

The Bill was passed by the House of Representatives on 28 April 1992 and introduced into the Senate on 29 April 1992. The Senate is expected to resume considering the Bill in June 1992.

### **Transport & Communications Legislation Amendment Bill (No. 2) 1992 (Cth)**

The *Transport & Communications Legislation Amendment Bill (No. 2) 1992* ("the Bill") amends both the *Protection of the Sea (Powers of Intervention) Act 1981* and the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*. It was introduced into the House of Representatives on 7 May 1992.

Amendments to the *Protection of the Sea (Powers of Intervention) Act 1981* widen the list of environmentally hazardous chemicals with respect to which the Australian Government may intervene in order to help reduce pollution from any spillage of those chemicals. A new Schedule 3 is substituted into the Act, containing a revised list of harmful substances other than oil which, if discharged from a ship, may cause damage to the marine environment. The Schedule was adopted by the Marine Environment Protection Committee of the International Maritime Organization on 4 July 1991.

Amendments to the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*:

1. provide for the preparation of shipboard oil pollution emergency plans for Australian ships that have a gross tonnage of 400 or more and to other Australian ships that are oil tankers and have a gross tonnage of 150 or more. Failure to comply with these requirements is an offence for which the maximum penalty is \$50,000;
2. enable ratification of Annex III (prevention of marine pollution by harmful substances in packaged form) to the International Convention for Prevention of Pollution from Ships 1973 (MARPOL);
3. enable Australian implementation of Annex IV of the Protocol on Environmental Protection to the Antarctic Treaty (the Antarctic Protocol), dealing with discharge of sewage in the Antarctic.

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## **DEVELOPMENTS IN THE NORTHERN TERRITORY**

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### **Water Act**

The *Water Bill* (discussed in the last edition of AELN) was passed with no substantive amendments on 27/2/92. It has not yet commenced operation. The *Water (Consequential Amendments) Act* was passed on 13/5/92, which simply changes references to the *Control of Water Act* in other NT legislation to the *Water Act*.

### **Mining (Amendment) Act**

The Amendment Act was passed on 27/2/92. It amends section 4(1) of the *Mining Act* so that the definition of mineral does not include water, presumably to clarify that water will be dealt with pursuant to the new *Water Act* rather than the *Mining Act*.

### **Pastoral Land Act and Crown Land Act**

The *Pastoral Land Act* and a new *Crown Land Act* were passed on 4/3/92. Both Acts are to commence on the same date, which is yet to be fixed. In effect the old *Crown Land Act* has been split to form these two new Acts and divide the administration of Crown land into pastoral land and other Crown land.

The stated purpose of the *Pastoral Land Act* is to provide "for the conversion and granting of title to pastoral land and the administration, management and conservation of pastoral land". The 102 leases referred to in the Schedule are to be automatically converted to perpetual leases within 12 months after commencement of the Act: pursuant to section 130 the Minister may by notice in writing grant perpetual leases to those lessees subject to such reservations/conditions as s/he specifies and the balance will automatically become perpetual at the expiration of 12 months. That will leave only a handful of term leases in the Northern Territory,

the lessees of which may also apply to the Minister for a perpetual lease (section 62).

The Act establishes the Pastoral Land Board (of the Land Board under the old *Crown Land Act*) whose on-going function will be to monitor the condition of pastoral land and report/make recommendations to the Minister. The Board's other functions will include considering and making recommendations in relation to applications for sub-division/consolidation of land and for perpetual leases, as well as other matters that may be referred to it (sections 29 & 62). The Board will consist of 5 Ministerial appointees, 2 of whom are to have experience as pastoralists (sections 12 & 13).

The Act prohibits a person, either alone or together with an associate, from acquiring an interest in pastoral land that exceeds 13,000 square kilometres in aggregate (section 34), although the Minister retains a discretion to allow larger holdings (section 135).

General duties are imposed on pastoral lessees (section 6) to prevent degradation, participate in monitoring the land and improve the condition of the land "within the limits of the lessee's financial resources and available technical knowledge". Conditions relating to land management apply to all leases (section 39). Breaches of leases are dealt with under section 40 - the Minister has a wide discretion to waive breaches, seek explanations and direct conditions to be complied with. Ultimately s/he may decide a lease should be forfeited, but only after referring the matter to the Pastoral Land Board for recommendation.

## **Territory Parks and Wildlife Conservation Amendment Act**

This *Amendment Act* was passed on 25/2/92. The major amendment is to allow for the Minister to declare a plant or class of plants to be either a protected or a specially protected plant. Persons are prohibited from taking protected plants for sale or barter without a permit or licence. Owners and occupiers of land are prohibited from wilfully destroying specially protected plants. The legislation does not suggest any criteria to be used in deciding which plants are to be protected, nor is there any mechanism for public input. There is no appeal process in relation to the decision to grant a permit/licence.

## **Cullen Bay Marina Development Bill**

Construction has recently begun on the Cullen Bay Marina, a development on the foreshore near the centre of Darwin comprising a constructed harbour, reconstructed beach, marina and condominium style accommodation. The Bill (expected to be passed in the May sittings) - which should be read together with the relevant planning instrument and the Crown Lease to the developer - modifies the application of the *Unit Titles Act* and the *Unit Titles (Real Property) Act* to the development, allows for the establishment of a body corporate and empowers the body corporate to make by-laws, requires the Minister to grant an estate in fee simple over the "common property" (the harbour) to the body corporate as soon as the development area is granted to the developer (parts of the development area are to be granted to the developer as various stages are developed, pursuant to the Crown Lease over the area) and saves the body corporate from paying rates on the common property. The public is to have access to the outer harbour and reconstructed beach, unless the body corporate decides otherwise by special resolution.

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