

2012

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Shane Rattenbury)

Commissioner for the Environment Amendment Bill 2012

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 Long title	2
5 Section 1	2
6 New section 2B	3
7 Section 4 heading	3
8 Section 4 (1)	4
9 Functions	
Section 12 (1) (a)	4

Contents

	Page	
10	Complaints	
	Section 13 (1) and note	4
11	State of the environment report	
	Section 19 (1)	5
12	Section 19 (2) (c)	5
13	Section 19 (3)	6
14	Section 19 (4)	7
15	New section 19 (4A)	7
16	Section 19 (7), new definitions	7
17	New section 21 (2) to (5)	7
18	Section 22	9
19	Dictionary, note 2	9
20	Dictionary, definition of <i>commissioner</i>	9
21	Dictionary, new definition of <i>ecologically sustainable development</i>	10
22	Dictionary, new definitions	10
Schedule 1	Consequential amendments	11
Part 1.1	Environment Protection Act 1997	11
Part 1.2	Legislation Act 2001	11
Part 1.3	Ombudsman Act 1989	11

2012

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Shane Rattenbury)

Commissioner for the Environment Amendment Bill 2012

A Bill for

An Act to amend the *Commissioner for the Environment Act 1993*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

- 1 **1 Name of Act**
- 2 This Act is the *Commissioner for the Environment Amendment*
3 *Act 2012*.
- 4 **2 Commencement**
- 5 This Act commences on the day after its notification day.
- 6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see Legislation Act, s 75 (1)).
- 8 **3 Legislation amended**
- 9 This Act amends the *Commissioner for the Environment Act 1993*.
- 10 *Note* This Act also amends the following legislation (see sch 1);
- 11 • *Environment Protection Act 1997*
- 12 • *Legislation Act 2001*
- 13 • *Ombudsman Act 1989*.
- 14 **4 Long title**
- 15 *omit*
- 16 Commissioner for the Environment
- 17 *substitute*
- 18 commissioner for sustainability and the environment
- 19 **5 Section 1**
- 20 *substitute*
- 21 **1 Name of Act**
- 22 This Act is the *Commissioner for Sustainability and the*
23 *Environment Act 1993*.

1 **6 New section 2B**

2 *insert*

3 **2B Objects of Act**

4 The objects of this Act are to—

- 5 (a) ensure independent, regular and consistent reporting on matters
6 relating to the condition of the environment of the ACT; and
- 7 (b) ensure regular and independent reporting on progress towards
8 ecologically sustainable development by the Territory and
9 territory authorities; and
- 10 (c) encourage decision-making that facilitates ecologically
11 sustainable development; and
- 12 (d) enhance knowledge and understanding of issues relating to
13 ecologically sustainable development and the environment; and
- 14 (e) encourage sound environmental practices and procedures to be
15 adopted by the Territory and territory authorities as a basis for
16 ecologically sustainable development; and
- 17 (f) enable independent evaluation of programs and policies of the
18 Territory and territory authorities relating to the environment
19 and sustainability.

20 **7 Section 4 heading**

21 *substitute*

22 **4 Commissioner for Sustainability and the Environment**

1 **8 Section 4 (1)**

2 *omit*

3 Commissioner for the Environment

4 *substitute*

5 Commissioner for Sustainability and the Environment

6 **9 Functions**
7 **Section 12 (1) (a)**

8 *substitute*

9 (a) investigating complaints about—

10 (i) the management of the environment of the ACT by the
11 Territory or a territory authority; and

12 (ii) issues relating to ecologically sustainable development in
13 the ACT;

14 **10 Complaints**
15 **Section 13 (1) and note**

16 *substitute*

17 (1) A person may make a complaint to the commissioner about the
18 following:

19 (a) the management of the environment of the ACT by the
20 Territory or a territory authority;

21 (b) issues relating to ecologically sustainable development in the
22 ACT.

23 *Note* If a form is approved under s 28 for this provision, the form must be
24 used.

