

South Australia

# **Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981**

An Act to provide for the vesting of title to certain lands in the people known as Anangu Pitjantjatjara Yankunytjatjara; and for other purposes.

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### The Parliament of South Australia enacts as follows:

## Part 1—Preliminary

### 1—Short title

This Act may be cited as the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*.

### 4—Interpretation

- (1) In this Act, unless the contrary intention appears—

*Administrator* means a person appointed under section 130 as an Administrator;

**Anangu** means a person who is—

- (a) a member of the Pitjantjatjara, Yankunytjatjara or Ngaanyatjarra people; and
- (b) a traditional owner of the lands, or a part of them;

**Anangu Pitjantjatjara Yankunytjatjara** means the body corporate constituted under that name by this Act;

**the constitution** means the constitution of Anangu Pitjantjatjara Yankunytjatjara for the time being in force under this Act;

**Director of Administration** means the person appointed as the Director of Administration under section 13B;

**Electoral Commissioner** means the person for the time being holding, or acting in, the office of the Electoral Commissioner under the *Electoral Act 1985*;

**electorate**—see Schedule 3 clause 2;

**the Executive Board** means—

- (a) the Executive Board of Anangu Pitjantjatjara Yankunytjatjara constituted under this Act; or
- (b) during a period prior to the constitution of that Board—the Pitjantjatjara Council;

**General Manager** means the person appointed as the General Manager under section 13D;

**Independent Commissioner Against Corruption** means the person for the time being holding, or acting in, the office of the Independent Commissioner Against Corruption under the *Independent Commissioner Against Corruption Act 2012*;

**the lands** means the lands described in Schedule 1 to this Act;

**mining operations** means operations authorised by or under the *Mining Act 1971* or the *Petroleum Act 1940*;

**mining tenement** means a right, permit, claim, lease or licence under the *Mining Act 1971* or the *Petroleum Act 1940*;

**Mintabie Miners Progress Association** means the association of that name incorporated under the *Associations Incorporation Act 1985*;

**Mintabie precious stones field** means that part of the lands declared to be a precious stones field under the *Opal Mining Act 1995*;

**Mintabie precious stones prospecting permit** means a precious stones prospecting permit under the *Opal Mining Act 1995* and endorsed in accordance with section 10A of that Act;

**Mintabie Township Lease Agreement** means the agreement of that name executed by Anangu Pitjantjatjara Yankunytjatjara, the Minister and the Minister to whom the administration of *Opal Mining Act 1995* is committed (whether or not there are other parties to the agreement), as varied from time to time;

**Mintabie township lease area** means the Mintabie township lease area as set out in the Mintabie Township Lease Agreement;

**motor vehicle** means a vehicle built to be propelled by a motor that forms part of the vehicle;

**petrol** includes any volatile liquid containing hydrocarbons;

**principal office** of Anangu Pitjantjatjara Yankunytjatjara means the office specified in accordance with section 14(7);

**regulated substance** means petrol and any other substance declared by regulation to be a regulated substance for the purposes of this Act;

**road works** means the construction, re-construction or repair of a road, or of related works;

**traditional owner** in relation to the lands means an Aboriginal person who has, in accordance with Aboriginal tradition, social, economic and spiritual affiliations with, and responsibilities for, the lands or any part of them.

- (2) If a provision of this Act specifies that an act may be done or a resolution made by Anangu Pitjantjatjara Yankunytjatjara at an annual or special general meeting, that act may not be done, or the resolution made, by the Executive Board on behalf of Anangu Pitjantjatjara Yankunytjatjara.

#### **4A—Objects**

The objects of this Act are as follows:

- (a) to provide for and subsequently acknowledge Anangu ownership of the lands;
- (b) to establish Anangu Pitjantjatjara Yankunytjatjara as a body corporate and set out its powers and functions;
- (c) to provide for efficient and accountable administration and management of the lands by Anangu Pitjantjatjara Yankunytjatjara.

## **Part 2—Anangu Pitjantjatjara Yankunytjatjara**

### **Division 1—Constitution of Anangu Pitjantjatjara Yankunytjatjara as body corporate**

#### **5—Constitution of Anangu Pitjantjatjara Yankunytjatjara as body corporate**

- (1) The body corporate known as *Anangu Pitjantjatjara* continues in existence as *Anangu Pitjantjatjara Yankunytjatjara*.
- (2) All Anangu are members of Anangu Pitjantjatjara Yankunytjatjara.
- (3) Anangu Pitjantjatjara Yankunytjatjara must have a common seal.
- (4) In any legal proceedings, an apparently genuine document purporting to bear the common seal of Anangu Pitjantjatjara Yankunytjatjara and the signatures of—
  - (a) 6 members of the Executive Board; or
  - (b) any 2 of the following:
    - (i) the Chairperson;
    - (ii) the Deputy Chairperson;

- (iii) the Director of Administration;
- (iv) the General Manager,

attesting the affixation of the seal will be presumed, in the absence of proof to the contrary, to have been duly executed by Anangu Pitjantjatjara Yankunytjatjara.

## **Division 2—Powers and functions of Anangu Pitjantjatjara Yankunytjatjara**

### **6—Powers and functions of Anangu Pitjantjatjara Yankunytjatjara**

- (1) The functions of Anangu Pitjantjatjara Yankunytjatjara are as follows:
  - (a) to ascertain the wishes and opinions of traditional owners in relation to the management, use and control of the lands and to seek, where practicable, to give effect to those wishes and opinions; and
  - (b) to protect the interests of traditional owners in relation to the management, use and control of the lands; and
  - (c) to negotiate with persons desiring to use, occupy or gain access to any part of the lands; and
  - (d) to administer land vested in Anangu Pitjantjatjara Yankunytjatjara.
- (2) Subject to this section, Anangu Pitjantjatjara Yankunytjatjara has the following powers:
  - (a) the power to sue and be sued; and
  - (b) the power—
    - (i) to grant a lease or licence, for any period it thinks fit, in respect of any part of the lands to an Anangu or an organisation comprised of Anangu;
    - (ii) to grant a lease or licence, for a period not exceeding fifty years, in respect of any part of the lands to an agency or instrumentality of the Crown;
    - (iii) to grant a lease or licence, for a period not exceeding 10 years, in respect of any part of the lands to any other person or body of persons; and
  - (c) the power to acquire by agreement, hold, deal in, or dispose of, land outside the lands; and
  - (d) the power to enter into contracts; and
  - (e) the power to appoint and dismiss staff; and
  - (f) the power to receive and disburse moneys; and
  - (g) the power to obtain advice from persons who are expert in matters with which Anangu Pitjantjatjara Yankunytjatjara is concerned; and
  - (h) the power to establish offices; and
  - (i) the power to make a constitution relating to—

- (i) the conduct of meetings of Anangu Pitjantjatjara Yankunytjatjara; and
  - (ii) the procedures to be followed in resolving disputes; and
  - (iii) any other matter that may be necessary or expedient in relation to the conduct or administration of the affairs of Anangu Pitjantjatjara Yankunytjatjara; and
- (j) the power to take such other steps as may be necessary or expedient for, or incidental to, the performance of its functions.
- (3) Anangu Pitjantjatjara Yankunytjatjara must not grant a lease or licence for a period exceeding 5 years under subsection (2)(b)(i) or (iii) except in accordance with a resolution made at an annual general meeting or a special general meeting held in accordance with this Act.
- (4) Subject to this or any other Act, a lease or licence relating to the lands may only be granted by resolution of the Executive Board.
- (5) An application for a lease or licence under subsection (2)(b)(ii) must be considered, and a resolution made to determine the application, as soon as is reasonably practicable after the application is received by the Executive Board.
- (6) The interest of the lessee or licensee under a lease or licence granted by Anangu Pitjantjatjara Yankunytjatjara—
  - (a) must not be mortgaged; and
  - (b) subject to the conditions of the lease or licence, must not be transferred, assigned, sublet, sublicensed or otherwise dealt with without the consent of the Executive Board.
- (7) A mortgage, transfer, assignment, sublease, sublicense or other interest created in contravention of this section is void and of no effect.
- (8) The Executive Board—
  - (a) must not unreasonably withhold consent under subsection (6)(b); and
  - (b) must not require the payment of a fee for giving such consent, or considering an application for such consent, that exceeds the reasonable expenses of Anangu Pitjantjatjara Yankunytjatjara in relation to that act.

## **7—Requirement of consultation**

Anangu Pitjantjatjara Yankunytjatjara shall, before carrying out or authorising or permitting the carrying out of any proposal relating to the administration, development or use of any portion of the lands, have regard to the interests of, and consult with, traditional owners having a particular interest in that portion of the lands, or otherwise affected by the proposal, and shall not carry out the proposal, or authorise or permit it to be carried out, unless satisfied that those traditional owners—

- (a) understand the nature and purpose of the proposal; and
- (b) have had the opportunity to express their views to Anangu Pitjantjatjara Yankunytjatjara; and
- (c) consent to the proposal.



## **Division 3—General meetings of Anangu Pitjantjatjara Yankunytjatjara**

### **8—Annual general meetings and special general meetings**

- (1) There shall be an annual general meeting of Anangu Pitjantjatjara Yankunytjatjara once in every calendar year.
- (3) An annual general meeting of Anangu Pitjantjatjara Yankunytjatjara shall be held not more than fifteen months after the last preceding annual general meeting.
- (4) A special general meeting of Anangu Pitjantjatjara Yankunytjatjara must be held if—
  - (a) the Executive Board passes a resolution that such a meeting be held; or
  - (b) not less than 10 members of Anangu Pitjantjatjara Yankunytjatjara make a request to the Executive Board that such a meeting be held,

and such a meeting must be held as soon as is reasonably practicable after the resolution is passed or request made (as the case requires).

## **Division 4—The Executive Board of Anangu Pitjantjatjara Yankunytjatjara**

### **9—Executive Board of Anangu Pitjantjatjara Yankunytjatjara**

- (1) There shall be an Executive Board of Anangu Pitjantjatjara Yankunytjatjara.
- (2) The Executive Board consists of 10 members elected or appointed in accordance with this Act.
- (2a) A person may not, while holding office as the Director of Administration, the General Manager or an employee of Anangu Pitjantjatjara Yankunytjatjara, be a member of the Executive Board.
- (4) A member of the Executive Board holds office until the next election of members and is, subject to the constitution, eligible for re-election.
- (6) An election of members of the Executive Board—
  - (a) must be conducted within 3 months after the third anniversary of the previous election; and
  - (b) must be conducted by the Electoral Commissioner—
    - (i) in accordance with the rules set out in Schedule 3; and
    - (ii) to the extent that the rules set out in Schedule 3 fail to deal with a matter that, in the opinion of the Electoral Commissioner, is necessary for the proper conduct of the election—in accordance with rules determined by the Electoral Commissioner in relation to that matter.
- (7) The validity of any election or return may be disputed in accordance with Schedule 3 and not otherwise.
- (8) The Minister must cause the electorates constituted by Schedule 3 to be reviewed not later than 3 months prior to each election (and such a review must include consultation with Anangu Pitjantjatjara Yankunytjatjara and the Executive Board).

- (9) Subject to subsection (11), a member of the Executive Board must, within 3 months after being elected or appointed, commence a course of training related to corporate governance that has been approved by the Minister.
- (10) The Minister must determine an application for approval of such a course within 28 days after receiving the application, and may, in determining whether to approve a course, take into consideration any matter the Minister thinks fit.
- (11) The Minister may, by notice in writing, exempt a member of the Executive Board from the requirement under subsection (9) on any ground the Minister thinks fit.

### **9A—Offences relating to election of Executive Board**

- (1) A person who—
  - (a) exercises violence or intimidation, or offers or gives a bribe, with a view to—
    - (i) inducing a person to submit or withdraw candidature for an election under section 9; or
    - (ii) influencing the vote of a person at such an election; or
    - (iii) otherwise interfering with the due course of an election; or
  - (b) receives a bribe offered in contravention of paragraph (a),

is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for seven years.

- (2) A person who—
  - (a) dishonestly exercises, or attempts to exercise, a vote at an election under section 9 to which that person is not entitled; or
  - (b) dishonestly influences or attempts to influence the result of such an election; or
  - (c) hinders or interferes with the free exercise or performance, by another person, of a right in respect of such an election,

is guilty of an offence.

Maximum penalty: \$5 000 or imprisonment for one year.

- (3) A person who is a candidate for election or acting on behalf of such a candidate (whether with or without the candidate's authority) must not act as an assistant to a person voting at the election.

Maximum penalty: \$5 000 or imprisonment for one year.

- (4) A scrutineer must not act as an assistant to a person voting at an election.

Maximum penalty: \$5 000 or imprisonment for one year.

- (5) A person must not, by clandestine or dishonest means, attempt to discover how another person has voted.

Maximum penalty: \$1 250 or imprisonment for 3 months.

- (6) A person who acquires knowledge of the vote of another person in the exercise of powers or functions under this Act must not divulge that knowledge.

Maximum penalty: \$2 500 or imprisonment for 6 months.

- (7) To avoid doubt, no declaration of public policy or promise of public action constitutes bribery or dishonest influence.
- (8) In this clause—  
*bribe* includes any pecuniary sum or material advantage including food, drink or entertainment.

### **9B—Functions and powers of the Executive Board**

- (1) The Executive Board is the governing body of Anangu Pitjantjatjara Yankunytjatjara.
- (2) Subject to this Act, the Executive Board—
  - (a) is responsible for carrying out the functions of Anangu Pitjantjatjara Yankunytjatjara and the day-to-day business of Anangu Pitjantjatjara Yankunytjatjara; and
  - (b) may, in carrying out the functions of Anangu Pitjantjatjara Yankunytjatjara, exercise any power conferred on Anangu Pitjantjatjara Yankunytjatjara by or under this Act.
- (3) The Executive Board must, in carrying out its functions, endeavour to advance the interests of Anangu at all times.
- (4) The Executive Board must comply with a resolution of Anangu Pitjantjatjara Yankunytjatjara made at an annual or special general meeting held in accordance with this Act that directs the Executive Board to act, or to not act, in a specified manner.
- (5) An act of the Executive Board done in accordance with this Act is binding on Anangu Pitjantjatjara Yankunytjatjara.

### **9C—Chairperson and Deputy Chairperson**

- (1) Subject to this section, the Executive Board must elect 1 of its number to be the Chairperson, and 1 to be the Deputy Chairperson.
- (2) An election of a Chairperson or Deputy Chairperson—
  - (a) must take place at the first meeting of the Executive Board following the office or offices of Chairperson or Deputy Chairperson (as the case requires) becoming vacant; and
  - (b) must, unless the election is uncontested, be by secret ballot.
- (3) The office of Chairperson or Deputy Chairperson—
  - (a) becomes vacant on the day that an election is held under section 9; and
  - (b) becomes vacant when the Chairperson or Deputy Chairperson (as the case requires) resigns from that position by notice in writing given to—
    - (i) in the case of the resignation of the Chairperson—the Deputy Chairperson; or
    - (ii) in the case of the resignation of the Deputy Chairperson—the Chairperson; and
  - (c) becomes vacant when a casual vacancy occurs in the office of the member of the Executive Board who is the Chairperson or Deputy Chairperson (as the case requires); and

- (d) becomes vacant when the casual vacancy referred to in paragraph (c) is filled in accordance with section 9D.
- (4) The Chairperson is, in addition to his or her remuneration, allowances and expenses as a member of the Executive Board, entitled to an allowance determined by the Executive Board and approved by the Minister.
- (5) The Minister must determine to approve, or not approve, the proposed allowance within 28 days after receiving the proposal, and may, in determining whether to approve the allowance, take into consideration any matter the Minister thinks fit.

