 of these Regulations. If the Minister does so, the revised fee schedule is taken to have been given under regulation 5.12J of these Regulations.

Note: 1 October 2016 is the day that Schedule 1 to the *Environment Protection and Biodiversity Conservation Amendment (Cost Recovery) Regulation 2016* commenced.

(5) A person is not entitled under regulation 5.22 to a refund of a fee paid before 1 October 2016 only on the basis that the fee would have been lower had it been paid on or after that day.

Note: 1 October 2016 is the day that Schedule 1 to the *Environment Protection and Biodiversity Conservation Amendment (Cost Recovery) Regulation 2016* commenced.

(6) The Minister may, on the Minister's own initiative, waive a fee that would otherwise be paid after these Regulations commence in relation to an assessment of an action, if:

(a) the person was given a fee schedule setting out a fee under regulation 5.12J of the old Regulations before 1 October 2016; and

(b) the total amount of the fees payable on or after 1 October 2016 in relation to the assessment of the action is higher than it would have been before that day.



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Note: 1 October 2016 is the day that Schedule 1 to the *Environment Protection and Biodiversity Conservation Amendment (Cost Recovery) Regulation 2016* commenced.

*Definition*

(7) In this regulation:

***fee*** includes part of a fee.

## 20.03 Relevant offences

For the purposes of subregulations 9A.21A(1) and 17.07(1), a reference in those subregulations to an offence under these Regulations includes a reference to an offence under the *Environment Protection and Biodiversity Conservation Regulations 2000*.



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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



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(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

(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.



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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.

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.



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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 Department's 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.



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# Schedule 2—Referral information

(regulation 4.03)

## 1 Contact

1.01 Name, postal address, telephone number, and if applicable, the ABN or ACN 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.

## 4 Description of the proposal

4.01 A description of the proposed action must include the following:

(a) any alternative locations, timeframes or activities that may be proposed;

(b) details of the location of the project area including a description of the property on which the proposed action is to take place;

Example: A lot number in a registered or deposited plan or similar description.

(c) the latitude and longitude of the action;

(d) a description of the property on which the proposed action is to take place;

(e) the timeframe in which the action is proposed to be taken;

(f) activities proposed to be carried out in the action;

(g) an explanation of the context, including any relevant planning framework, in which the action is proposed;

(h) whether the action is related to other actions or proposals in the region;

(i) whether the action is a component of a larger action;



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(j) a description of any feasible alternatives to taking the proposed action (including not taking the action) which were considered, but which are not proposed;

(k) details of any environmental assessment of relevant impacts of the action that has been, is being or will be carried out under State, Territory or Commonwealth legislation, including copies of assessment documentation;

(l) a description of any public consultation undertaken or occurring, including with indigenous persons that may be affected by the action, and copies of documents recording the outcomes of any consultations;

(m) if relevant, each of the matters in paragraphs (a) to (i) for each alternative location, time frame, or activity that is identified as part of the description.

## 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 the following:

(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;

(g) the environment in the Great Barrier Reef Marine Park;

(h) a water resource, if the action involves:

(i) unconventional gas development; or

(ii) large coal mining development.

5.03 Whether the action is:

(a) a nuclear action; or

(b) an action by the Commonwealth or a Commonwealth agency; or

(c) in a Commonwealth marine area; or

(d) on Commonwealth land; or

(e) in the Great Barrier Reef Marine Park.

5.03A If the action is of a type mentioned in item 5.03, the type of action, and the nature and extent of the likely impact on the environment.

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.



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5.05 A description of the project area and the affected area, including (if relevant to the project area or affected area) information about the following:

(a) flora and fauna;

(b) hydrology, including water flows;

(c) the presence of outstanding natural features;

(d) the presence of remnant native vegetation;

(e) the current state of the environment;

(f) the presence of Commonwealth Heritage Places or other places recognised as having heritage values;

(g) the presence of indigenous heritage values;

(h) other important or unique aspects of the environment;

(i) if relevant, each of the matters in paragraphs (a) to (h) for each alternative location, time frame, or activity that is identified as part of the description in item 4.02 of Schedule 2.

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 Measures to avoid or reduce impacts

6.01 A description of measures that will be implemented to avoid, reduce, manage or offset 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.

