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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

ENVIRONMENT, SPORT AND TERRITORIES LEGISLATION
AMENDMENT BILL 1994

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for the Environment,
Sport and Territories, Senator the Hon John Faulkner)



**ENVIRONMENT, SPORT AND TERRITORIES LEGISLATION
AMENDMENT BILL 1994**

GENERAL OUTLINE

The purpose of the Environment, Sport and Territories Legislation Amendment Bill 1994 is to repeal obsolete legislation and to make minor amendments to other legislation.

It repeals:

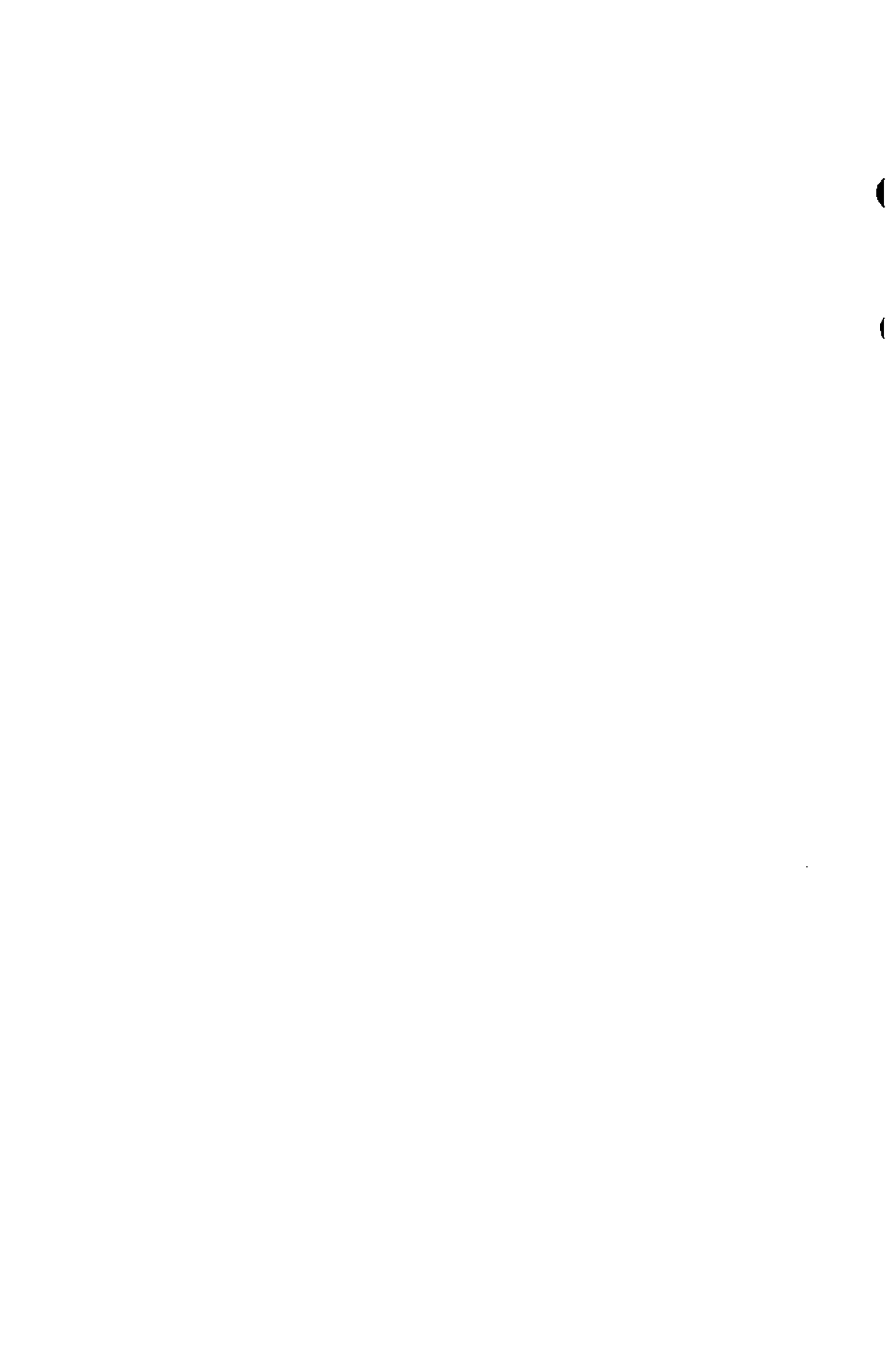
- . *Seat of Government (Administration) Act 1930*
- . *Seat of Government (Administration) Act 1933*
- . *National Fitness Act 1941.*

The Bill makes a number of amendments to the *Urban and Regional Development (Financial Assistance) Act 1974* to remove obsolete provisions and take account of the fact that the authority for the National Estate Grants Program was transferred in the 1991/92 financial year from that Act to Part VA of the *Australian Heritage Commission Act 1975*.

The Bill also amends the *Christmas Island Act 1958* and the *Cocos (Keeling) Islands Act 1955* to enable the Parliamentary Secretary or another Minister to exercise the powers of the Minister under these Acts, and makes various minor corrections and amendments to the *Endangered Species Protection Act 1992* and the *National Parks and Wildlife Conservation Act 1975*.