### **9D—Casual vacancies**

- (1) The Executive Board may, by resolution passed by at least a two-thirds majority, remove a member of the Executive Board from office if the member—
  - (a) becomes physically or mentally incapable of carrying out official duties satisfactorily; or
  - (b) fails to comply with a duty imposed under section 12B, 12C, 12D or 12F; or
  - (c) is absent, without leave of the Executive Board, from 3 or more consecutive meetings (the first of which having been held 3 months or more before the last); or
  - (d) engages in serious misconduct.
- (2) The office of a member of the Executive Board becomes vacant if the member—
  - (a) dies; or
  - (b) completes a term of office and is not re-elected or reappointed; or
  - (c) resigns by notice in writing addressed to the Chairperson; or
  - (d) is sentenced to imprisonment for an offence; or
  - (e) is disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth; or
  - (f) is appointed to the office of Director of Administration or General Manager or is employed by Anangu Pitjantjatjara Yankunytjatjara; or
  - (g) is removed from office by the Executive Board under subsection (1).
- (3) Subsection (2)(d) does not apply until the period for appealing against the conviction has expired or, if an appeal is lodged within that period, until the appeal is finalised.
- (4) The Minister may direct the Executive Board to remove a member from office who—
  - (a) has failed to comply with a duty imposed under section 12B, 12C, 12D or 12F; or
  - (b) has failed to attend 6 or more consecutive meetings of the Executive Board (the first of which having been held 6 months or more before the last).
- (5) If a casual vacancy occurs in the office of a member, a supplementary election must, subject to subsection (7), be held in the electorate from which the member was elected to fill the vacant office.
- (6) A supplementary election in the electorate from which the member was elected—
  - (a) must be held as soon as possible after the vacancy occurs; and

- (b) must be conducted in accordance with Schedule 3 (with such modifications as the Electoral Commissioner thinks fit) as if the election were an election under section 9.
- (7) If—
- (a) no person nominates for a supplementary election; or
  - (b) a casual vacancy occurs during the period of 6 months preceding the date on or before which an election must be held under section 9,
- then the Executive Board may appoint a suitable Anangu from the electorate from which the member was elected to fill the vacant office.
- (8) Subject to the provisions of the constitution relating to casual vacancies, a person elected or appointed to fill a casual vacancy will hold office for the balance of the term of the person's predecessor.

### 9E—Remuneration

- (1) A member of the Executive Board is entitled to remuneration, allowances and expenses determined by the Executive Board and approved by the Minister.
- (2) The Minister must determine to approve, or not approve, the proposed remuneration, allowances and expenses within 28 days after receiving the proposal, and may, in determining whether to approve the proposal, take into consideration any matter the Minister thinks fit.

### 9F—Delegations

- (1) The Executive Board may delegate to the General Manager (and no other person) a power or function conferred under this or any other Act.
- (2) However, the following functions and powers must not be delegated:
  - (a) this power of delegation;
  - (b) the power to grant a lease or licence under this Act;
  - (c) the power to grant a permit under this Act;
  - (d) a function requiring that the Executive Board consult with Anangu Pitjantjatjara Yankunytjatjara or a specified group of Anangu.
- (3) A delegation under this section—
  - (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the power of the Executive Board to act in any matter; and
  - (d) is revocable at will by the Executive Board.

### 10—Procedure of the Executive Board

- (1) The Chairperson must call a meeting of the Executive Board for the transaction of business at least once in every 2 months.
- (2) 6 members constitute a quorum of the Executive Board.

- (3) A meeting will be chaired by the Chairperson or, in his or her absence, by the Deputy Chairperson and, in the absence of both the Chairperson and the Deputy Chairperson, the members present at a meeting must choose 1 of their number to preside at the meeting.
- (4) Each member present at a meeting has 1 vote on any question arising for decision.
- (5) A conference by means of telephone link (including a satellite link) between the members will, for the purposes of this section, be taken to be a meeting of the Executive Board at which the participating members are present if—
  - (a) notice of the conference is given to all members in the manner determined by the Executive Board for the purpose; and
  - (b) each participating member is capable of communicating with every other participating member during the conference.
- (6) A decision carried by a majority of votes cast by members at a meeting (being a majority comprising not less than 6 votes) is a decision of the Executive Board.
- (7) The Executive Board must have accurate minutes kept of its meetings.
- (8) Any Anangu is entitled to inspect (without charge) the minutes at the places on the lands, and during the times, nominated by the Executive Board and approved by the Minister.
- (9) Any Anangu is entitled, on payment of the fee prescribed by the regulations, to a copy of the minutes.
- (10) Subject to subsection (11), a member of the Executive Board may, by written instrument, appoint another member of the Executive Board to act as his or her proxy at a meeting specified in the instrument of appointment.
- (11) A member of the Executive Board appointed to act as a proxy for another member at a specified meeting may only so act if he or she—
  - (a) is present at the specified meeting; and
  - (b) exercises the proxy vote at the meeting in accordance with any instructions of the appointing member in the instrument of appointment.
- (12) A member of the Executive Board is not entitled to additional remuneration for acting as a proxy.
- (13) To avoid doubt, a proxy vote that is exercised other than in accordance with subsection (11) is void and of no effect.
- (14) Subject to this Act and the constitution, the Executive Board may determine its own procedures.
- (15) No act or proceeding of the Executive Board is invalid by reason only of a vacancy in the office of a member of the Executive Board, or any defect in the election or appointment of a person to the Executive Board.

## **11—Minister may call meetings**

- (1) If—
  - (a) the Chairperson refuses or fails to call a meeting of the Executive Board within 4 months after the previous meeting; or

(b) 2 or more successive meetings are inquorate,

then the Minister may call a meeting of the Executive Board.

- (2) The Minister may direct the members of the Executive Board to attend a meeting called under subsection (1).

## **12—Meetings to be open to all Anangu**

- (1) Subject to subsection (2), a meeting of the Executive Board must be open to all Anangu.
- (2) The Executive Board may exclude Anangu, or a class of Anangu, who are not members of the Executive Board from a meeting, or part of a meeting, if, in the opinion of the Executive Board, there are reasonable grounds for so doing.
- (3) The grounds for excluding Anangu, or a class of Anangu, who are not members of the Executive Board from a meeting, or part of a meeting, must be recorded in the minutes of the meeting.

## **12A—Advisory committees**

- (1) The Executive Board may establish advisory committees to provide advice in relation to any functions of the Executive Board under this Act.
- (2) The Executive Board must determine the following procedures of an advisory committee:
- (a) the conditions of appointment of the members of the advisory committee; and
  - (b) the matter or matters on which the advisory committee is to advise; and
  - (c) the manner in which the advisory committee is to report to the Executive Board; and
  - (d) the date on or before which the advisory committee must provide a report to the Executive Board,

and may determine any other procedures of an advisory committee.

- (3) A member of an advisory committee is entitled to remuneration, allowances and expenses determined by the Executive Board and approved by the Minister.
- (4) Subject to this Act, an advisory committee may determine its own procedures.

## **12B—Duty to exercise care and diligence**

- (1) A member of the Executive Board must at all times exercise a reasonable degree of care and diligence in the performance of his or her functions.
- (2) A member of the Executive Board does not commit any breach of duty under this section by acting in accordance with a lawful resolution of Anangu Pitjantjatjara Yankunytjatjara.

## **12C—Duty to act honestly**

A member of the Executive Board must at all times act honestly in the performance of the functions of his or her office, whether within or outside the State.

## **12D—Duty with respect to conflict of interest**

- (1) A member of the Executive Board who has a direct or indirect personal or pecuniary interest in a matter decided or under consideration by the Executive Board—
  - (a) must, as soon as reasonably practicable, disclose to the Executive Board full and accurate details of the interest; and
  - (b) must not take part in any discussion by the Executive Board relating to that matter; and
  - (c) must not vote in relation to that matter; and
  - (d) must be absent from the meeting room when any such discussion or voting is taking place.
- (2) If a member of the Executive Board makes a disclosure of interest and complies with the other requirements of subsection (1) in respect of a proposed contract—
  - (a) the contract is not liable to be avoided by the Executive Board; and
  - (b) the member is not liable to account to the Executive Board for profits derived from the contract.
- (3) If a member of the Executive Board fails to make a disclosure of interest or fails to comply with any other requirement of subsection (1) in respect of a proposed contract, the contract is liable to be avoided by the Executive Board.
- (4) A contract may not be avoided under subsection (3) if a person has acquired an interest in property the subject of the contract in good faith for valuable consideration and without notice of the contravention.
- (5) If a member of the Executive Board has or acquires a personal or pecuniary interest, or is or becomes the holder of an office, such that it is reasonably foreseeable that a conflict might arise with his or her duties as a member of the Executive Board, the member must, as soon as reasonably practicable, disclose to the Executive Board full and accurate details of the interest or office.
- (6) A disclosure under this section must be recorded in the minutes of the Executive Board.
- (7) If, in the opinion of the Executive Board, a particular interest or office of a member of the Executive Board is of such significance that the holding of the interest or office is not consistent with the proper discharge of the duties of the member, the Executive Board may require the member either to divest himself or herself of the interest or office or to resign from the Executive Board (and non-compliance with the requirement constitutes a failure to comply with a duty under this section and hence a ground for removal of the member from the Executive Board).
- (8) A member of the Executive Board is exempt from this section in respect of an interest in a matter—
  - (a) while he or she remains unaware that he or she has an interest in the matter, but in any proceedings against the member the burden will lie on the member to prove that he or she was not, at the material time, aware of his or her interest; or
  - (b) arising by reason of the fact that the member is a member of a community in an electorate to which the matter relates; or



- (c) that is shared in common with Anangu generally, or a substantial section of Anangu.

### **12E—Civil liability for contravention of section 12C or 12D**

If a person who is a member of the Executive Board or a former member of the Executive Board fails to comply with a duty under section 12C or 12D, Anangu Pitjantjatjara Yankunytjatjara may recover from the person by action in a court of competent jurisdiction—

- (a) if the person or any other person made a profit as a result of the failure—an amount equal to the profit; and
- (b) if Anangu Pitjantjatjara Yankunytjatjara suffered loss or damage as a result of the failure—compensation for the loss or damage.

### **12F—Code of conduct**

- (1) The Executive Board must prepare a code of conduct to be observed by members of the Executive Board, the Director of Administration, the General Manager and any employees of Anangu Pitjantjatjara Yankunytjatjara.
- (2) The code of conduct must contain the following provisions:
- (a) a provision requiring that a person referred to in subsection (1) must not divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—
- (i) as required or authorised by or under this Act or any other Act or law; or
- (ii) with the consent of the person to whom the information relates; or
- (iii) in connection with the administration of this Act;
- (b) a provision requiring that a person referred to in subsection (1) must not engage in bullying of, harassment of or threatening behaviour towards any Anangu or persons employed by Anangu Pitjantjatjara Yankunytjatjara, in the course of, or the purported course of, official duties;
- (c) a provision requiring that a person referred to in subsection (1) must declare any unsolicited gifts received by them in the course of, or related to, official duties;
- (d) any other provision prescribed by the regulations.
- (3) Subject to this Act, the Executive Board may at any time amend the code of conduct, or substitute a new code of conduct.
- (4) The code of conduct prepared, and any amendment or substitution under this section, must be presented to Anangu Pitjantjatjara Yankunytjatjara at the next general meeting for approval.
- (5) A person referred to in subsection (1) must comply with the approved code of conduct.
- (6) The Executive Board must, within 12 months after each election of the Executive Board, complete (and, as appropriate, implement) a review of its code of conduct under this section.

- (7) The code of conduct must not diminish a right under any Act or law.
- (8) A person is entitled to inspect (without charge) the code of conduct—
  - (a) at the places on the lands, and during the times, nominated by the Executive Board and approved by the Minister; and
  - (b) during ordinary office hours at the principal office of Anangu Pitjantjatjara Yankunytjatjara.
- (9) A person is entitled, on payment of the fee prescribed by the regulations, to a copy of the code of conduct.

### **12G—Guidelines**

- (1) The Executive Board must, within 6 months after the commencement of this section, prepare and submit to the Minister for approval guidelines to be followed by the Executive Board and the General Manager when entering contracts or engaging in other commercial activities.
- (2) Subsection (1) does not apply in relation to a lease or licence granted under this Act.
- (3) A person is entitled to inspect (without charge) the guidelines—
  - (a) at the places on the lands, and during the times, nominated by the Executive Board and approved by the Minister; and
  - (b) during ordinary office hours at the principal office of Anangu Pitjantjatjara Yankunytjatjara.
- (4) A person is entitled, on payment of the fee prescribed by the regulations, to a copy of the guidelines.

### **12H—Prudential requirements for certain activities**

- (1) The Executive Board must obtain and consider a report that addresses the prudential issues set out in subsection (2) before the Executive Board engages in any project (whether commercial or otherwise and including through participation in a joint venture, trust, partnership or other similar body) if the expected expenditure of Anangu Pitjantjatjara Yankunytjatjara in relation to the project is likely to exceed 20 per cent of Anangu Pitjantjatjara Yankunytjatjara's approved budget for the year during which the project would be undertaken.
- (2) The following are prudential issues for the purposes of subsection (1):
  - (a) the relationship between the project and relevant strategic management plans (if any);
  - (b) the level of consultation with Anangu, including contact with Anangu who may be affected by the project and the representations that have been made by them, and the means by which Anangu can influence or contribute to the project or its outcomes;
  - (c) if the project is intended to produce revenue, revenue projections and potential financial risks;
  - (d) the recurrent and whole-of-life costs associated with the project including any costs arising out of proposed financial arrangements;

- (e) the financial viability of the project, and the short and longer term estimated net effect of the project on the financial position of Anangu Pitjantjatjara Yankunytjatjara;
  - (f) any risks associated with the project, and the steps that can be taken to manage, reduce or eliminate those risks (including by the provision of periodic reports to the Executive Board and the Minister);
  - (g) the most appropriate mechanisms or arrangements for carrying out the project.
- (3) A report must be prepared by a person whom the Executive Board reasonably believes to be qualified to address the prudential issues set out in subsection (2).
- (4) A copy of the report must be provided to the Minister as soon as practicable after being received by the Executive Board.
- (5) Once the Executive Board has made a decision on the relevant project, a copy of the report must be made available for inspection (without charge) by Anangu—
- (a) at the places on the lands, and during the times, nominated by the Executive Board and approved by the Minister; and
  - (b) during ordinary office hours at the principal office of Anangu Pitjantjatjara Yankunytjatjara,
- (and may also be made available at an earlier time).
- (6) However, the Executive Board may take steps to prevent the disclosure of specific information in order to protect its commercial value or to avoid disclosing the financial affairs of a person (other than Anangu Pitjantjatjara Yankunytjatjara).