6.02 Information about the level of commitment by the person proposing to take the action to implement the measures.

6.03 If relevant, each of the matters in items 6.01 and 6.02 for each alternative location, time frame, or activity that is identified as part of the description in item 4.02 of Schedule 2.

## 7 Environmental record of person proposing to take the action

7.01 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.

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

## 8 Information sources

8.01 For information given under item 5 of Schedule 2:

(a) the source of the information; and



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(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.



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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;

(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;



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(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.

## 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;



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(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;
(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.



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# Schedule 4A—Import and export of CITES specimens

(regulations 9A.02 and 9A.03)

## 1 Preliminary

1.01 If a CITES specimen meets the requirements of items 2.01 to 2.03, it is a CITES specimen for regulation 9A.02.

1.02 If a CITES specimen meets the requirements of items 2.01 to 2.03, or items 3.01 to 3.06, it is a CITES specimen for regulation 9A.03.

## 2 Import and export of CITES specimens—requirements

2.01 The CITES specimen is a specimen mentioned in column 2 of an item of the table.

2.02 The amount of the CITES specimen being imported or exported is no more than the amount specified in column 3 of the item of the table in which the specimen is mentioned.

2.03 Any requirements (for the CITES specimen) specified in column 4 of the item of the table in which the specimen is mentioned have been met.

| Item | Specimen | Maximum amount | Requirements |
|---|---|---|---|
| 1 | Caviar of sturgeon species (*Acipenseriformes* spp.) | 125 grams per person | The container in which the specimen is imported or exported is labelled using a non-reusable label that includes the codes required by CITES |
| 2 | Rainsticks of *Cactaceae* spp. | 3 specimens per person | |
| 3 | Crocodile products | 4 specimens per person | |
| 4 | Queen conch (*Strombus gigas*) shells | 3 specimens per person | |
| 5 | Seahorses (*Hippocampus* spp.) | 4 specimens per person | |
| 6 | Giant clam (*Tridacnidae* spp.) shells | 3 specimens per person, not exceeding 3 kgs per person | Each specimen is one intact shell or two matching halves |

Note: For item 1, a resolution of the Conference of the Parties under Article XI of CITES may set out requirements in relation to using labels and codes for the import or export of the specimen.



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## 3 Import of CITES specimens—requirements

3.01 The CITES specimen is a CITES II specimen.

3.02 The CITES specimen is not a live specimen.

3.03 The CITES specimen is lawfully imported into Australia from one of the following countries:

(a) Belgium;
(b) Canada;
(c) Chile;
(d) France;
(e) Germany;
(f) Greece;
(g) Hong Kong;
(h) Italy;
(i) Kenya;
(j) Malaysia;
(k) Mauritius;
(l) Switzerland;
(m) United Kingdom;
(n) United States of America;
(o) Vanuatu.

3.04 If the CITES specimen is imported from Germany, Malaysia or the United Kingdom, it is not a specimen that is native to that country.

3.05 If the CITES specimen is imported from Kenya, it is accompanied by a CITES certificate issued by the CITES Management Authority in Kenya.

3.06 If the CITES specimen is imported from Switzerland, it:

(a) is an item that would normally be worn by a person, such as a belt or shoes; and
(b) is not an art object or a souvenir.



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# 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

(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



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(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



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(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 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.



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# Schedule 6—Australian Ramsar management principles

(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

(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



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(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.



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# 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



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(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.



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# 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;



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(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.



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# 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.

## 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.



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## 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.



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# Part 2—Principles for each IUCN category

## 1 Strict nature reserve (category Ia)

1.01A This clause sets out the management principles for a strict nature reserve (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 conserved 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 (category Ib)

2.01A This clause sets out the management principles for a wilderness area (IUCN protected area management category Ib).

2.01 The reserve or zone should be protected and managed to conserve 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.

2.05 Indigenous human communities living at low density and in balance with the available resources should be able to maintain their lifestyle.



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## 3 National park (category II)

3.01A This clause sets out the management principles for a national park (IUCN protected area management category II).

3.01 The reserve or zone should be protected and managed to conserve 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 (category III)

4.01A This clause sets out the management principles for a natural monument (IUCN protected area management category III).

4.01 The reserve or zone should be protected and managed to conserve its natural or cultural features based on the following principles.

4.02 Specific outstanding natural features should be protected or conserved 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.



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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 (category IV)

5.01A This clause sets out the management principles for a habitat/species management area (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.