FINANCIAL IMPACT STATEMENT

The National Fitness Fund contains an amount of \$129.00 which will be transferred to Consolidated Revenue immediately before repeal.



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NOTES ON CLAUSES

Clause 1 - Short Title

1. This clause provides for the Act to be cited as the *Environment, Sport and Territories Legislation Amendment Act 1994*.

Clause 2 - Commencement

2. This clause provides that the Act shall come into operation on the day it receives the Royal Assent.

Clause 3 - Amendments

3. This clause provides for the amendment to Acts set out in the Schedule.

Clause 4 - Repeal

4. This clause provides for the repeal of the *Seat of Government (Administration) Act 1930* and the *Seat of Government (Administration) Act 1933*. Both these Acts are entirely spent. The *Seat of Government (Administration) Act 1910* will remain in force. The clause also provides for the repeal of the *National Fitness Act 1941*. The functions of this Act have been taken over by the States and other bodies, particularly the Sport and Recreation Ministers' Council.

Clause 5 - Transfer of money from National Fitness Fund to Consolidated Revenue Fund

5. Sub-clause 5(1) enables the Minister for Finance to direct that the balance of the National Fitness Fund, currently \$129.00, be credited to the Consolidated Revenue Fund immediately before the repeal of the *National Fitness Act 1941*.

6. Sub-clause 5(2) defines the National Fitness Fund as the Trust Account established by subsection 4(1) of the *National Fitness Act 1941*.

SCHEDULE

Christmas Island Act 1958

7. Paragraph 8G(1)(a) vests powers under Western Australian laws in force in the Territory exclusively in the Minister. This amendment omits the paragraph and inserts a paragraph vesting those powers in the Minister. The amendment adds a Note at the end of subsection 8G(1) which draws attention to section 19 of the *Acts Interpretation Act 1901* which permits powers vested in a Minister to be exercised on his or her

behalf by another Minister or a member of the Executive Council.

Cocos (Keeling) Islands Act 1955

8. Paragraph 8G(1)(a) vests powers under Western Australian laws in force in the Territory exclusively in the Minister. This amendment omits the paragraph and inserts a paragraph vesting those powers in the Minister. The amendment adds a Note at the end of subsection 8G(1) which draws attention to section 19 of the *Acts Interpretation Act 1901* which permits powers vested in a Minister to be exercised on his or her behalf by another Minister or a member of the Executive Council.

Endangered Species Protection Act 1992

9. Subparagraph (g)(ii) of the definition of "Commonwealth agency" in subsection 4(1) excludes the Administrators of the Northern Territory and Norfolk Island, and paragraph (j) excludes the Australian Capital Territory, the Northern Territory and the Administration of Norfolk Island. In order to make it clear that the definition does not include any person in the Australian Capital Territory, Northern Territory and Norfolk Island governments and their instrumentalities, subparagraph (g)(ii) is omitted and a new paragraph (ja) is added, which excludes persons holding an office established by or under or holding an appointment under the *Northern Territory (Self-Government) Act 1978*, the *Norfolk Island Act 1979*, and the *Australian Capital Territory (Self-Government) Act 1988*. The wording of paragraph (ja) relies on section 20 of the *Acts Interpretation Act 1901* which provides that a general reference to a person holding an office includes a reference to a person performing the duties of the office unless the contrary intention appears.

10. In paragraph (b) of the definition of "ecological community" in subsection 4(1) the words "(if any)" are inserted after the "the regulations" as there is currently no need for regulations to extend the criteria in the definition.

11. Paragraph 138(e) provides that one of the functions of the Endangered Species Advisory Committee is to review and report on the operation of the Act under section 164. The reference to section 164 is incorrect. The review function is set out in section 168, which specifically excludes members of the Advisory Committee from taking part in a review. This amendment omits paragraph 138(e).

National Parks and Wildlife Conservation Act 1975

12. Paragraph (a) of the definition of "prescribed park or reserve" in subsection 3(1) and subsection 6(3) include references to "Uluru (Ayers Rock-Mount Olga) National Park". The name of the Park was changed by Proclamation on 27 May 1993 to "Uluru - Kata Tjuta National Park". This amendment omits the old name and inserts the new name in both subsections.

13. In paragraph 46(1)(c) an incorrect reference to section 41 is omitted and 42 is inserted.

Urban and Regional Development (Financial Assistance) Act 1974

14. Sections 9, 10 and Schedule: the purpose of these amendments is to remove the authority for the National Estates Grants Program from this Act. Since the 1991/92 financial year this Program has operated under Part VA of the *Australian Heritage Commission Act 1975*. Section 9 of the *Urban and Regional Development (Financial Assistance) Act 1974*, which refers to financial assistance during the 1974-75 financial year, is repealed. Reference to matters relating to expenditure in section 9 in section 10 is omitted. The Schedule is repealed and replaced with a new Schedule which omits item 5 of the repealed Schedule, which was "restoration, preservation and improvement of landscapes and buildings of special significance". Also omitted are the figures beside the items of the repealed Schedule, which were the maximum amounts to be expended in the 1974/75 financial year.