### **13—Accounts and audit**

- (1) The Executive Board shall cause proper accounts to be kept of the financial affairs of Anangu Pitjantjatjara Yankunytjatjara.
- (2) The Executive Board must cause the accounts of Anangu Pitjantjatjara Yankunytjatjara for each financial year to be audited by a registered company auditor.
- (3) The Auditor-General may audit the accounts of Anangu Pitjantjatjara Yankunytjatjara at any time.
- (4) The Executive Board must, at the annual general meeting of Anangu Pitjantjatjara Yankunytjatjara—
  - (a) make copies of the audited accounts for the financial year ending on the preceding 30 June available to Anangu; and
  - (b) provide an explanation of the audited accounts, or a part of the audited accounts, if requested by any Anangu.

### **13A—Reports and budget**

- (1) The Executive Board must, not later than 31 December in each year, prepare and submit to the Minister an annual report on the operations of the Executive Board during the financial year ending on the preceding 30 June (and must provide a copy of the audited accounts for that financial year with the annual report).

- (2) The Executive Board must, not later than the prescribed day in each year, prepare and submit to the Minister for approval a budget setting out estimates of the Executive Board's proposed expenditure for the next financial year or for some other period determined by the Minister.
- (3) The Minister may, if he or she is satisfied that the Executive Board has refused or failed to perform or discharge a function or duty under this Act, by notice in writing, direct the Executive Board to prepare a report on the matter.
- (4) A report or budget (as the case requires) under this section must—
  - (a) in the case of an annual report under subsection (1) or a budget under subsection (2)—contain the information required by the regulations; and
  - (b) in the case of a report required under subsection (3)—contain the information, and be delivered to the Minister on or before the date, specified in the notice; and
  - (c) in any case—be in a form determined by the Minister.
- (5) The Executive Board must, at an annual general meeting of Anangu Pitjantjatjara Yankunytjatjara—
  - (a) make available to Anangu copies of the annual report for the financial year ending on the preceding 30 June; and
  - (b) if requested by any Anangu, provide an explanation of the annual report, or a part of the annual report.
- (6) The Minister must determine to approve, or not approve, a budget within 28 days after receiving the proposed budget, and may, in determining whether to approve the budget, take into consideration any matter the Minister thinks fit.

## **Division 4A—Director of Administration and General Manager**

### **13B—Director of Administration**

- (1) There will be a Director of Administration for the lands.
- (2) The Director of Administration will be appointed by the Executive Board.
- (3) A person who—
  - (a) has ever been convicted of an offence involving dishonesty; or
  - (b) has ever been removed from any office for conduct involving dishonesty; or
  - (c) is, or has ever been, disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth (or any other Act related to the management of corporations),must not be appointed as the Director of Administration.
- (4) The Director of Administration will be appointed on conditions (including conditions as to remuneration) determined by the Executive Board with the approval of the Minister and for a term specified in the instrument of appointment and, at the expiration of a term of appointment, is eligible for reappointment.

- (5) The Minister must determine to approve, or not approve, the conditions of appointment within 28 days after receiving the conditions, and may, in determining whether to approve the conditions, take into consideration any matter the Minister thinks fit.

### **13C—Functions of Director of Administration**

The functions of the Director of Administration are—

- (a) to oversee the implementation of resolutions of Anangu Pitjantjatjara Yankunytjatjara and the Executive Board; and
- (b) to carry out any other functions assigned to the Director of Administration—
  - (i) in the instrument of appointment; or
  - (ii) by the Minister after consultation with the Executive Board.

### **13D—General Manager**

- (1) There will be a General Manager for the lands.
- (2) The General Manager will be appointed by the Executive Board.
- (3) A person who—
  - (a) has ever been convicted of an offence involving dishonesty; or
  - (b) has ever been removed from any office for conduct involving dishonesty; or
  - (c) is, or has ever been, disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth (or any other Act related to the management of corporations),

must not be appointed as the General Manager.

- (4) The General Manager will be appointed on conditions (including conditions as to remuneration) determined by the Executive Board with the approval of the Minister and for a term specified in the instrument of appointment and, at the expiration of a term of appointment, is eligible for reappointment.
- (5) The Minister must determine to approve, or not approve, the conditions of appointment within 28 days after receiving the conditions, and may, in determining whether to approve the conditions, take into consideration any matter the Minister thinks fit.

### **13E—Functions of General Manager**

The functions of the General Manager are—

- (a) to implement the resolutions of the Executive Board in a timely and efficient manner; and
- (b) to undertake responsibility for the day-to-day operations and affairs of Anangu Pitjantjatjara Yankunytjatjara; and
- (c) to ensure that records required under this or another Act are properly kept and maintained; and
- (d) to discharge any duties under this or any other Act relating to financial and annual reports; and

- (e) to ensure that the assets and resources of Anangu Pitjantjatjara Yankunytjatjara are properly managed and maintained; and
- (f) to exercise, perform or discharge any other powers, functions or duties conferred on the General Manager by or under this or any other Act.

### **13F—Director of Administration and General Manager subject to direction**

If an Administrator is appointed in accordance with section 13O, the Director of Administration and the General Manager are subject to the direction and control of the Administrator.

### **13G—Termination of appointment of Director of Administration or General Manager by Executive Board**

- (1) The Executive Board may terminate the appointment of the Director of Administration or the General Manager if the Director of Administration or the General Manager (as the case requires)—
  - (a) becomes physically or mentally incapable of carrying out official duties satisfactorily; or
  - (b) fails, without reasonable excuse, to carry out official duties to the performance standards specified in the instrument of appointment; or
  - (c) fails to comply with a duty imposed under section 12F, 13H, 13I or 13J; or
  - (d) engages in serious misconduct; or
  - (e) in the case of the General Manager—
    - (i) is convicted of an indictable offence; or
    - (ii) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors.
- (2) The appointment of the Director of Administration or the General Manager may only be terminated by resolution passed by at least a two-thirds majority of the members of the Executive Board.
- (3) The office of Director of Administration or General Manager becomes vacant if the Director of Administration or General Manager (as the case requires)—
  - (a) dies; or
  - (b) completes a term of office and is not reappointed; or
  - (c) resigns by notice in writing addressed to the Executive Board; or
  - (d) is sentenced to imprisonment for an offence; or
  - (e) is disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth; or
  - (f) is removed from the office by the Executive Board under subsection (1).
- (4) The Minister may direct the Executive Board to terminate the appointment of the Director of Administration or the General Manager if he or she—
  - (a) in the case of the General Manager—is convicted of an indictable offence; or

- (b) in any case—has failed to comply with a duty imposed under section 12F, 13H, 13I or 13J.
- (5) Subsections (1)(e)(i), (3)(d) and (4)(a) do not apply until the period for appealing against the conviction has expired or, if an appeal is lodged within that period, until the appeal is finalised.
- (6) If the Director of Administration or General Manager is temporarily absent, or temporarily unable to discharge his or her official duties, the Executive Board may appoint a person in accordance with this section to act in the position of Director of Administration or General Manager (as the case requires) during the period during which the Director of Administration or General Manager (as the case requires) is absent or unable to discharge his or her official duties.
- (7) If a casual vacancy occurs in the office of Director of Administration or General Manager, the Executive Board must, as soon as practicable after the vacancy occurs, appoint a person in accordance with this section to fill the vacancy.

### **13H—Duty to exercise care and diligence**

- (1) The Director of Administration and General Manager must at all times exercise a reasonable degree of care and diligence in the performance of his or her functions.
- (2) The Director of Administration or General Manager does not commit any breach of duty under this section by acting in accordance with a lawful resolution of Anangu Pitjantjatjara Yankunytjatjara.

### **13I—Duty to act honestly**

The Director of Administration and General Manager must at all times act honestly in the performance of the functions of his or her office, whether within or outside the State.

### **13J—Duty with respect to conflict of interest**

- (1) If the Director of Administration or General Manager has a direct or indirect personal or pecuniary interest in a matter in relation to which he or she is required or authorised to act in the course of official duties, he or she—
- (a) must, as soon as reasonably practicable, disclose to the Executive Board full and accurate details of the interest; and
- (b) must not, unless the Executive Board otherwise determines, act in relation to the matter.
- (2) If the Director of Administration or General Manager makes a disclosure of interest and complies with the other requirements of subsection (1) in respect of a proposed contract—
- (a) the contract is not liable to be avoided by the Executive Board; and
- (b) the Director of Administration or General Manager (as the case requires) is not liable to account to the Executive Board for profits derived from the contract.
- (3) If the Director of Administration or General Manager fails to make a disclosure of interest in respect of a proposed contract, the contract is liable to be avoided by the Executive Board.

- (4) A contract may not be avoided under subsection (3) if a person has acquired an interest in property the subject of the contract in good faith for valuable consideration and without notice of the contravention.
- (5) If the Director of Administration or General Manager has or acquires a personal or pecuniary interest, or is or becomes the holder of an office, such that it is reasonably foreseeable that a conflict might arise with his or her official duties, the Director of Administration or General Manager (as the case requires) must, as soon as reasonably practicable, disclose to the Executive Board full and accurate details of the interest or office.
- (6) A disclosure under this section must be recorded in the minutes of the Executive Board and reported to the Minister.
- (7) If, in the opinion of the Executive Board, a particular interest or office of the Director of Administration or General Manager is of such significance that the holding of the interest or office is not consistent with the proper discharge of the official duties of the Director of Administration or General Manager (as the case requires), the Executive Board may require the Director of Administration or General Manager (as the case requires) either to divest himself or herself of the interest or office or to resign from the office of Director of Administration or General Manager (and non-compliance with the requirement constitutes a failure to comply with a duty under this section and hence a ground for termination of the appointment of the Director of Administration or the General Manager).
- (8) The Director of Administration and the General Manager are exempt from this section in respect of an interest in a matter—
  - (a) while he or she remains unaware that he or she has an interest in the matter, but in any proceedings against the Director of Administration or the General Manager the burden will lie on the Director of Administration or the General Manager (as the case requires) to prove that he or she was not, at the material time, aware of his or her interest; or
  - (b) that is shared in common with Anangu generally, or a substantial section of Anangu.

### **13K—Civil liability for contravention of section 13I or 13J**

If the Director of Administration or the General Manager, or a former Director of Administration or General Manager, fails to comply with a duty under section 13I or 13J, Anangu Pitjantjatjara Yankunytjatjara may recover from the person by action in a court of competent jurisdiction—

- (a) if the person or any other person made a profit as a result of the failure—an amount equal to the profit; and
- (b) if Anangu Pitjantjatjara Yankunytjatjara suffered loss or damage as a result of the failure—compensation for the loss or damage.

### **13L—Appointment etc by General Manager**

- (1) Subject to this Act, the General Manager is responsible for appointing, managing, suspending and dismissing the employees of Anangu Pitjantjatjara Yankunytjatjara on behalf of Anangu Pitjantjatjara Yankunytjatjara.



- (2) The General Manager may only appoint an employee of Anangu Pitjantjatjara Yankunytjatjara—
  - (a) if the appointment is consistent with the approved budget for the financial year in which the appointment is to be made; or
  - (b) with the approval of the Executive Board and the Minister.
- (3) Subject to this Act, the remuneration and other conditions of service of an employee of Anangu Pitjantjatjara Yankunytjatjara will be as determined by the General Manager.
- (4) The General Manager must, in the exercise of powers under this section, comply with any relevant Act, award or industrial agreement.
- (5) Suspension of an employee by the General Manager does not affect a right to remuneration in respect of the period of suspension.
- (6) The Minister must determine to approve, or not approve, a proposed appointment under subsection (2)(b) within 28 days after receiving the proposal, and may, in determining whether to approve the appointment, take into consideration any matter the Minister thinks fit.

### **13M—Director of Administration, General Manager and employees of Anangu Pitjantjatjara Yankunytjatjara not subject to direction by member of Executive Board**

The Director of Administration, the General Manager and any employees of Anangu Pitjantjatjara Yankunytjatjara are not subject to direction by an individual member of the Executive Board unless the member of the Executive Board is acting in accordance with a resolution of the Executive Board.

## **Division 4B—Limited intervention by Minister**

### **13N—Minister may direct Executive Board**

- (1) If the Minister is satisfied that—
  - (a) the Executive Board has refused or failed to exercise, perform or discharge a power, function or duty under the Act or the constitution; and
  - (b) the refusal or failure has resulted in, or will result in, a detriment to Anangu generally, or to a substantial section of Anangu,
 the Minister may direct the Executive Board to take such action as the Minister requires to correct or prevent such detriment.
- (2) If the requirements of a direction under subsection (1) are not complied with, the Minister may take any action required by the direction.
- (3) Action taken by the Minister may be taken on the Minister's behalf by an employee of the administrative unit of the Public Service that is, under the Minister, responsible for the administration of this Act, or another person authorised by the Minister for the purpose.
- (4) A person must not hinder or obstruct the Minister or another person taking action under subsection (2).  
Maximum penalty: \$5 000.

- (5) The reasonable costs and expenses incurred by the Minister in taking action under this section may be recovered by the Minister as a debt from the Executive Board.
- (6) Anangu Pitjantjatjara Yankunytjatjara cannot claim compensation from the Minister or the Crown (or from any person acting under subsection (2)) in respect of any action taken under this section.