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 (category V)

6.01A This clause sets out the management principles for a protected landscape/seascape (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.



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6.03 Lifestyles and economic activities that are in harmony with nature, and the conservation 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 (category VI)

7.01A This clause sets out the management principles for a managed resource protected area (IUCN protected area management category VI).

7.01 The reserve or zone should be managed mainly for the ecologically 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;



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(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

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



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# 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



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# Schedule 10—Infringement notice offences

(regulation 14.02)

| Item | Regulation |
|---|---|
| 1A | 5.23B (Person exempt from paying fee to notify Secretary if circumstances change) |
| 1 | 12.11 (Excavating, building and works) |
| 2 | 12.13 (Damaging etc heritage) |
| 3 | 12.14 (Dumping of industrial waste) |
| 4 | 12.14A (Dumping of domestic waste) |
| 5 | 12.18 (Use etc of firearms, nets and other devices) |
| 6 | 12.19 (Taking animals into Commonwealth reserve) |
| 7 | 12.19A (Offences in relation to non-native species) |
| 8 | 12.19B (Offences in relation to native species) |
| 9 | 12.19C (Complying with a direction in relation to native species) |
| 10 | 12.20 (Taking plants into Commonwealth reserve) |
| 11 | 12.25 (Failing to comply with safety directions) |
| 12 | 12.28 (Camping) |
| 13 | 12.29 (Failing to comply with directions about camping) |
| 14 | 12.30 (Lighting fires in a total fire ban) |
| 15 | 12.30A (Lighting fires) |
| 16 | 12.34 (Commercial fishing) |
| 17 | 12.35 (Fishing other than commercial fishing) |
| 18 | 12.36 (Commercial activities) |
| 19 | 12.41 (Use of roads or tracks by vehicles) |
| 20 | 12.43 (Speed limits and one-way traffic) |
| 21 | 12.44 (Parking and stopping) |
| 22 | 12.48 (Parking permits and parking vouchers) |
| 23 | 12.50 (Interference with parking permits or parking vouchers) |
| 24 | 12.51 (Abuse of voucher machines) |
| 25 | 12.52 (Unauthorised installation of voucher machines) |
| 26 | 12.54 (Vehicles to stop as required) |
| 27 | 12.55 (Walking or riding on roads or marked tracks) |
| 28 | 12.56 (Use of vessels) |
| 29 | 12.59 (Obligation to produce permit) |
| 30 | 12.61 (Payment of fees and charges etc) |



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# Schedule 11—Permit fees

(regulation 18.02)

| Item | Activity | Fee | | |
|---|---|---|---|---|
| | | **Administration component** | **Assessment component** | **Management component** |
| **Part 1** | **Paragraph 17.01(a)** | | | |
| 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 |
| | **Cetaceans:** | | | |
| 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 |
| | Whale watching | nil | nil | nil |
| **Part 1A—Paragraph 17.01(aa)** | | | | |
| 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 | Rounded: $3<br>Unrounded: $2.59 | nil | nil |
| | (b) 1 action, other than described in paragraph (a), (d) or (e) | Rounded: $78<br>Unrounded: $77.77 | nil | nil |



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| Item | Activity | Fee | | |
|---|---|---|---|---|
| | | **Administration component** | **Assessment component** | **Management component** |
| | (c) more than 1 action | Rounded: $194 for each 6 months<br>Unrounded: $194.42 for each 6 months | nil | nil |
| | (d) export of a household pet in accordance with section 303FG of the Act | Rounded: $389<br>Unrounded: $388.84 | 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 | Rounded: $389<br>Unrounded: $388.84 | nil | nil |
| 1A.02 | Action to which subsection 303DG(2) of the Act applies, involving: | | | |
| | (a) 1 action, other than described in paragraph (c) or (d) | Rounded: $78<br>Unrounded: $77.77 | nil | nil |
| | (b) more than 1 action | Rounded: $194 for each 6 months<br>Unrounded: $194.42 for each 6 months | nil | nil |
| | (c) export of a household pet in accordance with section 303FG of the Act | Rounded: $389<br>Unrounded: $388.84 | nil | nil |
| | (d) import or export of live specimen, if the Act requires assessment of conditions applicable to welfare of the specimen and conditions not previously assessed | Rounded: $389<br>Unrounded: $388.84 | nil | nil |
| 1A.03 | Action to which subsection 303EN(2) of the Act applies, involving: | | | |
| | (a) 1 action, other than described in paragraph (c) | Rounded: $78<br>Unrounded: $77.77 | nil | nil |
| | (b) more than 1 action | Rounded: $194 for each 6 months<br>Unrounded: | nil | nil |



