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ACTS AMENDMENT (ABORIGINAL LAND) BILL 1985

EXPLANATORY MEMORANDUM

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This Bill is mainly consequential on the Aboriginal Land Bill 1985.

PART I - PRELIMINARY.

The commencement dates of the various provisions of the Bill will depend on the commencement of relevant provisions of the Aboriginal Land Bill 1985.

PART II - ABORIGINAL AFFAIRS PLANNING
AUTHORITY ACT 1972

There will no longer be any reserved lands under "the principal Act" (clause 6). The lands that are presently reserved lands are to be granted to regional Aboriginal organizations under clause 4 of the Aboriginal Land Bill 1985.

The primary function of the Aboriginal Lands Trust set up by "the principal Act" was to hold and manage "reserved lands". As this function will disappear the Trust can be dispensed with (clause 6). A number of consequential amendments are needed to remove provisions that refer or relate to reserved lands or to the Trust (clauses 4, 5, 7, 8 and 11).

The only offence created by "the principal Act" is that in section 31 which is to be repealed by clause 6. Therefore sections 47 and 50 can also be repealed (clauses 9 and 10).

PART III

In this Part "the principal Act" is the Conservation and Land Management Act 1984.

Section 22(4) of the principal Act is amended to require the National Parks and Nature Conservation Authority to consult a regional Aboriginal organization for a region before it advises the Minister on any proposal for a new national park or nature reserve in, or any other matter specified by the Minister in relation to, that region (clause 13).

Section 23 of the principal Act is amended to include 2 Aboriginals in the membership of the National Parks and Nature Conservation Authority (clause 14).

New sections 23A, 23B and 23C are inserted in the principal Act in consequence of Part VI of the proposed Aboriginal Land Act 1985 (clause 15).

New sections 23B and 23C confer specific functions on a management committee appointed under section 97 of that proposed Act for a special management area. The functions are similar to the functions that the National Parks and Nature Conservation Authority would otherwise have in relation to the area and are to be performed to the exclusion of that Authority. If the area ceases to be a special management area, that Authority resumes its former role in relation to the area.

Section 33 of the principal Act is amended by repealing subsection (5) and substituting new subsections (5) and (6) (clause 16). New subsection (5) suspends, during the term of a lease pursuant to section 98 of the proposed Aboriginal Land Act 1985, the requirement that only "necessary operations" (as defined in section 33(4) of the principal Act) be carried out in national parks and nature reserves for which there is no management plan.

Subsection (6) re-enacts existing subsection (5) with a consequential amendment.

Section 99 of the principal Act is amended by re-enacting subsection (1)(c) with a consequential amendment (clause 17(a)).

Section 99 of the principal Act is amended by enacting a new subsection (3) (clause 17(b)). The new subsection makes it unnecessary for the approval of the Minister responsible for the Conservation and Land Management Act 1984, the National Parks and Nature Conservation Authority and "an associated body" (as defined in that Act) to be obtained before a lease is granted under section 100 of the principal Act pursuant to section 98 of the proposed Aboriginal Land Act 1985.

PART IV - LAND ACT 1933

Section 98 of the Land Act is to be amended to recognize the new functions to be conferred on the Pastoral Board under clauses 3(1) ("unallocated land") and 62 of the Aboriginal Land Bill 1985.

The amendment to section 134B of the Land Act will facilitate the granting of easements to provide access and services to living areas created under Division 4 of Part II of the Aboriginal Land Bill 1985.

PART V - PETROLEUM ACT 1967

Section 7(2) of the Petroleum Act can be repealed as it refers to reserved lands under the Aboriginal Affairs Planning Authority Act 1972. There will no longer be any such lands.

PART VI - SAVING

Section 31 of the Aboriginal Affairs Planning Authority Act 1972 presently restricts access to reserved lands under that Act through a permit system. Under clause 21 this system will continue to operate in relation to those lands for a transitional period of about 5 years after they have been granted under clause 4 of the Aboriginal Land Bill 1985. The consultative function currently performed in respect of the permit system by the Aboriginal Lands Trust will, during that period, be performed by the relevant regional Aboriginal organization constituted under the Aboriginal Land Bill.