



Aboriginal Land Rights (Northern Territory) Amendment Act 1987

No. 40 of 1987

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No. 40 of 1987

An Act to amend the *Aboriginal Land Rights (Northern Territory) Act 1976*, and for related purposes

[Assented to 5 June 1987]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

1. (1) This Act may be cited as the *Aboriginal Land Rights (Northern Territory) Amendment Act 1987*.

(2) The *Aboriginal Land Rights (Northern Territory) Act 1976*¹ is in this Act referred to as the Principal Act.

Commencement

2. (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Paragraph 23 (1) (ea) and sub-sections 50 (2D) and (2E) of the Principal Act inserted by this Act, and section 34, shall come into operation on a day, or on respective days, to be fixed by Proclamation.

(3) The amendment made by section 26 shall be deemed to have come into operation on 30 June 1986.

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Interpretation

3. Section 3 of the Principal Act is amended—

- (a) by adding at the end of the definition of “exploration licence” in sub-section (1) “or a permit granted under the *Petroleum Act 1984* of the Northern Territory as amended from time to time”;
- (b) by inserting after the definition of “exploration licence”, in sub-section (1) the following definitions:
 - “‘extractive mineral’ means—
 - (a) soil; or
 - (b) sand, gravel, clay or stone, being sand, gravel, clay or stone that is suitable for use in construction or building works;
 - ‘extractive mineral deposit’ means a deposit of extractive minerals;”;
- (c) by adding at the end of the definition of “minerals” in sub-section (1) “but does not include extractive minerals”;
- (d) by adding at the end of the definition of “mining interest” in sub-section (1) “other than a lease or other interest in land, or a right, granted under a law of the Northern Territory relating, in whole or in part, to the mining or development of extractive mineral deposits”; and
- (e) by inserting after paragraph (2) (b) the following paragraph:
 - “(ba) a lease or other interest in land, or a right granted in respect of land, under a law of the Northern Territory relating, in whole or in part, to the mining or development of extractive mineral deposits.”.

4. After section 3A of the Principal Act the following section is inserted in Part I:

Act binds the Crown

“3B. This Act binds the Crown in right of the Commonwealth and of the Northern Territory.”.

Land Trusts

5. Section 4 of the Principal Act is amended by inserting after sub-section (1A) the following sub-sections:

“(1B) Where—

- (a) the traditional Aboriginal owners of an area of land constituting the whole or a part of the land that is held by a Land Trust are also the traditional Aboriginal owners of an area of land constituting the whole or a part of land that is held by another Land Trust or in which an estate in fee simple would be likely, but for the operation of this sub-section, to be granted to another Land Trust; and

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- (b) those traditional Aboriginal owners are in favour of the amalgamation, within a single Land Trust, of the areas of which they are the traditional owners,

the Land Council or Land Councils in the area or areas of which the areas of land proposed for amalgamation are situated may request the Minister, in writing, to take action under sub-section (1C) to effect that amalgamation.

“(1C) Where the Minister, upon receiving a request to take action under this sub-section to effect the amalgamation of the whole or parts of 2 or more areas of affected land, is of the opinion that, in all the circumstances of the case, it is appropriate to do so, the Minister may—

- (a) by notice published in the *Gazette* vary the specifications of the boundaries of a Land Trust established to hold affected land, with effect from the day upon which a new deed of grant, or new deeds of grant, relating to the land that that Land Trust was established to hold is or are delivered by the Governor-General in accordance with the recommendations of the Minister under sub-section 10 (2A) or 11 (1B), so that the boundaries as so varied of the land to be held by that Land Trust relate—
- (i) to all the land that is proposed to be amalgamated; or
 - (ii) to any affected land that was held by that Land Trust but that is not proposed to be amalgamated with other land; or
- (b) by notice published in the *Gazette* pursuant to sub-section (1), establish a new Land Trust—
- (i) to hold all the land that is proposed to be amalgamated; or
 - (ii) to hold any affected land that is not proposed to be amalgamated with other land.

“(1D) In sub-section (1C), ‘affected land’ means any area of land to which a deed of grant in fee simple under section 12, or an application referred to in paragraph 50 (1) (a), relates, being land the whole or a part of which is proposed to be amalgamated with other land.”.

Recommendations for grants of Crown land described in Schedule 1

6. Section 10 of the Principal Act is amended by inserting after sub-section (2) the following sub-sections:

“(2A) Where an amalgamation in respect of which the Minister has taken action under sub-section 4 (1C) involves an area of land that was the subject of a deed of grant (in this sub-section referred to as the ‘former deed’) to an existing Land Trust, not being a deed of grant that is held in escrow by a Land Council, the Minister shall recommend to the Governor-General that the Governor-General execute, in lieu of the former deed—

- (a) if that area of land is wholly to be held by another Land Trust—a new deed of grant of an estate in fee simple in that area to that other Land Trust; or