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| Item | Activity | Fee | | |
|---|---|---|---|---|
| | | **Administration component** | **Assessment component** | **Management component** |
| | | $194.42 for each 6 months | | |
| | (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 | Rounded: $389<br>Unrounded: $388.84 | nil | nil |
| 1A.04 | Action to which subsection 303GB(2) of the Act applies | Rounded: $389<br>Unrounded: $388.84 | nil | nil |
| 1A.05 | Action to which subsection 303GC(3) of the Act applies | Rounded: nil<br>Unrounded: nil | nil | nil |
| 1A.06 | Action to which subsection 303GD(6) of the Act applies | Rounded: $194 for each 6 months<br>Unrounded: $194.42 for each 6 months | nil | nil |
| **Part 1B—Paragraph 17.01(ab)** | | | | |
| 1B.01 | Access to biological resources—commercial purposes | $50 | nil | nil |
| 1B.02 | Access to biological resources—non-commercial purposes | nil | nil | nil |
| **Part 2—Paragraph 17.01(b)** | | | | |
| 2.01 | Kill, injure | nil | nil | nil |
| 2.02 | Damage, destroy | nil | nil | nil |
| 2.03 | Take | nil | nil | nil |
| **Part 3—Paragraphs 17.01(c) and (d)** | | | | |
| 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 |
| 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, | nil | nil | nil |



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| Item | Activity | Fee | | |
|---|---|---|---|---|
| | | **Administration component** | **Assessment component** | **Management component** |
| | 12.56 or 12.58 applies | | | |
| 3.05 | An activity to which regulation 12.24 applies | nil | 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 |
| | (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 |
| | (xii) still photography, painting or audio | $30 each day | nil | nil |
| | (xiii) commercial filming | $250 each day | nil | nil |
| | (b) in Uluru Kata Tjuta National Park: | | | |



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| Item | Activity | Fee | | |
|---|---|---|---|---|
| | | **Administration component** | **Assessment component** | **Management component** |
| | (i) up to 4 trips each year | $100 each year | nil | nil |
| | (ii) more than 4 trips each year | $500 each year | nil | nil |
| | (iii) still photography, painting or audio | $20 each day | nil | nil |
| | (iv) commercial filming | $250 each day | nil | nil |
| | (c) in Booderee National Park: | | | |
| | (i) sport fishing | $50 each year | nil | nil |
| | (ii) still photography, painting or audio | $10 each day | nil | nil |
| | (iii) commercial filming | $250 each day | nil | nil |
| | (iv) any other circumstances | $50 each year | nil | nil |
| | (d) in Christmas Island National Park or Pulu Keeling National Park: | | | |
| | (i) still photography, painting or audio | $30 each day | nil | nil |
| | (ii) commercial filming | $250 each day | nil | nil |
| | (iii) any other activities | $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 |
| **Part 4—Regulations 17.09 and 17.11** | | | | |
| 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 |



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# 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 Territory of Christmas Island 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 Territory of Cocos (Keeling) Islands 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).



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4 A species, in the Territory of Christmas Island, whose members are obligate cave-dwellers.



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# Dictionary

(regulation 1.03)

***ABN*** has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

***ACN*** has the same meaning as in the *Corporations Act 2001*.

***Act*** means the *Environment Protection and Biodiversity Conservation Act 1999*.

***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.

***artificially propagated*—**see Act, section 527C.

***assessment by public notice*** means assessment in accordance with regulation 8A.16.

***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 agency providing local government and municipal services to the Jabiru Township.

***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 and Waters (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.

***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.



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***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.

***critically endangered***—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 paragraph 356A(c) of the Act 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:

(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.



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***earth materials*** includes gravel, shell grit, coral, evaporites, fossils or speleothems.

***ecological community*****—**see Act, section 528.

***ecosystem*****—**see Act, section 528.

***endangered***—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.

***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.



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***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).