### **130—Minister may suspend Executive Board**

- (1) The Minister may, for any reason he or she thinks fit, by notice in the Gazette, suspend the Executive Board for a period specified in the notice or until further notice in the Gazette.
- (1a) Subsection (1) (as enacted by the *Anangu Pitjantjatjara Yankunytjatjara Land Rights (Miscellaneous) Amendment Act 2014*) will expire 3 years after the day on which it comes into operation.
- (2) Despite any other provision of this Act, if the Executive Board is suspended the following provisions apply:
  - (a) the Minister may, by notice in the Gazette, appoint an Administrator, on terms and conditions determined by the Minister, to administer the affairs of Anangu Pitjantjatjara Yankunytjatjara in the name of, and on behalf of, Anangu Pitjantjatjara Yankunytjatjara during the period of the suspension;
  - (b) the Administrator is entitled to remuneration, allowances and expenses determined by the Minister;
  - (c) the Minister may remove a person from the office of Administrator for any reason the Minister thinks fit;
  - (d) the office of Administrator becomes vacant if the Administrator—
    - (i) dies; or
    - (ii) completes a term of office; or
    - (iii) resigns by written notice to the Minister; or
    - (iv) is removed from office under paragraph (c);
  - (e) the Minister may appoint a person to act as the Administrator—
    - (i) during a vacancy in the office of Administrator; or
    - (ii) when the Administrator is absent from, or unable to discharge, official duties;
  - (f) the Administrator has all the functions and powers of Anangu Pitjantjatjara Yankunytjatjara;
  - (g) in carrying out a function or exercising a power of Anangu Pitjantjatjara Yankunytjatjara, the Administrator is not bound by a resolution under section 9B(4) that is, in the opinion of the Administrator, inconsistent with the appointment of the Administrator (but, to avoid doubt, is otherwise bound by a resolution under that section);
  - (h) the *Public Sector (Honesty and Accountability) Act 1995* applies to the Administrator as if the Administrator were a senior official and the Minister administering this Act were the relevant Minister;

- (i) any liability incurred by the Administrator in the course of the administration will be paid or satisfied out of the funds of Anangu Pitjantjatjara Yankunytjatjara;
  - (j) in any legal proceedings, an apparently genuine document purporting to bear the common seal of Anangu Pitjantjatjara Yankunytjatjara and the signature of the Administrator attesting the affixation of the seal will be presumed, in the absence of proof to the contrary, to have been duly executed by Anangu Pitjantjatjara Yankunytjatjara;
  - (k) the Administrator must cause proper accounts to be kept of the financial affairs of Anangu Pitjantjatjara Yankunytjatjara and must cause the accounts of Anangu Pitjantjatjara Yankunytjatjara for each financial year to be audited by a registered company auditor;
  - (l) to avoid doubt—
    - (i) the Administrator must, in the course of the administration, endeavour to advance the interests of Anangu at all times;
    - (ii) the Administrator must comply with section 4(2) and section 7 and any other provision of this Act that requires consultation with, or a resolution of, Anangu Pitjantjatjara Yankunytjatjara.
- (3) An Administrator appointed under this section must, as soon as is reasonably practicable after each prescribed period of his or her appointment, prepare and submit to both Houses of Parliament a report on the operations of the Administrator and Anangu Pitjantjatjara Yankunytjatjara during the prescribed period.
- (4) In this section—
- prescribed period* means—
- (a) if the Administrator is appointed for a period of less than 6 months—the period of the Administrator's appointment; or
  - (b) in any other case—6 months.

### 13P—Use of facilities

An Administrator may, by arrangement with the relevant body, make use of the services of the staff, equipment or facilities of—

- (a) an administrative unit in the Public Service; or
- (b) a public authority.

### 13Q—Offences

A person who—

- (a) hinders or obstructs an Administrator, or a person assisting an Administrator, in the exercise of powers or functions under this Act; or
- (b) falsely represents, by words or conduct, that he or she is assisting an Administrator in the exercise of powers or functions under this Act,

is guilty of an offence.

Maximum penalty: \$5 000.

## **Division 5—The approved constitution**

### **14—Constitution**

- (1) Subject to this Act, the proceedings of Anangu Pitjantjatjara Yankunytjatjara and the administration of its affairs will be governed by a constitution determined by Anangu Pitjantjatjara Yankunytjatjara and approved in accordance with this section.
- (2) The constitution must, within 12 months after the commencement of this section—
  - (a) be amended so as to be consistent with the Act; and
  - (b) be submitted to the Minister for approval.
- (3) Anangu Pitjantjatjara Yankunytjatjara may, by resolution passed by at least a two-thirds majority of members present at an annual general meeting or special general meeting of Anangu Pitjantjatjara Yankunytjatjara, propose an amendment to the constitution.
- (4) The Executive Board must, as soon as is reasonably practicable, cause the proposed amendment to be submitted to the Minister for approval and the proposed amendment will come into effect on such approval being granted.
- (5) The Minister must not unreasonably withhold approval to a proposed amendment.
- (6) An amendment of the constitution made other than in accordance with this section is void and of no effect.
- (7) The constitution must specify the address of an office within 30 kilometres of the General Post Office at Adelaide (the *principal office* of Anangu Pitjantjatjara Yankunytjatjara) at which legal process, notices and other documents may be served upon Anangu Pitjantjatjara Yankunytjatjara or the Executive Board.
- (8) A person is entitled to inspect (without charge) the constitution—
  - (a) at the places on the lands, and during the times, nominated by the Executive Board and approved by the Minister; and
  - (b) during ordinary office hours at—
    - (i) the principal office of Anangu Pitjantjatjara Yankunytjatjara; and
    - (ii) the Minister's office.
- (9) A person is entitled, on payment of the fee prescribed by the regulations, to a copy of the constitution.

## **Part 3—The lands**

### **Division 1—Vesting of the lands in Anangu Pitjantjatjara Yankunytjatjara**

#### **15—The Governor may grant certain land, in fee simple, to Anangu Pitjantjatjara Yankunytjatjara**

- (1) The Governor may issue a land grant, in fee simple, of the whole or any part of the lands to Anangu Pitjantjatjara Yankunytjatjara.

- (2) The Governor shall not exercise his powers under subsection (1) in relation to land (not being land comprised in Granite Downs Station) unless all persons with a legal or equitable estate or interest in the land have surrendered, or agreed to surrender, their respective interests.
- (3) Where the Governor exercises his powers under subsection (1) to grant land comprised in Granite Downs Station to Anangu Pitjantjatjara Yankunytjatjara, the following provisions shall apply:
  - (a) any pastoral lease then in force in relation to that land shall, subject to its terms and the provisions of the *Pastoral Act 1936*, continue in force as if Anangu Pitjantjatjara Yankunytjatjara had leased the land to the Crown and the Crown had sub-leased it to the lessee; and
  - (b) upon surrender or expiration of the lease, the lease shall not be renewed, and the land shall not be re-let by the Crown; and
  - (c) the lessee shall be entitled to compensation from the Crown for diminution in the value of the lease resulting from the operation of paragraph (b) (but compensation to which the lessee is entitled under this paragraph shall be calculated as if the land were unimproved); and
  - (d) the lessee shall, upon surrender or expiration of the lease, be entitled to compensation from Anangu Pitjantjatjara Yankunytjatjara for the improvements upon the land determined as if the land had remained pastoral lands and had been re-let under the *Pastoral Act 1936*, to Anangu Pitjantjatjara Yankunytjatjara on the date of the surrender or expiry of the lease.
- (4) The compensation payable under subsection (3)(c) or (d) shall be determined by agreement, or in default of agreement, by the Land and Valuation Court.

#### **16—Special provisions in relation to the land grant**

- (1) A land grant issued under this Division shall be expressed in the English language and in the Pitjantjatjara language, but the interpretation of the land grant shall be governed by those portions of the land grant that are expressed in the English language.
- (2) If, in the opinion of the Surveyor-General, a land grant issued under this Division erroneously or imperfectly defines the land to which it was intended to apply, the Surveyor-General may submit to the Minister of Lands a proposal to amend the land grant for the purpose of correcting the error, or defining the land with greater precision.
- (3) If, in the opinion of the Minister of Lands, the proposal of the Surveyor-General should be carried into effect, he may direct the Registrar-General to amend the land grant in accordance with the proposal.

#### **17—Inalienability of land vested in Anangu Pitjantjatjara Yankunytjatjara in pursuance of this Part**

Subject to this Act, where land has vested in Anangu Pitjantjatjara Yankunytjatjara in pursuance of this Part, no estate or interest in the land—

- (a) may be alienated from Anangu Pitjantjatjara Yankunytjatjara; or

- (b) may be compulsorily acquired, resumed or forfeited under the law of this State.

## **Division 2—Entry to the lands**

### **18—Rights of Anangu with respect to lands**

All Anangu have unrestricted rights of access to the lands.

### **19—Unauthorised entry on lands**

- (1) A person (not being an Anangu) who enters the lands without the permission of Anangu Pitjantjatjara Yankunytjatjara is guilty of an offence and liable to a penalty not exceeding the maximum prescribed by subsection (2).
- (2) The maximum penalty for an offence against subsection (1) is—
  - (a) where the offence was committed intentionally—a fine of two thousand dollars plus five hundred dollars for each day during which the convicted person remained on the land after the unlawful entry; or
  - (b) in any other case—a fine of two hundred dollars.
- (3) An application for permission to enter the lands—
  - (a) may be made by an applicant on the applicant's own behalf, or on behalf of a group of persons; and
  - (b) must, unless the Executive Board otherwise allows—
    - (i) be in writing and lodged with the Executive Board; and
    - (ii) set out—
      - (A) the purpose for which entry to the lands is sought; and
      - (B) the period for which entry to the land is sought; and
      - (C) the time and place at which the applicant, or the group on whose behalf the application is made, seeks to enter the lands; and
    - (iii) be accompanied by the prescribed application fee.
- (4) The applicant shall, at the request of Anangu Pitjantjatjara Yankunytjatjara, furnish such further information as it may reasonably require to determine the application.
- (5) Upon an application under this section, Anangu Pitjantjatjara Yankunytjatjara may, by instrument in writing—
  - (a) grant permission to enter the lands unconditionally; or
  - (b) grant permission to enter the lands subject to such conditions as it thinks fit; or
  - (c) refuse permission to enter the lands.
- (5a) Where a group of persons is permitted to enter the lands, each member of the group is bound by the conditions (if any) subject to which the permission was granted.

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- (5b) A person who contravenes or fails to comply with a condition on which the person, or a group of which the person is a member, was granted permission to enter the lands is guilty of an offence and liable to a penalty not exceeding the maximum prescribed by subsection (5c).
- (5c) The maximum penalty for an offence against subsection (5b) is a fine of \$2 000 plus \$500 for each day (if any) during which the convicted person was on the lands, or a particular part of the lands, in contravention of the condition.
- (8) This section does not apply to—
- (a) a police officer acting in the course of carrying out his official duties; or
  - (b) any other officer appointed pursuant to statute acting in the course of carrying out his official duties; or
  - (ba) the Electoral Commissioner acting in relation to an election being conducted, or to be conducted, under section 9; or
  - (bb) the Independent Commissioner Against Corruption, or an examiner or investigator, performing a function under the *Independent Commissioner Against Corruption Act 2012*; or
  - (c) a person acting upon the written authority of the Minister, who enters the lands for the purpose of carrying out functions that have been assigned to a Minister or instrumentality of the Crown or an administrative unit of the Public Service; or
  - (ca) an employee of the administrative unit of the Public Service that is, under the Minister, responsible for the administration of this Act, or another person authorised by the Minister, acting on behalf of the Minister under section 13N; or
  - (d) a member of the Parliament of the State or the Commonwealth, a person who is genuinely a candidate for election as a member of the Parliament of the State or the Commonwealth; or
  - (da) a person assisting a person referred to in any of the preceding paragraphs; or
  - (e) entry upon the lands in case of emergency; or
  - (f) entry upon the lands in pursuance of Division 3, Division 4 or Division 6 of this Part.
- (9) Where a person proposes to enter the lands in pursuance of subsection (8)(b), (ba), (c) or (d) reasonable notice of the time, place and purpose of the proposed entry must be given to Anangu Pitjantjatjara Yankunytjatjara.
- (9a) A person who, being entitled to enter upon part only of the lands in pursuance of Division 3, Division 4 or Division 6 of this Part, enters upon some other part of the lands without the permission of Anangu Pitjantjatjara Yankunytjatjara acts in contravention of subsection (1).
- (10) If Anangu Pitjantjatjara Yankunytjatjara, by notice in writing to the Minister, objects to an authorised person entering or remaining upon the lands, the Minister shall revoke or modify the authorisation in order to give effect to the objection unless he is satisfied that there are sufficient reasons why the authorisation should continue notwithstanding the objection.

### **19A—Residence on the lands**

A person who is entitled under section 19(8)(a), (b), (ba), (c), (ca) or (da) to enter the lands for the purpose of carrying out, or assisting in carrying out, official duties or functions or providing a service is entitled to reside on the lands where that is necessary or desirable for the purpose of carrying out that duty or function or providing such assistance.

## **Division 3—Mining operations on the lands**

### **20—Mining operations on the lands**

- (1) Notwithstanding the provisions of any other Act, a person who, without permission under this section—
  - (a) carries out mining operations upon the lands; or
  - (b) enters the lands for the purpose of carrying out mining operations,shall be guilty of an offence and liable to a penalty not exceeding the maximum prescribed by subsection (2).
- (2) The maximum penalty for an offence against subsection (1) is a fine of ten thousand dollars plus one thousand dollars for each day during which the convicted person—
  - (a) carried out unlawful mining operations on the lands; or
  - (b) remained on the lands after the unlawful entry.
- (2a) A person who, having permission to carry out mining operations upon part only of the lands, carries out mining operations on some other part of the lands without the permission of Anangu Pitjantjatjara Yankunytjatjara acts in contravention of subsection (1)(a).
- (3) An application for permission to carry out mining operations upon the lands—
  - (a) may be made only by a person who has applied for a mining tenement in respect of the lands or a part of the lands and has been notified by the Minister of Mines and Energy that he approves the making of an application under this section; and
  - (b) must be in writing and lodged with the Executive Board; and
  - (c) must contain, or be accompanied by, all information submitted by the applicant to the Minister of Mines and Energy in support of his application for a mining tenement.
- (4) The applicant shall, at the request of Anangu Pitjantjatjara Yankunytjatjara, furnish in writing such further information as it may reasonably require to determine the application.
- (5) The applicant shall, as soon as practicable after making his application, or furnishing information under subsection (4), send to the Minister of Mines and Energy a copy of the application or of the document by which the information was furnished.
- (6) Upon an application under this section, Anangu Pitjantjatjara Yankunytjatjara may—
  - (a) grant its permission unconditionally; or



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- (b) grant its permission subject to such conditions (which must be consistent with the provisions of this Act) as it thinks fit; or
- (c) refuse its permission.
- (7) Anangu Pitjantjatjara Yankunytjatjara shall, upon deciding an application under this section, notify the applicant, in writing, of its decision and the applicant shall, within seven days after receiving that notification, furnish the Minister of Mines and Energy with a copy of the notification.
- (7a) The reasonable costs and expenses incurred by Anangu Pitjantjatjara Yankunytjatjara in dealing with an application under this section may be recovered from the applicant as a debt.
- (7b) Any payment made in satisfaction of a liability arising under subsection (7a) shall, if the application is subsequently determined in favour of the applicant but on condition that compensation be paid to Anangu Pitjantjatjara Yankunytjatjara, be regarded as a payment made on account of that compensation.
- (8) Where—
- (a) Anangu Pitjantjatjara Yankunytjatjara refuses its permission under this section or grants its permission but subject to conditions that are unacceptable to the applicant; or
- (b) the applicant has not, at the expiration of one hundred and twenty days from the date of the application, received notice of a decision by Anangu Pitjantjatjara Yankunytjatjara upon the application,
- the applicant may request the Minister of Mines and Energy to refer the application to an arbitrator.
- (9) If the Minister of Mines and Energy receives a request under subsection (8), the application shall be referred to an arbitrator appointed by the Minister of Mines and Energy.
- (10) At least twenty-one days before an arbitrator is appointed under subsection (9), the Minister of Mines and Energy must inform Anangu Pitjantjatjara Yankunytjatjara of whom he proposes to appoint and he must consider any representations of Anangu Pitjantjatjara Yankunytjatjara in relation to the proposed appointment.
- (11) The arbitrator must be a judge of the High Court, the Federal Court of Australia, or the Supreme Court of a State or Territory of Australia.
- (12) The arbitrator—
- (a) shall have the powers of a commission of inquiry under the *Royal Commissions Act*; and
- (b) may refer a question of law for the opinion of the Full Court of the Supreme Court.
- (14) After hearing such evidence and submissions as—
- (a) Anangu Pitjantjatjara Yankunytjatjara; and
- (b) the applicant; and
- (c) the Minister of Mines and Energy; and
- (d) the Minister,

may desire to make to him, and such other evidence and submissions as he thinks fit to receive, the arbitrator may—