1 **11 State of the environment report**
2 **Section 19 (1)**

3 *substitute*

4 (1) The commissioner must prepare a state of the environment report
5 for each reporting period.

6 (1A) The report must be prepared by the reporting day for the period.

7 **12 Section 19 (2) (c)**

8 *substitute*

9 (c) an assessment of the sustainability of the following:

10 (i) the energy, water and other resources used by the
11 Territory and territory authorities;

12 (ii) the waste produced and recycling undertaken by the
13 Territory and territory authorities;

14 (iii) the impact of the resources used by the Territory and
15 territory authorities on biodiversity in the ACT; and

16 (d) an evaluation of the extent to which the Territory and territory
17 authorities operate in a carbon neutral manner; and

18 (e) an assessment of the extent to which the Territory and territory
19 authorities use sustainability decision-making tools in making
20 decisions and developing policy; and

21 (f) an assessment of the extent to which the ACT community has
22 made progress towards sustainability goals, including goals set
23 in strategic plans published by the ACT government.

24 **Example—strategic plan**

25 The Canberra Plan

26 *Note* An example is part of the Act is not exhaustive and may extend,
27 but does not limit, the meaning of the provision in which it
28 appears (see Legislation Act, s 126 and s 132).

- 1 (g) any other matters, whether or not occurring within the
2 triennium to which the report relates, that—
- 3 (i) the Minister states in written notice given to the
4 commissioner; or
- 5 (ii) the commissioner considers relevant.

6 **13 Section 19 (3)**

7 *substitute*

- 8 (3) If the Legislative Assembly is sitting on the reporting day—
- 9 (a) the commissioner must give the report to the Speaker; and
- 10 (b) the Speaker must present the report to the Legislative
11 Assembly on the next sitting day.
- 12 (3A) If the Legislative Assembly is not sitting on the reporting day—
- 13 (a) the commissioner must give the report, and a copy for each
14 member of the Legislative Assembly, to the Speaker; and
- 15 (b) the report is taken for all purposes to have been presented to
16 the Legislative Assembly on the reporting day; and
- 17 (c) publication of the report is taken to have been ordered by the
18 Legislative Assembly on the reporting day; and
- 19 (d) the Speaker must arrange for a copy of the report to be given to
20 each member of the Legislative Assembly on the reporting
21 day; and
- 22 (e) the Speaker may give directions for the printing and
23 circulation, and in relation to the publication, of the report; and
- 24 (f) despite paragraph (b), the Speaker must present the report to
25 the Legislative Assembly on the next sitting day.

14 Section 19 (4)

omit

within 12 months after the day the Minister presents a state of the environment report to the Legislative Assembly under section 22

substitute

within 12 months after a report is presented to the Legislative Assembly under this section

15 New section 19 (4A)

insert

(4A) Within 15 sitting days after receiving a recommendation under section 19 (4) the Minister must present the recommendation to the Legislative Assembly.

16 Section 19 (7), new definitions

insert

Speaker, for a report given to the Deputy Speaker or clerk under section 22 (Reports to be given to Speaker), means the Deputy Speaker or clerk.

sustainability decision-making tool includes triple bottom line reporting, sustainability assessment, climate change impact assessment and strategic environmental assessment.

17 New section 21 (2) to (5)

insert

(2) If the Legislative Assembly is sitting when the report is given to the Minister, the Minister must present the report to the Legislative Assembly on the next sitting day.