***infringement notice*** has the meaning given by regulation 14.02.

***infringement notice penalty*** has the meaning given by regulation 14.02.

***inspector*—**see Act, section 528.

***Jabiru township*** means the township established by the Authority.

***jointly managed reserve*—**see Act, section 528.

***Kakadu National Park*—**see Act, section 528.

***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:



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(a) an aerodrome certificate under the *Civil Aviation Safety Regulations 1998*; or
(b) a determination made by the Director under subregulation 12.58(4) of these Regulations.

***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 ecological community***—see Act, section 528.

***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*.



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***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 gathering*** includes an assembly of persons for a demonstration or a cultural or competitive event.



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***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.

***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:



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(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 12.44A.

***unsealed source***, for radioactive material, means containment that does not satisfy the definition of ***sealed source***.

***usage right*—**see Act, section 528.

***vehicle access road*** means a road in a Commonwealth reserve that:
(a) is a sealed road; and
(b) does not have a sign displayed on or near it indicating that it is prohibited to use motor vehicles on the road at that time.

***vehicle access track*** means a road in a Commonwealth reserve that:
(a) is an unsealed road; and
(b) has a sign, erected by the Director, with the words 'Vehicle Access Track' displayed at the point or points that motor vehicles would normally access the track; and
(c) there are no signs displayed on the track indicating that it is prohibited to use motor vehicles on the track at that time.

***voucher machine*** means a machine installed under regulation 12.46.

***vulnerable***—see Act, section 528.

***warden*—**see Act, section 528.

***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.



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***works***, for an action, includes earth works, removal or replacement of groundcover, diversion of water flows, tunnelling, drilling or any other sub-surface activity on land or water.

***World Heritage Convention*—**see Act, section 528.

***World Heritage List*—**see Act, section 528.



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# Endnotes

## Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

**Abbreviation key—Endnote 2**
The abbreviation key sets out abbreviations that may be used in the endnotes.

**Legislation history and amendment history—Endnotes 3 and 4**
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

**Editorial changes**
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

**Misdescribed amendments**
A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and "(md not incorp)" is added to the amendment history.



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## Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

C[x] = Compilation No. x

ch = Chapter(s)

cl = clause(s)

cont. = continued

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

Ord = Ordinance

orig = original

p = page(s)

para = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

pt = Part(s)

r = regulation(s)/Court rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s) /rule(s)/subrule(s)/order(s)/suborder(s)

sch = Schedule(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

sub ch = Sub-Chapter(s)

sub div = Subdivision(s)

sub pt = Subpart(s)

underlining = whole or part not commenced or to be commenced



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# Endnote 3—Legislation history

| Name | Registration | Commencement | Application, saving and transitional provisions |
|---|---|---|---|
| Environment Protection and Biodiversity Conservation Regulations 2025 | 18 Dec 2025 (F2025L01584) | 19 Dec 2025 (r 1.02(1) item 1) | |
| Environment Protection Reform Legislation Amendment (Consequential Amendments) Regulations 2026 | 25 June 2026 (F2026L00826) | sch 1 (items 1-26): 1 July 2026 (s 2(1) item 1) | — |



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# Endnote 4—Amendment history

| Provision affected | How affected |
|---|---|
| **Part 1** | |
| r 1.02 | rep LA s 48D |
| r 1.04 | rep LA s 48C |
| **Part 7** | |
| **Division 7.3** | |
| r 7.08 | am F2026L00826 |
| **Part 9** | |
| r 9.03A | am F2026L00826 |
| **Part 14** | |
| **Division 14.1A** | |
| r 14.01A | am F2026L00826 |
| r 14.01H | am F2026L00826 |
| **Division 14.2** | |
| r 14.03 | am F2026L00826 |
| r 14.04 | am F2026L00826 |
| r 14.05 | am F2026L00826 |
| r 14.06 | am F2026L00826 |
| r 14.07 | am F2026L00826 |
| r 14.08 | am F2026L00826 |
| r 14.12 | am F2026L00826 |
| **Part 17** | |
| r 17.01 | am F2026L00826 |
| r 17.03 | am F2026L00826 |
| r 17.09 | am F2026L00826 |
| r 17.10 | am F2026L00826 |
| r 17.11 | am F2026L00826 |
| r 17.12 | am F2026L00826 |
| **Part 18** | |
| r 18.04 | am F2026L00826 |
| **Part 19** | |
| r 19.01A | am F2026L00826 |
| Schedule 13 | rep LA s 48C |



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