- (e) affirm, vary or reverse the decision of Anangu Pitjantjatjara Yankunytjatjara;  
or
  - (f) where no decision has been made by Anangu Pitjantjatjara Yankunytjatjara upon the application—determine the application as the arbitrator thinks fit.
- (14a) The arbitrator may, if the arbitrator thinks fit, award against the applicant and in favour of Anangu Pitjantjatjara Yankunytjatjara an amount that represents, in the arbitrator's opinion, the reasonable costs and expenses incurred by Anangu Pitjantjatjara Yankunytjatjara in relation to the arbitration.
- (14b) An amount awarded under subsection (14a) may be recovered by Anangu Pitjantjatjara Yankunytjatjara as a debt.
- (15) In arriving at his determination, the arbitrator shall have regard to—
- (a) the effect of the grant of the mining tenement upon—
    - (i) the preservation and protection of Anangu ways-of-life, culture and tradition;
    - (ii) the interests, proposals, opinions and wishes of Anangu in relation to the management, use and control of the lands;
    - (iii) the growth and development of Anangu social, cultural and economic structures;
    - (iv) freedom of access by Anangu to the lands and their freedom to carry out on the lands rites, ceremonies and other activities in accordance with Anangu traditions; and
  - (b) the suitability of the applicant to carry out the proposed mining operations and his capacity, in carrying out those operations, to minimise disturbance to Anangu and the lands; and
  - (c) the preservation of the natural environment; and
  - (d) the economic and other significance of the operations to the State and Australia.
- (16) The arbitrator shall hear and determine the arbitration as expeditiously as possible.
- (17) A determination under this section is binding upon Anangu Pitjantjatjara Yankunytjatjara, the applicant and the Crown.
- (18) The *Arbitration Act 1891* does not apply to an arbitration under this section.
- (19) This section does not apply in relation to prospecting or mining for precious stones on the Mintabie precious stones field.
- (20) Where a person applies under this section for permission to prospect and mine for precious stones, and the proposed mining operations are to be carried out within a prescribed area, no compensation, or other consideration, shall be paid or given to Anangu Pitjantjatjara Yankunytjatjara under or in respect of a permission granted under this section.

- (21) No regulation prescribing an area for the purposes of subsection (20) shall be made unless—
- (a) the area to be prescribed has been delineated or otherwise identified by plan, photograph or other document; and
  - (b) the plan, photograph or other document has been deposited in the General Registry Office by the Minister of Mines and Energy with the consent of Anangu Pitjantjatjara Yankunytjatjara,
- and any such regulation may be made by reference to a plan, photograph or other document so deposited.

## 21—Interaction of this Act and Mining and Petroleum Acts

- (1) Where prospecting or mining is permitted upon the lands in pursuance of this Division, the person in whose favour the permission was granted and his agents, contractors and employees may, subject to the conditions (if any) upon which the permission was granted, and to the provisions of the *Mining Act 1971* or the *Petroleum Act 1940*, as the case may require (but without requiring any further permission or authority to enter the lands under the provisions of either of those Acts), enter the lands for the purpose of prospecting or mining.
- (2) A mining tenement shall not be granted in respect of the lands or a part of the lands except to a person who has permission to carry out mining operations on the lands under this Division, but this Act does not prevent the taking of any step under the *Mining Act* or the *Petroleum Act* antecedent to the grant of a mining tenement.
- (3) Before a mining tenement is granted in pursuance of the *Mining Act* or the *Petroleum Act* in relation to the lands or a part of the lands, the Minister administering the relevant Act shall afford Anangu Pitjantjatjara Yankunytjatjara a reasonable opportunity to make submissions relating to the conditions subject to which the tenement should be granted.
- (4) If a person—
  - (a) makes a payment or gives other consideration in contravention of section 23; or
  - (b) in relation to—
    - (i) obtaining the permission of Anangu Pitjantjatjara Yankunytjatjara for the carrying out of mining operations on the lands; or
    - (ii) the carrying out or proposed carrying out of mining operations on the lands,

makes a payment, or gives some other consideration, to Anangu Pitjantjatjara Yankunytjatjara (not being a payment or consideration otherwise permitted or provided for in this Act) otherwise than in conformity with—

    - (iii) conditions imposed by Anangu Pitjantjatjara Yankunytjatjara under this Division in granting its permission for the carrying out of the mining operations; or
    - (iv) conditions determined or approved by an arbitrator under this Division; or

- (v) an agreement of which the Minister of Mines and Energy has been notified under this Division,

then—

- (c) the amount of the payment, or the value of the consideration, is recoverable as a debt due to the Crown; and
- (d) —
  - (i) no mining tenement in respect of the lands will be granted to the person and the person is precluded from applying for another mining tenement in respect of the lands for the period of three years; and
  - (ii) if a mining tenement in respect of the lands is held by the person, that tenement is cancelled.

## **22—Royalty**

- (1) Royalty paid in respect of minerals recovered from the lands shall be paid into a separate fund maintained by the Minister of Mines and Energy.
- (2) Subject to subsection (3), the royalty shall be applied as follows:
  - (a) one-third shall be paid to Anangu Pitjantjatjara Yankunytjatjara; and
  - (b) one-third shall be paid to the Minister to be applied towards the health, welfare and advancement of the Aboriginal inhabitants of the State generally; and
  - (c) one-third shall be paid into the General Revenue of the State.
- (3) If the income of the fund maintained under subsection (1) exceeds in any financial year the prescribed limit, the excess shall be paid in full into the General Revenue of the State.
- (4) No moneys shall be paid out of the fund maintained under subsection (1) unless a regulation is in force prescribing a limit for the purposes of subsection (3).
- (5) In this section—

*royalty* means royalty payable under the *Mining Act 1971* or the *Petroleum Act 1940*.

## **23—Offence in relation to obtaining permission to carry out mining operations**

- (1) A person must not, without the consent of the relevant Minister, give, offer or agree to give a payment or other consideration to another person (not being a payment or consideration otherwise permitted or provided for in this Act) in connection with obtaining the permission of Anangu Pitjantjatjara Yankunytjatjara to carry out mining operations on the lands.

Maximum penalty: \$50 000 or imprisonment for 10 years.

- (2) In this section—

*relevant Minister*, in relation to a payment or consideration, means—

- (a) if the payment or consideration is in connection with mining operations authorised under the *Mining Act 1971*—the Minister responsible for the administration of that Act; or

- (b) if the payment or consideration is in connection with mining operations authorised under the *Petroleum and Geothermal Energy Act 2000*—the Minister responsible for the administration of that Act.

#### **24—Certain payments or other consideration to Anangu Pitjantjatjara Yankunytjatjara must represent fair compensation**

- (1) This section applies to payments made, or to be made, or consideration given, or to be given, to Anangu Pitjantjatjara Yankunytjatjara (not being a payment of royalty under section 22) in respect of the carrying out or proposed carrying out of mining operations on the lands.
- (2) A payment or consideration to which this section applies must be reasonably proportioned to the disturbance to the lands, Anangu, and their ways-of-life, that has resulted or is likely to result from the grant of the relevant mining tenement.
- (3) A person who makes or gives, or agrees to make or give, a payment or consideration to which this section applies shall, within fourteen days of the date of making or giving the payment or consideration, or entering into the agreement, notify the Minister of Mines and Energy of the amount or value of the payment or consideration, or of the terms of the agreement.

Maximum penalty: \$2 000.

### **Division 4—Mintabie precious stones field**

#### **25—Interpretation**

In this Division—

*Minister* means the Minister to whom the administration of the *Opal Mining Act 1995* is committed.

#### **26—Expiry of Division**

This Division will expire on the Mintabie precious stones field ceasing to be a precious stones field for the purposes of the *Opal Mining Act 1995*.

#### **27—Interaction of this Division with other Acts**

- (1) Subject to subsection (2), this Division does not derogate from the provisions of the *Mining Act 1971* or the *Opal Mining Act 1995*.
- (2) Despite the provisions of the *Opal Mining Act 1995*, the consent of Anangu Pitjantjatjara Yankunytjatjara is not required in relation to the pegging out of a precious stones claim on the Mintabie precious stones field.
- (3) The *Retail and Commercial Leases Act 1995* and the *Residential Tenancies Act 1995* do not apply in relation to premises or land in the Mintabie township lease area.

#### **28—Delegation**

- (1) The Minister may delegate a function or power of the Minister under this Division to—
  - (a) the Director; or

- (b) any other person or body (including a person for the time being holding or acting in a specified office or position).
- (2) A delegation under this section—
  - (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the power of the delegator to act in a matter; and
  - (d) is revocable at will.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.
- (4) In legal proceedings, an apparently genuine certificate, purportedly signed by the Minister or the Director containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.
- (5) In this section—

*Director* has the same meaning as in the *Opal Mining Act 1995*.

## **29—Delegation of power to permit entry to Mintabie precious stones field**

- (1) Despite sections 9F and 19(3), the Executive Board may delegate to any person or body (including a person for the time being holding or acting in a specified office or position) the power to grant permission under this Act in relation to entry of persons to the Mintabie precious stones field.
- (2) A delegation under this section—
  - (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the power of the delegator to act in a matter; and
  - (d) is revocable at will.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.
- (4) In legal proceedings, an apparently genuine certificate, purportedly signed by Anangu Pitjantjatjara Yankunytjatjara containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.
- (5) Despite section 19(3), if the Executive Board makes a delegation under this section, an application for permission to enter the Mintabie precious stones field may be made in a manner and form determined by the Executive Board.

## **29A—Inspection of Mintabie Township Lease Agreement**

- (1) A person is entitled to inspect (without charge) the Mintabie Township Lease Agreement—
  - (a) at the places on the lands, and during the times, determined by the Executive Board; and

- (b) during ordinary office hours at—
    - (i) the principal office of Anangu Pitjantjatjara Yankunytjatjara; and
    - (ii) the office of the Department of Primary Industries and Resources SA located at Coober Pedy; and
  - (c) on a website determined by the Minister.
- (2) A person is entitled, on payment of the fee prescribed by the regulations, to a copy of the Mintabie Township Lease Agreement.

### **29B—Walatina leases not to apply to Mintabie township**

- (1) Despite any other Act or law, the Walatina leases do not apply to land in the Mintabie township lease area.
- (2) To avoid doubt, on the expiry of this Division, the land constituting the Mintabie township lease area will revert to being subject to the Walatina leases.
- (3) In this section—

*Walatina leases* means lease number 7411869 and lease number 7411869A registered on the Certificate of Title for the lands, the lessee in relation to which is the Walatina Aboriginal Corporation.

**Note—**

The Certificate of Title for the lands is Volume 4183 Folio 627.

### **29C—Entry to Mintabie precious stones field etc**

- (1) A person is not entitled to enter or remain on the Mintabie precious stones field unless he or she—
  - (a) has a right or permission under another provision of this Act to do so; or
  - (b) is a person to whom subsection (2) applies.
- (2) Subject to this section, the following persons are entitled to enter and remain on the Mintabie precious stones field without permission under another provision of this Act:
  - (a) a person who holds a Mintabie precious stones prospecting permit, or a precious stones tenement on the Mintabie precious stones field;
  - (b) a person, approved by the Minister, who is the spouse or domestic partner, or parent or child, of a person who is entitled to be on the field under paragraph (a);
  - (c) a person who holds a current licence under section 29D or a person specified on such a licence;
  - (d) a person working (whether paid or otherwise) at the Mintabie School;
  - (e) a student enrolled at the Mintabie School, or a parent or guardian of such a student, for purposes related to the attendance at the school by the student;
  - (f) a person working (whether paid or otherwise) at a school other than the Mintabie School, a student enrolled at such a school or a parent or guardian of such a student, attending the Mintabie School for education purposes;

- (g) a person who is an employee of the Royal Flying Doctor Service Inc. and who is entering and remaining on the lands for the purposes of providing medical or dental treatment in the course of that employment;
  - (h) a person, approved by the Minister, who is entering and remaining on the lands for the purposes of providing health care, religious instruction or pastoral care or community services to, or for the benefit of, residents in the Mintabie township lease area;
  - (i) a person, approved by the Minister, who is a member of a class of persons declared by the Minister, after consultation with the Mintabie Miners Progress Association and with the approval of Anangu Pitjantjatjara Yankunytjatjara, by notice in the Gazette to be a class of persons to which this subsection applies.
- (3) An application for approval under subsection (2)(b), (h) or (i) must—
- (a) be made in a manner and form determined by the Minister; and
  - (b) be accompanied by the prescribed fee; and
  - (c) be accompanied by any other information the Minister may require (including, without limiting this paragraph—
    - (i) in the case of an applicant who is of or above 18 years of age, information in relation to the criminal history of the applicant; or
    - (ii) in the case of an applicant who is a body corporate, information in relation to the criminal history of the applicant, or a director, officer or employee of the applicant).
- (4) An approval under subsection (2)(b), (h) or (i) may be subject to such conditions as the Minister thinks fit (but such conditions must not be inconsistent with the Mintabie Township Lease Agreement).
- (5) The Minister may, by notice in writing, vary or revoke an approval under subsection (2)(b), (h) or (i) on any grounds the Minister thinks fit (but such variation or revocation must not be inconsistent with the Mintabie Township Lease Agreement).
- (6) If a person proposes to enter the lands in pursuance of subsection (2)(h) or (i), reasonable notice of the time, place and purpose of the proposed entry must be given to Anangu Pitjantjatjara Yankunytjatjara.
- (7) If Anangu Pitjantjatjara Yankunytjatjara, by notice in writing to the Minister, objects to an approved person entering or remaining upon the lands under subsection (2)(h) or (i), the Minister must revoke or vary the approval in order to give effect to the objection unless the Minister is satisfied that there are sufficient reasons why the authorisation should continue despite the objection.
- (8) A person who is entitled under subsection (2) to enter and remain on the Mintabie precious stones field is entitled, without permission under this Act, to use a prescribed road for the purpose of entering and leaving the field.



(9) In this section—

**close personal relationship** means the relationship between 2 adult persons (whether or not related by family and irrespective of their gender) who live together as a couple on a genuine domestic basis, but does not include—

- (a) the relationship between a legally married couple; or
- (b) a relationship where 1 of the persons provides the other with domestic support or personal care (or both) for fee or reward, or on behalf of some other person or an organisation of whatever kind;

**Note—**

Two persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.