- 1 (3) If the Legislative Assembly is not sitting when the report is given to
2 the Minister—
- 3 (a) the Minister must give the report, and a copy for each member
4 of the Legislative Assembly, to the Speaker; and
- 5 (b) the report is taken for all purposes to have been presented to
6 the Legislative Assembly on the reporting day; and
- 7 (c) publication of the report is taken to have been ordered by the
8 Legislative Assembly on the reporting day; and
- 9 (d) the Speaker must arrange for a copy of the report to be given to
10 each member of the Legislative Assembly on the reporting
11 day; and
- 12 (e) the Speaker may give directions for the printing and
13 circulation, and in relation to the publication, of the report; and
- 14 (f) despite paragraph (b), the Speaker must present the report to
15 the Legislative Assembly on the next sitting day.
- 16 (4) Within 6 months after the day a report is presented to the Legislative
17 Assembly, the Minister must present to the Legislative Assembly a
18 statement that sets out the response of the government to the report.
- 19 (5) In this section:
- 20 **Speaker**, for a report given to the Deputy Speaker or clerk under
21 section 22 (Reports to be given to Speaker), means the Deputy
22 Speaker or clerk.

18 Section 22*substitute***22 Reports to be given to Speaker**

- (1) A report required by this Act to be given to the Speaker must—
- (a) if the Speaker is unavailable—be given to the Deputy Speaker;
or
 - (b) if both the Speaker and Deputy Speaker are unavailable—be given to the clerk of the Legislative Assembly.
- (2) For subsection (1), the Speaker or Deputy Speaker is unavailable if—
- (a) he or she is absent from duty; or
 - (b) there is a vacancy in the office.

22A Minister to respond to report

Within 6 months after a report under section 19 (State of the environment report) is presented to the Legislative Assembly, the Minister must present to the Legislative Assembly a statement that sets out the government's response to the report.

19 Dictionary, note 2*insert*

- Speaker
- the Territory
- territory authority

20 Dictionary, definition of *commissioner**substitute*

commissioner means the Commissioner for Sustainability and the Environment appointed under section 4.

1 **21 Dictionary, new definition of *ecologically sustainable***
2 ***development***

3 *insert*

4 *ecologically sustainable development* means the effective
5 integration of economic and environmental considerations in
6 decision-making processes achievable through implementation of
7 the following principles:

- 8 (a) the precautionary principle;
9 (b) the inter-generational equity principle;
10 (c) conservation of biological diversity and ecological integrity;
11 (d) improved valuation and pricing of environmental resources.

12 **22 Dictionary, new definitions**

13 *insert*

14 *the inter-generational equity principle* means that the present
15 generation should ensure that the health, diversity and productivity
16 of the environment is maintained or enhanced for the benefit of
17 future generations.

18 *the precautionary principle* means that, if there is a threat of serious
19 or irreversible environmental damage, a lack of full scientific
20 certainty should not be used as a reason for postponing measures to
21 prevent environmental degradation.

1 **Schedule 1** **Consequential amendments**

2 (see s 3)

3 **Part 1.1** **Environment Protection Act 1997**

4 **[1.1]** **Section 2 (1) (k)**

5 *omit*

6 commissioner for the environment

7 *substitute*

8 commissioner for sustainability and the environment

9 **Part 1.2** **Legislation Act 2001**

10 **[1.2]** **Dictionary, part 1, definition of *commissioner for the***
11 ***environment***

12 *substitute*

13 *commissioner for sustainability and the environment* means the
14 Commissioner for Sustainability and the Environment under the
15 *Commissioner for Sustainability and the Environment Act 1993*.

16 **Part 1.3** **Ombudsman Act 1989**

17 **[1.3]** **Section 5 (2) (g)**

18 *omit*

19 commissioner for the environment

20 *substitute*

21 commissioner for sustainability and the environment

- 1 **[1.4] Section 6B (1) (a)**
- 2 *omit*
- 3 commissioner for the environment
- 4 *substitute*
- 5 commissioner for sustainability and the environment
- 6 **[1.5] Dictionary, definition of *prescribed authority*,**
- 7 **paragraph (c)**
- 8 *omit*
- 9 commissioner for the environment
- 10 *substitute*
- 11 commissioner for sustainability and the environment
-

Endnotes

- 1 **Presentation speech**
Presentation speech made in the Legislative Assembly on 15 February 2012.
- 2 **Notification**
Notified under the Legislation Act on 2012.
- 3 **Republications of amended laws**
For the latest republication of amended laws, see www.legislation.act.gov.au.
-