

RIGHTS OF NATURE AND FUTURE GENERATIONS BILL 2019

INTRODUCED BY
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EXPLANATORY MEMORANDUM

Overview of the Bill

The purpose of the Bill is to create rights for nature and for present and future generations to a healthy and safe environment, and to secure those rights through offences, duties and a range of third party enforcement options and remedies.

Clause 1

This clause contains the title of the Bill.

Clause 2

This clause provides for commencement of the Act.

Sections 1 and 2 come into operation on the day on which the Act receives Royal Assent.

The rest of the Act will come into operation on a day fixed by proclamation. The delay in commencement is to provide a period in which the rights and prohibitions in the Bill may be publicised, to ensure that people, corporations and government agencies are aware of new obligations.

Clause 3

This clause provides for the objects of the Act, being to provide for the rights of nature and present and future generations, and to recognise the rights of First Nations Peoples in this regard.

Clause 4

This clause provides that the Act binds the Crown.

Clause 5

This clause provides for the Act to prevail over other legislation.

Clause 6

This clause creates a legal right for nature to exist and recover, as well as to a safe climate and biodiversity.

Clause 7

This clause creates a legal right for both present and future generations to a healthy environment, climate and biodiversity.

Clause 8

This clause provides for the rights created by the Act to be self-executing without further legislation being required.

Clause 9

This clause clarifies that the rights created by the Act do not create liabilities, duties or responsibilities on nature.

Clause 10

This clause prohibits violations of the rights created by the Act.

Under this clause an individual or corporation significantly interfering with the rights created by the Act will be guilty of an offence. An individual convicted on indictment for an offence under this clause is liable to a fine of \$500,000. A corporation is liable to a fine of \$5,000,000.



Clause 11

This clause provides that government approvals that violate the provisions of the Act, including the rights and duties created by the Act, will be invalid.

Clause 12

This clause creates an obligation on the State to take necessary steps to implement and enforce the rights, duties and other provisions of the Act.

Clause 13

This clause provides for open standing to any person bringing proceedings for contraventions of the Act. This clause also specifically creates a right for Aboriginal people to be joined as a party to proceedings, in recognition of traditional rights and responsibilities to care and speak for country.

Under this clause nature (or a specific ecosystem, ecological community or native species) is to be made the real party in proceedings brought in relation to the rights of nature.

Clause 14

This clause allows for any person to apply to the Supreme Court for an injunction to prevent acts constituting or likely to constitute a contravention of the Act.

Clause 15

This clause provides for full legal costs of a party bringing proceedings to be payable by a party found in those proceedings to have contravened the Act.

Clause 16

This clause provides that lack of full scientific certainty cannot be used as a reason for postponing action to implement, defend and enforce the provisions of the Act.

Clause 17

This clause provides for the onus of proof in showing that an action will not contravene the Act to be placed on the proponent of that action.

Clause 18

Under this clause a director of a corporation found to have contravened the Act will also be liable for that contravention. This does not apply where the director could not reasonably have been expected to have known the contravention was being committed, was not in a position to influence the relevant conduct, or applied due diligence and reasonable precautions to prevent the contravention.

Clause 19

This clause provides for persons found to have contravened the Act to pay damages in respect of the contravention.

Damages may be ordered by the Court to be paid to either or both of a government agency and a not-for-profit organisation with commitment and capacity to conduct the required restoration of nature.