**domestic partner**—a person is the domestic partner of another if he or she lives with the other in a close personal relationship;

**prescribed road** means—

- (a) Department of Transport road 10024 (being the road from the Stuart Highway to Mintabie and commonly known as "Mintabie Road"); and
- (b) any other road declared by the regulations to be within the ambit of this definition;

**spouse**—a person is the spouse of another if they are legally married.

## **29D—Minister may issue etc licence to occupy land in Mintabie township lease area**

(1) Subject to this section, the Minister may, on application by a person, issue or renew a licence entitling the applicant and any other person specified in the licence to occupy specified land within the Mintabie township lease area during the term of the Mintabie Township Lease Agreement.

**Note—**

The Mintabie Township Lease Agreement sets out some of the grounds on which an application may be refused.

- (2) A licence may be subject to such conditions as the Minister thinks fit.
- (3) The Minister may, on application by the holder of a licence or on the Minister's own motion—
  - (a) revoke a licence; or
  - (b) vary the conditions of a licence by the addition, substitution or deletion of 1 or more conditions.
- (4) A revocation or variation under subsection (3)—
  - (a) must be by notice in writing given to the holder of the licence; and
  - (b) takes effect when the notice is given to the holder of the licence (or on such later date as may be specified in the notice).
- (5) An application under subsection (1) must—
  - (a) be made in a manner and form determined by the Minister; and

- (b) be accompanied by any relevant fee or fees set out in, or determined in accordance with, the Mintabie Township Lease Agreement; and
  - (c) be accompanied by any other information that the Minister may require (including, without limiting this paragraph—
    - (i) —
      - (A) in the case of an applicant who is of or above 18 years of age, information in relation to the criminal history of the applicant; or
      - (B) in the case of an applicant who is a body corporate, information in relation to the criminal history of the applicant, or a director, officer or employee of the applicant; and
    - (ii) information in relation to the criminal history of any other person of or above 18 years of age who proposes to occupy land within the Mintabie township lease area pursuant to the licence if the application is granted).
- (6) The Minister must not issue or renew a licence unless the applicant—
- (a) —
    - (i) is entitled to enter and remain on the Mintabie precious stones field under section 29C; or
    - (ii) is carrying on, or proposes to carry on, a lawful business or activity in the Mintabie township lease area (being a business or activity that is approved in accordance with the Mintabie Township Lease Agreement); or
    - (iii) is a member of a class of persons declared by the Minister, after consultation with the Mintabie Miners Progress Association and with the approval of Anangu Pitjantjatjara Yankunytjatjara, by notice in the Gazette, to be a class of persons to whom a licence can be issued; and
  - (b) resides or proposes to reside in the Mintabie township lease area.
- (7) The Minister must not issue a licence to, or renew the licence of, a person who is prohibited under this Act from entering or remaining on the Mintabie precious stones field, and, if such an order is made against a licensee, the Minister must revoke his or her licence.
- (8) The Minister must not specify a person on a licence if the person is prohibited under this Act from entering or remaining on the Mintabie precious stones field, and, if such an order is made against a person so specified, the Minister must vary the relevant licence to remove that person from the licence.
- (9) A licence is not transferable nor may any of the rights conferred by the licence be assigned.

- (10) A person to whom a licence has been issued is entitled, without permission under this Act—
- (a) to use and maintain the bore and water distribution system by which water is provided on the Mintabie precious stones field; and
  - (b) to drill a further bore or bores (either in addition to or in substitution for the present bore) on a site to be agreed with Anangu Pitjantjatjara Yankunytjatjara (which agreement must not be unreasonably withheld) and to install and maintain such pumps, pipes and other equipment as may be necessary to connect it to the water distribution system, and to have such access to the lands as is necessary for those purposes.
- (11) The Minister must, if the Minister issues a licence, notify Anangu Pitjantjatjara Yankunytjatjara in accordance with the Mintabie Township Lease Agreement of—
- (a) the name of the licensee and any other person specified in the licence; and
  - (b) the land to which the licence relates; and
  - (c) any conditions of the licence.
- (12) For the purposes of this section, a reference to reside includes, in the case of a body corporate, a reference to occupy premises.
- (13) The Minister must not, in exercising a power or function under this section, act in a manner that is inconsistent with the Mintabie Township Lease Agreement.

### **29E—Crown etc not required to keep premises in good repair**

Despite any other Act, law, agreement or arrangement, the Crown, Anangu Pitjantjatjara Yankunytjatjara or the Mintabie Miners Progress Association are not required to keep premises in the Mintabie township lease area in good repair.

### **29F—Offence to reside etc on Mintabie township lease area without licence**

- (1) A person must not reside in the Mintabie township lease area except in accordance with a licence under section 29D.
- Maximum penalty: \$2 000 plus \$500 for each day during which the convicted person resided in the Mintabie township lease area in contravention of this subsection.
- (2) Subsection (1) does not apply to a person who is authorised to reside or remain on the lands under this Act other than under this Division.

**Note—**

See Part 3 Division 2.

- (3) A person must not operate a business in the Mintabie township lease area except in accordance with a licence under section 29D.
- Maximum penalty: \$2 000 plus \$500 for each day during which the convicted person operated the business in contravention of this subsection.
- (4) For the purposes of this section, a reference to reside includes, in the case of a body corporate, a reference to occupy premises.
- (5) In this section—
- reside* includes to remain in the Mintabie township lease area for a period of not less than 24 hours.

### **29G—Review of certain decisions of Minister**

- (1) A person affected by a decision of the Minister under section 29C or section 29D may, by notice in writing, ask the Minister to review the decision.
- (2) An application under subsection (1)—
  - (a) must be made within 14 days after the person was notified of the decision; and
  - (b) must be made in a manner and form determined by the Minister; and
  - (c) must be accompanied by a statement—
    - (i) outlining the decision that the person requests be reviewed; and
    - (ii) setting out the outcome sought by the person as a result of the review; and
    - (iii) setting out any information the person wishes the Minister to take into account in reviewing the decision.
- (3) The Minister may, in his or her discretion, extend the time fixed for making an application for review of a decision.
- (4) The Minister must, before reviewing a decision—
  - (a) advise Anangu Pitjantjatjara Yankunytjatjara and the Mintabie Miners Progress Association of the application; and
  - (b) have regard to any recommendation made in relation to the application by Anangu Pitjantjatjara Yankunytjatjara and the Mintabie Miners Progress Association within 14 days (or such later time as may be specified by the Minister) of being so advised.
- (5) The Minister must, as soon as is reasonably practicable after receiving an application under subsection (1), review the initial decision and—
  - (a) confirm the initial decision; or
  - (b) vary the initial decision; or
  - (c) set aside the initial decision and substitute a new decision.

### **29H—Exclusion of certain persons from the Mintabie precious stones field**

- (1) A Magistrates Court may, on the application of the Minister, Anangu Pitjantjatjara Yankunytjatjara, or the Mintabie Miners Progress Association, make an order prohibiting a person from entering or remaining on the Mintabie precious stones field.
- (2) An order must not be made against a person under subsection (1) unless the person—
  - (a) has, after 2 October 1981, been found guilty of—
    - (i) an offence of a sexual nature; or
    - (ii) an offence involving wilful interference with an Aboriginal sacred site; or
  - (b) has, in the 10 years preceding the date on which the application is made, been found guilty of—
    - (i) an offence involving violence or a breach of the peace; or

- (ii) an offence involving the unlawful sale of a motor vehicle; or
- (iii) larceny; or
- (iv) an offence involving the unlawful sale of liquor or a regulated substance; or
- (v) an offence against Part 5 of the *Controlled Substances Act 1984*; or
- (c) has acted in a manner prejudicial to—
  - (i) the welfare of an Aboriginal individual or group; or
  - (ii) the welfare of those who are lawfully on the Mintabie precious stones field under this Act.
- (3) A person who contravenes an order under subsection (1) is guilty of an offence.  
Maximum penalty: Imprisonment for 2 years or \$10 000.
- (4) The court that made an order under subsection (1), or any court that could have made the order, may, on the application of the person against whom the order was made, revoke the order, but it must not do so unless it has first given the Minister, Anangu Pitjantjatjara Yankunytjatjara and the Mintabie Miners Progress Association a reasonable opportunity to be heard on the matter.

## **Division 5—Right of the Crown to continue in occupation of certain parts of the lands**

### **30—Right of the Crown to continue its occupation of certain land**

Where before the commencement of this Act the Crown occupied a part of the lands for purposes connected with the health, education, welfare or advancement of Anangu, the Crown may continue to occupy that part of the lands, for a period of up to fifty years, for the same or similar purposes and without payment of rent or compensation to Anangu Pitjantjatjara Yankunytjatjara.

## **Division 6—Construction of roads by the Commissioner of Highways**

### **31—Consent of Anangu Pitjantjatjara Yankunytjatjara required for road works**

- (1) The Commissioner of Highways may carry out road works upon the lands with the consent of Anangu Pitjantjatjara Yankunytjatjara.
- (2) The consent of Anangu Pitjantjatjara Yankunytjatjara may be given subject to such conditions as Anangu Pitjantjatjara Yankunytjatjara thinks fit.
- (3) Anangu Pitjantjatjara Yankunytjatjara shall not withhold its consent to the construction or re-construction of a road referred to in Schedule 2, but this subsection does not prejudice the right of Anangu Pitjantjatjara Yankunytjatjara to negotiate conditions affecting the location of the road, the road works, or ancillary or associated works.

### **32—Proposals to carry out road works and arbitration of disputes**

- (1) Where the Commissioner of Highways desires to carry out road works on the lands, he shall submit to Anangu Pitjantjatjara Yankunytjatjara proposals containing—
  - (a) a plan describing the land on which the road works are to be carried out; and
  - (b) a description of all ancillary or associated works that are to be carried out and of the areas in which those ancillary or associated works are to be carried out; and
  - (c) a description of the access roads to be used for the purpose of the road works, or the ancillary or associated works; and
  - (d) a general description of the areas in which gravel or stone is to be quarried for the purpose of the road works; and
  - (e) such other information as Anangu Pitjantjatjara Yankunytjatjara may reasonably require.
- (2) If the Commissioner and Anangu Pitjantjatjara Yankunytjatjara are unable to agree on the proposals, or on some modified form of the proposals, the Commissioner may submit the differences to arbitration.
- (3) The arbitrator shall be the arbitrator appointed in pursuance of section 20.
- (4) The arbitrator is empowered to determine any matter in dispute and his determination shall be binding on the Commissioner and on Anangu Pitjantjatjara Yankunytjatjara.
- (5) No compensation is payable to Anangu Pitjantjatjara Yankunytjatjara in respect of loss or damage arising from road works where those road works are carried out in relation to the roads referred to in Schedule 2 and in accordance with conditions agreed by Anangu Pitjantjatjara Yankunytjatjara and the Commissioner, or determined by the arbitrator.
- (6) For the purposes of this section, the document entitled "Proposal for the Establishment of a Road Construction Corridor and the Construction of the new Stuart Highway" executed by the Commissioner of Highways and the Pitjantjatjara Council Incorporated, deposited in the General Registry Office and numbered 2293 of 1980, shall be deemed to constitute proposals agreed upon by Anangu Pitjantjatjara Yankunytjatjara and the Commissioner.

### **33—Road reserves**

- (1) The area comprised within one hundred metres to each side of the centre line of the roads referred to in Schedule 2 (the centre line being ascertained by reference to the road as constructed) constitutes a road reserve.
- (2) The Commissioner of Highways is entitled to unrestricted use of a road reserve for purposes related to road works.
- (3) A member of the public shall be entitled to free and unrestricted access to any of the roads referred to in Schedule 2 and to land comprised in a road reserve.

### **34—Consent not required for maintenance or repair of roads referred to in Schedule 2**

The provisions of sections 31 and 32 shall not apply to the maintenance or repair (being maintenance or repair not involving re-alignment) of a road referred to in Schedule 2 provided that materials used in the course of the maintenance or repair of the road are not taken from any part of the lands that lies outside the road reserve.

## **Part 4—Disputes**

### **35—Conciliator**

- (1) There will be a conciliator for the lands.
- (2) The conciliator will be appointed by the Minister, with the approval of Anangu Pitjantjatjara Yankunytjatjara, for a term, and on conditions, determined by the Minister.

### **36—Disputes**

- (1) An Anangu who is aggrieved by a decision or action of the Executive Board may appeal to the conciliator against that decision or action.
  - (1a) The conciliator may refuse to hear an appeal if the conciliator considers that the appeal is frivolous or vexatious.
  - (1b) Before hearing an appeal, the conciliator should, so far as is practicable, endeavour to resolve the dispute by mediation between the parties.
- (2) The conciliator—
  - (a) shall hear the appeal at some suitable place upon the lands; and
  - (b) shall conduct the hearing as expeditiously as possible and without undue formality.
- (3) The conciliator is not bound by the rules of evidence in proceedings under this section, but may inform herself or himself in such manner as she or he thinks fit.
- (4) In proceedings under this section, the conciliator—
  - (a) must seek to further the objects of the Act; and
  - (b) must have regard to, and where appropriate give effect to, the customs and traditions of the Pitjantjatjara, Yankunytjatjara or Ngaanyatjarra people (as the case requires); and
  - (c) must act fairly and consider the need of the Executive Board to balance the interests of all Anangu.
- (5) The conciliator may in proceedings under this section—
  - (a) give such directions as she or he considers just or expedient to resolve any matters in dispute; or
  - (b) refer the matter back to Anangu Pitjantjatjara Yankunytjatjara to be further dealt with in accordance with his directions.
- (6) A direction under this section that is inconsistent with this or any other Act or law, or the constitution, is, to the extent of the inconsistency, void and of no effect.

### **37—Order compelling compliance with direction of conciliator**

- (1) If a person or body refuses or fails to comply with a direction of the conciliator, any party to the proceedings before the conciliator may apply to the District Court for an order to compel that person or body to comply with the direction.
- (2) On an application under this section, the District Court must, unless satisfied that the direction of the conciliator is unjust or unreasonable, make an order requiring the person or body against whom the direction was made to comply with the direction.
- (3) Proceedings under this section shall be heard at some suitable place upon the lands, and shall be conducted as expeditiously as possible and without undue formality.

## **Part 5—Miscellaneous**

### **39—Power of court to order compensation in certain cases**

Where a person is convicted of an offence against this Act or any other Act, and it appears to the court by which that person is convicted that Anangu Pitjantjatjara Yankunytjatjara has suffered damage to its property as a result of the commission of the offence, the court may order the convicted person to pay such compensation to Anangu Pitjantjatjara Yankunytjatjara as the court considers just.

### **40—Exemption of lands from land tax**

No land tax is payable upon the lands.

### **41—Financial provision**

The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes.

### **42—Non-application of Outback Areas Community Development Trust Act**

- (1) The *Outback Areas Community Development Trust Act 1978* does not apply to the lands.
- (2) Notwithstanding subsection (1), the Outback Areas Community Development Trust may expend moneys for the benefit of residents of the Mintabie precious stones field.

### **42A—Interaction between this Act and certain other Acts and laws**

- (1) For the purpose of determining whether a particular part of the lands is a public place within the meaning of some other Act or law, any restrictions upon access to the lands or that place arising under this Act shall be disregarded.
- (2) A reference in the *Road Traffic Act 1961* or the *Motor Vehicles Act 1959* to a road extends to any road on the lands.

### **42B—Depasturing of stock**

A provision of the *Pastoral Land Management and Conservation Act 1989* relating to overstocking that applies to holders of pastoral leases under that Act applies in respect of the depasturing of stock upon the lands as if—

- (a) if a lease or licence has been granted by Anangu Pitjantjatjara Yankunytjatjara for the purpose of grazing livestock on part of the lands—the lessee or licensee; or



(b) in any other case—Anangu Pitjantjatjara Yankunytjatjara,  
were the holder of a pastoral lease under that Act in respect of the lands or part of the  
lands.

#### **42C—Protection from personal liability**

- (1) No personal civil liability is incurred for an act or omission by—
  - (a) a member of the Executive Board; or
  - (b) the Director of Administration or the General Manager or other employee of Anangu Pitjantjatjara Yankunytjatjara; or
  - (c) an Administrator under Part 2 Division 4B; or
  - (d) any other person engaged in the administration of this Act,in good faith in the performance or purported performance of functions or duties under this Act.
- (2) A liability that would, but for subclause (1), lie against a person, lies instead against Anangu Pitjantjatjara Yankunytjatjara.
- (3) This section does not prejudice rights of action of the Executive Board itself in respect of an act or omission not in good faith.

#### **42D—Offences relating to the supply of regulated substances**

- (1) A person must not, on the lands—
  - (a) sell or supply a regulated substance to another person; or
  - (b) take part in the sale or supply of a regulated substance to another person; or
  - (c) have a regulated substance in his or her possession for the purpose of the sale or supply of the regulated substance to another person,knowing, or having reason to suspect, the regulated substance will be inhaled or consumed by any person.  
Maximum penalty: \$50 000 or imprisonment for 10 years.
- (2) A police officer may seize and retain any motor vehicle that the police officer suspects on reasonable grounds—
  - (a) is being, or has been or is intended to be used for, or in connection with, an offence against this section; or
  - (b) affords evidence of an offence against this section.
- (3) If a motor vehicle is seized under this section, the following provisions apply:
  - (a) the motor vehicle is to be held by the Crown pending proceedings against a person for an offence against this section, unless the Minister, on application, authorises its release to the person from whom it was seized or any person who had legal title to it at the time of its seizure, subject to such conditions as the Minister thinks fit;
  - (b) if the person is convicted of the offence, the motor vehicle is, by force of this section, forfeited to the Crown—

- (i) if an appeal has not been lodged within the period provided for lodging an appeal against the conviction—at the end of the period; or
    - (ii) if an appeal has been lodged within the period provided for lodging an appeal against the conviction—when the appeal lapses or is finally determined;
  - (c) where the motor vehicle is forfeited to the Crown under this section, it may be disposed of by way of sale, destruction or otherwise as the Minister directs;
  - (d) the proceeds of any sale under paragraph (c) (less any costs associated with towing, storage or sale of the motor vehicle) must be paid to Anangu Pitjantjatjara Yankunytjatjara.
- (4) For the purposes of this section, a reference to a police officer includes a reference to a special constable authorised by a member of the police force to seize a motor vehicle under this section.

### **43—Regulations**

- (1) The Governor may make regulations—
- (a) regulating, restricting or prohibiting the depasturing of stock upon any specified part of the lands;
  - (b) regulating, restricting or prohibiting any activity on the lands that may have adverse environmental consequences;
  - (e) prescribing other matters contemplated by this Act, or necessary or expedient for the purposes of this Act.
- (2) A regulation shall not be made under subsection (1)(b) except upon the recommendation of Anangu Pitjantjatjara Yankunytjatjara.
- (3) Anangu Pitjantjatjara Yankunytjatjara may make by-laws—
- (a) regulating, restricting or prohibiting the consumption, possession, sale or supply of alcoholic liquor on the lands;
  - (b) prohibiting the inhalation or consumption of any regulated substance on the lands and prohibiting the possession of any regulated substance on the lands for the purpose of inhalation or consumption;
  - (c) providing for the confiscation, in circumstances in which a contravention of a by-law under paragraph (a) or (b) is reasonably suspected, of alcoholic liquor or any regulated substance to which the suspected contravention relates;
  - (d) providing for the treatment or rehabilitation (or both) of any person affected by the misuse of alcoholic liquor or any regulated substance;
  - (e) prohibiting specified forms of gambling on the lands;
  - (f) providing for any other matter that is prescribed by the regulations as a matter in relation to which by-laws may be made.
- (4) The operation of a by-law is restricted to the lands.
- (5) Where Anangu Pitjantjatjara Yankunytjatjara proposes to make, alter or repeal a by-law, it must give reasonable notice in writing of the proposal to the Minister.

- (6) A by-law made under this section—
- (a) must be submitted to the Governor for confirmation; and
  - (b) is subject to disallowance by Parliament.
- (7) A police officer may seize and retain any motor vehicle that the police officer suspects on reasonable grounds—
- (a) is being, or has been or is intended to be used for, or in connection with the sale or supply of alcohol liquor in contravention of a by-law; or
  - (b) affords evidence of such a contravention.
- (8) If a motor vehicle is seized under subsection (7), the following provisions apply:
- (a) the motor vehicle is to be held by the Crown pending proceedings against a person for the contravention in respect of which the motor vehicle was seized, unless the Minister, on application, authorises its release to the person from whom it was seized or any person who had legal title to it at the time of its seizure, subject to such conditions as the Minister thinks fit;
  - (b) if the person is convicted of the contravention, the motor vehicle is, by force of this section, forfeited to the Crown—
    - (i) if an appeal has not been lodged within the period provided for lodging an appeal against the conviction—at the end of the period; or
    - (ii) if an appeal has been lodged within the period provided for lodging an appeal against the conviction—when the appeal lapses or is finally determined;
  - (c) where the motor vehicle is forfeited to the Crown under this section, it may be disposed of by way of sale, destruction or otherwise as the Minister directs;
  - (d) the proceeds of any sale under paragraph (c) (less any costs associated with towing, storage or sale of the motor vehicle) must be paid to Anangu Pitjantjatjara Yankunytjatjara.
- (10) A court by which a person is found to have been unlawfully in possession of alcoholic liquor or a regulated substance for his or her own use in contravention of the by-laws may, subject to the by-laws, order that person to undergo treatment or participate in a rehabilitation programme prescribed by the by-laws.
- (11) Subject to subsection (12), a person who contravenes or fails to comply with a regulation or by-law is liable to a penalty as follows:
- (a) if the regulation or by-law specifies a penalty (which must not exceed \$2 000)—the penalty so specified; or
  - (b) if no penalty is specified—a fine of \$2 000.
- (12) A person who contravenes a by-law regulating, restricting or prohibiting the sale or supply of alcohol liquor is guilty of an offence.  
Maximum penalty: \$2 000 or imprisonment for 2 years.
- (13) For the purposes of this section, a reference to a police officer includes a reference to a special constable authorised by a member of the police force to seize a motor vehicle under this section.

## Schedule 1

- (a) The North West Reserve, blocks 915, 948, 950, 953, 964, 1018, 1019, 1031, 1032 and 1217, Out of Hundreds.
- (b) Section 462, Out of Hundreds.
- (c) Pastoral blocks 1033, 1058, 1060 and 1074 and Section 1280, Out of Hundreds.
- (d) Pastoral blocks 863, 900, 907, 908 and 1165, Out of Hundreds.
- (e) Pastoral blocks 1034 and 1202, Out of Hundreds.
- (f) Pastoral blocks 1036, 1037, 1038 and 1077, Out of Hundreds.
- (g) The land in respect of which partial surrender No. 4603197 and partial surrender No. 4603198 were registered in the Register of Crown Leases.

## Schedule 2

- 1 The Stuart Highway.
- 2 The Oodnadatta to Granite Downs Road.

## Schedule 3—Rules of election under section 9

### Part 1—Preliminary

#### 1—Interpretation

In this Schedule—

*Court* means the Court of Disputed Returns constituted under this Schedule;

*electoral official* means the returning officer or an electoral official appointed by the returning officer under clause 3(2);

*relevant electoral official* means an electoral official appointed to be responsible for a particular electorate in accordance with clause 3(2);

*returning officer*—see clause 3(1).

### Part 2—General rules relating to an election

#### 2—Elections

An election under section 9 will consist of an election of 1 member of the Executive Board from each of the following community groups (and each community group will constitute an *electorate* for the election):

- (a) Pipalyatjara/Kalka;
- (b) Watarru;
- (c) Kanypi/Nyapari/Angatja;
- (d) Amata/Tjurma;
- (e) Kaltjiti/Irintata/Watinuma;
- (f) Anilalya/Turkey Bore;

- (g) Pukatja/Yunyarinyi;
- (h) Mimili;
- (i) Iwantja;
- (j) Amuruna/Railway Bore/Witjintitja/Wallatinna.

### **3—Returning officer**

- (1) The Electoral Commissioner will be the returning officer for the purposes of an election under section 9.
- (2) The returning officer must appoint a relevant electoral official in relation to each electorate, and may appoint one or more other electoral officials to assist in the conduct of an election.
- (3) Without limiting the generality of subclause (2), an electoral official—
  - (a) may hand out nomination forms to members of the community; and
  - (b) may receive nomination forms up to the close of nominations; and
  - (c) may take a photograph of each candidate and write the name of the candidate on the back.

### **4—Election timetable**

- (1) Subject to this Schedule, voting will be held in each electorate during the period from 9.30 am until 3 pm during a period determined by the returning officer (which must be the same period in each electorate).
- (2) A person may only vote during the times, and during the period, referred to in subclause (1).
- (3) Subject to this Schedule, the period determined by the returning officer during which voting may be held must be not less than 1 day and not more than 7 days.

### **5—Distribution of information**

- (1) The returning officer will be responsible for publicity of an election in each electorate.
- (2) Publicity of an election under these rules must include—
  - (a) the description of the election process; and
  - (b) the period during which voting may take place; and
  - (c) the location or locations where—
    - (i) nominations will be called; and
    - (ii) voting will take place,in each electorate; and
  - (d) the eligibility of voters to one vote in the election during the period during which voting may take place.

## **6—Eligibility and nominations**

- (1) An Anangu of or above the age of 18 years who is a member of a community constituting an electorate will be eligible—
  - (a) to nominate for the office of the member of the Executive Board to be elected from the electorate; and
  - (b) to vote in an election held in relation to the electorate.
- (2) Nominations will be called in each electorate at a time and location or locations determined by the returning officer, and will close 7 days after the nominations are called.
- (3) A person wishing to nominate must nominate in writing and lodge their nomination with the relevant electoral official.
- (4) If, at the close of nominations, it appears that the same person has nominated for election to two or more offices, both or all the nominations are void.
- (5) If more than one person nominates in an election for a particular electorate, a photograph of each candidate will be taken and be used to assist voters during the voting process.
- (6) The relevant electoral official must cause all nomination forms and photographs of candidates (if any) to be sent to the returning officer in a manner determined by the returning officer (but so that the documents reach the returning officer within 7 days after the close of nominations).

## **7—Uncontested elections**

If only one nomination is received in relation to any office to be filled at an election under section 9, the relevant electoral official will declare the candidate duly elected to the office.

## **8—Voting**

- (1) If more than one nomination is received in relation to an office to be filled at an election under section 9, an election by secret ballot in relation to the office will be held in accordance with this Schedule during the period, and at a location or locations, determined by the returning officer (and such period should commence approximately 21 days after the nominations close).
- (2) Voting will be conducted by use of voting marbles placed in receptacles each bearing the name and the photograph of a candidate, and the method of voting will be first past the post.
- (3) The relevant electoral official must place the receptacles in a line, the order of which is to be determined by lot conducted by the electoral official in the presence of another person.
- (4) Each person wishing to vote must cast their vote in the presence of an electoral official (but otherwise in private) by placing a voting marble in the receptacle that bears the name and the photograph of the candidate of their choice.
- (5) A person may, at an election, only cast 1 vote in relation to the election of members of the Executive Board.
- (6) To avoid doubt, voting is not compulsory.

## 9—Counting of votes

- (1) The following provisions relate to the counting of votes at an election:
  - (a) an electoral official must count the votes for each candidate;
  - (b) the candidate receiving the greatest number of votes will be elected;
  - (c) in the event of a tie, an electoral official will determine who is elected by placing the names of the drawn candidates into a receptacle and drawing one out (and the candidate drawn out will be elected).
- (2) A candidate may nominate a person (not being a candidate) to represent him or her during the counting of votes by signing a scrutineer's form (and the scrutineer may view the handing out of voting marbles and counting of votes, but must not view an elector voting).

## Part 3—Declaration of results

### 15—Provisional declarations

When the result of the election becomes apparent, the returning officer must make a provisional declaration of the result.

### 16—Recounts

- (1) At any time within 48 hours after the returning officer has made a provisional declaration, a candidate (not being a candidate in whose favour the provisional declaration was made) may, in a manner determined by the returning officer, request a recount of the votes cast in relation to the relevant vacancy and, in the event of a request being made, the returning officer must cause a recount of votes to be made unless the returning officer considers that there is no prospect that a recount would alter the result of the election.
- (2) The returning officer may, on his or her own initiative, during the period of 48 hours referred to in subclause (1), decide to conduct a recount of any votes cast in the election.
- (3) The following provisions apply to a recount:
  - (a) the returning officer should give the candidates reasonable notice of the time and place at which it is to be conducted;
  - (b) the returning officer may reverse a decision taken at the count;
  - (c) if the votes of two or more candidates are equal and one of them was excluded by lot at the count, the same candidate must be excluded at the recount.

### 17—Declaration of results and certificate

- (1) If the period for requesting a recount for an election expires without such a request having been made and the returning officer has not decided to initiate a recount, the returning officer must confirm the relevant provisional declarations, and immediately make out a return to the Minister certifying the election of specified candidates to specified offices.

- (2) If a recount is made, the returning officer must, according to the result of the recount—
- (a) confirm the relevant provisional declaration; or
  - (b) revoke the provisional declaration and make a final declaration in accordance with the result of the recount,
- and then immediately make out a return to the Minister certifying the result of the election accordingly.
- (3) The returning officer—
- (a) must notify all candidates, in writing, of the result of the election; and
  - (b) must within 1 month after the conclusion of the election cause the result of the election to be published—
    - (i) in the Gazette; and
    - (ii) in a newspaper circulating throughout the State; and
    - (iii) in any other manner determined by the Minister.
- (4) When the returning officer certifies the result of an election under subclause (1) or (2), the election of the candidate or candidates takes effect immediately.

## **Part 4—Disputed Returns**

### **18—Constitution of Court**

- (1) There will be a Court of Disputed Returns for the purposes of this Act.
- (2) The Court is constituted of a District Court Judge.
- (3) The Court, separately constituted under this clause, may sit contemporaneously to hear separate proceedings.
- (4) The Court is a court of record.
- (5) Subject to this Part, the procedure and powers of the Court are the same as those of the District Court when exercising its civil jurisdiction.

### **19—The clerk of the Court**

- (1) There will be a clerk of the Court appointed by the Chief Judge of the District Court.
- (2) The office of clerk of the Court may be held in conjunction with any other office.

### **20—Jurisdiction of the Court**

- (1) The Court has jurisdiction to hear and determine any petition addressed to it disputing the validity of an election under this Act.
- (2) The Court may not call in question the eligibility of a person—
  - (a) to nominate for the office of the member of the Executive Board to be elected from a particular electorate; or
  - (b) to vote in an election held in relation to a particular electorate,on the basis of whether or not they are an Anangu, or a member of a particular community group.



## 21—Procedure upon petition

- (1) A petition to the Court must—
  - (a) set out the facts relied on to invalidate the election; and
  - (b) set out the relief to which the petitioner claims to be entitled; and
  - (c) be signed by a candidate at the election in dispute or by an elector for that election; and
  - (d) be lodged with the clerk of the Court within 28 days after the conclusion of the election; and
  - (e) be accompanied by the prescribed amount as security for costs.
- (2) A copy of the petition must be served on—
  - (a) any person declared elected in the disputed election; and
  - (b) Anangu Pitjantjatjara Yankunytjatjara; and
  - (c) if it is alleged that the election is invalid on account of an act or omission of an electoral official—the returning officer.
- (3) If, having been served under subclause (2), a person or Anangu Pitjantjatjara Yankunytjatjara proposes to contest the petition, the person or Anangu Pitjantjatjara Yankunytjatjara must, within 14 days after service, or such further time as may be allowed by the Court (on application made either before or after the expiration of the period of 14 days), lodge with the clerk of the Court, and serve on the petitioner, a reply.
- (4) A reply must—
  - (a) set out the facts on which the applicant proposes to rely; and
  - (b) ask for any relief to which the applicant claims to be entitled; and
  - (c) be executed by—
    - (i) if the applicant is a natural person—the applicant; or
    - (ii) if the applicant is Anangu Pitjantjatjara Yankunytjatjara—Anangu Pitjantjatjara Yankunytjatjara.

## 22—Powers of the Court

- (1) The Court must sit as an open court, and its powers include the following:
  - (a) to adjourn;
  - (b) to compel the attendance of witnesses and the production of documents;
  - (c) to examine witnesses on oath, affirmation or declaration;
  - (d) with the consent of the parties to the proceedings, to receive evidence on affidavit or by statutory declaration;
  - (e) subject to this Act and the rules, to determine its procedure in each case;
  - (f) to declare—
    - (i) that a person who was returned as elected was not duly elected; and
    - (ii) that a candidate who was not returned as elected was duly elected;

- (g) to declare an election void;
  - (h) to dismiss or uphold a petition, in whole or in part;
  - (i) to amend or allow the amendment of a petition or reply;
  - (j) to punish contempt of its authority by fine or imprisonment.
- (2) The Court may exercise all or any of its powers under this clause on such grounds as the Court in its discretion thinks just and sufficient.
  - (3) The Court is not bound by the rules of evidence.
  - (4) The Court must act according to good conscience and the substantial merits of the case without regard to legal technicalities.
  - (5) A decision of the Court is final and without appeal.

### **23—Illegal practices**

- (1) The Court cannot declare an election void, or that a candidate returned as elected was not duly elected, on the ground of an illegal practice found by the Court to have been committed unless the Court is satisfied, on the balance of probabilities, that the result of the election was affected by the illegal practice.
- (2) If an illegal practice under section 9A(1)(a)(i) or 9A(2)(b) is found by the Court to have been committed, the illegal practice will be taken to have affected the result of the election unless the contrary is proved on the balance of probabilities.
- (3) No finding by the Court as to whether an illegal practice was committed constitutes a bar to criminal proceedings in relation to the illegal practice or may be admitted as evidence in such proceedings.
- (4) If the Court finds that an illegal practice occurred in relation to an election, the clerk of the Court must report the finding to the Minister.
- (5) In this clause—

*illegal practice* means an offence against Part 2 Division 4 of this Act.

### **24—Effect of decision**

- (1) If pursuant to this Part a person returned as elected is declared not to have been duly elected, that person ceases to be a member of the Executive Board and the person declared to have been duly elected will take his or her place accordingly.
- (2) If pursuant to this Part an election is declared void, a person returned as elected at the election ceases to be a member of the Executive Board.

### **25—Participation of Anangu Pitjantjatjara Yankunytjatjara in proceedings**

- (1) The Court may—
  - (a) on the application of a party to the proceedings—order that Anangu Pitjantjatjara Yankunytjatjara be joined as a party to the proceedings; or
  - (b) on the application of Anangu Pitjantjatjara Yankunytjatjara—allow Anangu Pitjantjatjara Yankunytjatjara to intervene in the proceedings.

- (2) Anangu Pitjantjatjara Yankunytjatjara may only be joined as a party to the proceedings or allowed to intervene if the Court is satisfied that it is fair and reasonable that Anangu Pitjantjatjara Yankunytjatjara participate in the proceedings.
- (3) If Anangu Pitjantjatjara Yankunytjatjara is allowed to intervene in the proceedings, it may intervene in the manner and to the extent directed by the Court, and on such other conditions as the Court may direct.

## **26—Right of appearance**

A party to proceedings before the Court may appear personally or be represented by counsel.

## **27—Case stated**

The Court may, of its own motion or on the application of a party to proceedings, state a question of law for the opinion of the Full Court of the Supreme Court.

## **28—Costs**

- (1) The Court may make orders for costs as it thinks just (including an order for costs in favour of or against Anangu Pitjantjatjara Yankunytjatjara if it has been joined as a party to the proceedings or has intervened in the proceedings).
- (2) If an election is declared void, or a candidate returned as elected is declared not to have been duly elected, on account of an act or omission of an electoral official, any costs in favour of the petitioner must, to the extent to which they are attributable to that act or omission, be awarded against the Crown.
- (3) An order under this clause may be enforced as an order of the District Court.

## **29—Rules of the Court**

The Chief Judge of the District Court may make rules—

- (a) regulating the practices and procedures of the Court; and
- (b) fixing fees to be paid in respect of proceedings before the Court; and
- (c) making any other provision necessary or expedient for the purposes of this Schedule.

## **Part 5—Miscellaneous**

### **30—Amendment of Schedule**

The Governor may, on the recommendation of the Minister and Anangu Pitjantjatjara Yankunytjatjara, by regulation, amend this Schedule.

### **31—Costs**

Any money required for the purposes of an election under section 9 is to be paid out of the Consolidated Account (which is appropriated to the necessary extent).

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Formerly

*Pitjantjatjara Land Rights Act 1981*

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1981	20	<i>Pitjantjatjara Land Rights Act 1981</i>	19.3.1981	2.10.1981 ( <i>Gazette 2.10.1981 p1139</i> )
1987	50	<i>Pitjantjatjara Land Rights Act Amendment Act 1987</i>	30.4.1987	18.6.1987 ( <i>Gazette 18.6.1987 p1542</i> )
2004	25	<i>Pitjantjatjara Land Rights (Executive Board) Amendment Act 2004</i>	15.7.2004	16.8.2004 ( <i>Gazette 22.7.2004 p2594</i> )
2005	52	<i>Pitjantjatjara Land Rights (Miscellaneous) Amendment Act 2005</i>	27.10.2005	27.10.2005 ( <i>Gazette 27.10.2005 p3830</i> )
2006	17	<i>Statutes Amendment (New Rules of Civil Procedure) Act 2006</i>	6.7.2006	Pt 7 (s 39)—4.9.2006 ( <i>Gazette 17.8.2006 p2831</i> )
2006	19	<i>Anangu Pitjantjatjara Yankunytjatjara Land Rights (Regulated Substances) Amendment Act 2006</i>	7.9.2006	29.9.2006 ( <i>Gazette 28.9.2006 p3361</i> )
2006	43	<i>Statutes Amendment (Domestic Partners) Act 2006</i>	14.12.2006	Pt 6 (s 27)—1.6.2007 ( <i>Gazette 26.4.2007 p1352</i> )
2009	83	<i>Anangu Pitjantjatjara Yankunytjatjara Land Rights (Mintabie) Amendment Act 2009</i>	10.12.2009	Pt 2 (ss 4 & 5) & Sch 1 (cl 13)—1.7.2012 ( <i>Gazette 28.6.2012 p2923</i> )
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 14 (ss 25—28)—1.2.2010 ( <i>Gazette 28.1.2010 p320</i> )
2013	16	<i>Statutes Amendment (Directors' Liability) Act 2013</i>	23.5.2013	Pt 3 (s 6)—17.6.2013 ( <i>Gazette 6.6.2013 p2498</i> )
<b>2014</b>	<b>22</b>	<b><i>Anangu Pitjantjatjara Yankunytjatjara Land Rights (Miscellaneous) Amendment Act 2014</i></b>	<b>11.12.2014</b>	<b>11.12.2014</b>

## Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
Pt 1		
s 1	amended by 52/2005 s 4	27.10.2005
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	16.8.2004
s 3	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>omitted under Legislation Revision and Publication Act 2002</i>	16.8.2004
s 4		
s 4(1)	s 4 redesignated as s 4(1) by 52/2005 s 5(6)	27.10.2005
Administrator	inserted by 52/2005 s 5(1)	27.10.2005
Anangu	inserted by 52/2005 s 5(1)	27.10.2005
Anangu Pitjantjatjara Yankunytjatjara	Anangu Pitjantjatjaraku amended to read Anangu Pitjantjatjara by 50/1987 s 3	18.6.1987
	Anangu Pitjantjatjara amended to read Anangu Pitjantjatjara Yankunytjatjara by 52/2005 s 31(1), (2)	27.10.2005
the constitution	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
Director of Administration	inserted by 52/2005 s 5(2)	27.10.2005
Electoral Commissioner	inserted by 25/2004 s 4	16.8.2004
electorate	inserted by 52/2005 s 5(3)	27.10.2005
the Executive Board	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
General Manager	inserted by 52/2005 s 5(4)	27.10.2005
<b>Independent Commissioner Against Corruption</b>	<b>inserted by 22/2014 s 3</b>	<b>11.12.2014</b>
Mintabie Miners Progress Association	inserted by 83/2009 s 4	1.7.2012
Mintabie precious stones field	inserted by 83/2009 s 4	1.7.2012
Mintabie precious stones prospecting permit	inserted by 83/2009 s 4	1.7.2012
<i>Mintabie resident</i>	<i>deleted by 83/2009 s 4</i>	1.7.2012

Mintabie Township Lease Agreement	inserted by 83/2009 s 4	1.7.2012
Mintabie township lease area	inserted by 83/2009 s 4	1.7.2012
motor vehicle	inserted by 19/2006 s 4(1)	29.9.2006
petrol	inserted by 50/1987 s 4	18.6.1987
principal office	inserted by 52/2005 s 5(5)	27.10.2005
regulated substance	inserted by 19/2006 s 4(2)	29.9.2006
s 4(2)	inserted by 52/2005 s 5(6)	27.10.2005
s 4A	inserted by 52/2005 s 6	27.10.2005
Pt 2	heading amended by 50/1987 s 3	18.6.1987
Pt 2 Div 1	heading amended by 50/1987 s 3	18.6.1987
s 5		
s 5(1) and (2)	amended by 50/1987 s 3	18.6.1987
	substituted by 52/2005 s 7(1)	27.10.2005
s 5(3)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 7(2)	27.10.2005
s 5(4)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 7(3)	27.10.2005
Pt 2 Div 2	heading amended by 50/1987 s 3	18.6.1987
s 6		
s 6(1)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 6(2)	amended by 50/1987 ss 3, 5	18.6.1987
	amended by 52/2005 ss 8(1)—(4), 31(1), (2)	27.10.2005
s 6(3)—(8)	inserted by 52/2005 s 8(5)	27.10.2005
s 7	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
Pt 2 Div 3	heading amended by 50/1987 s 3	18.6.1987
s 8		
s 8(1)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 8(2)	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>deleted by 52/2005 s 9(1)</i>	27.10.2005
s 8(3)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 8(4)	amended by 50/1987 s 3	18.6.1987
	substituted by 52/2005 s 9(2)	27.10.2005
Pt 2 Div 4	heading amended by 50/1987 s 3	18.6.1987
s 9		
s 9(1)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 9(2)	amended by 50/1987 s 3	18.6.1987

	substituted by 25/2004 s 5(1)	16.8.2004
	substituted by 52/2005 s 10(1)	27.10.2005
s 9(2a)	inserted by 52/2005 s 10(1)	27.10.2005
s 9(3)	<i>deleted by 25/2004 s 5(2)</i>	16.8.2004
s 9(4)	amended by 50/1987 s 3	18.6.1987
	substituted by 25/2004 s 5(3)	16.8.2004
	amended by 52/2005 s 10(2)	27.10.2005
s 9(5)	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 25/2004 s 5(4)</i>	16.8.2004
	<i>deleted by 52/2005 s 10(3)</i>	27.10.2005
s 9(6)	amended by 50/1987 s 3	18.6.1987
	substituted by 25/2004 s 5(5)	16.8.2004
	amended by 52/2005 s 10(4)	27.10.2005
s 9(7)	inserted by 25/2004 s 5(5)	16.8.2004
s 9(8)—(11)	inserted by 52/2005 s 10(5)	27.10.2005
s 9A	inserted by 25/2004 s 6	16.8.2004
ss 9B—9F	inserted by 52/2005 s 11	27.10.2005
s 10	substituted by 52/2005 s 12	27.10.2005
ss 11 and 12	amended by 50/1987 s 3	18.6.1987
	substituted by 52/2005 s 12	27.10.2005
ss 12A—12H	inserted by 52/2005 s 12	27.10.2005
s 13		
s 13(1)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 13(2)	amended by 50/1987 s 3	18.6.1987
	substituted by 52/2005 s 13	27.10.2005
s 13(3) and (4)	inserted by 52/2005 s 13	27.10.2005
s 13A	inserted by 52/2005 s 14	27.10.2005
Pt 2 Div 4A	inserted by 52/2005 s 14	27.10.2005
Pt 2 Div 4B	inserted by 52/2005 s 14	27.10.2005
s 13N		
s 13N(3)	amended by 84/2009 s 25	1.2.2010
s 13O		
s 13O(1)	<b>substituted by 22/2014 s 4(1)</b>	<b>11.12.2014</b>
	<b>will expire: s 13O(1a)</b>	<b>(11.12.2017)</b>
s 13O(1a)	<b>inserted by 22/2014 s 4(1)</b>	<b>11.12.2014</b>
s 13O(2)	amended by 84/2009 s 26	1.2.2010
s 13O(3) and (4)	<b>inserted by 22/2014 s 4(2)</b>	<b>11.12.2014</b>
Pt 2 Div 5		
<i>s 14 before substitution by 52/2005</i>		
s 14(1)	<i>amended by 50/1987 s 3</i>	18.6.1987

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## Legislative history

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<i>s 14(3)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 25/2004 s 7(1)</i>	16.8.2004
<i>s 14(4)</i>	<i>deleted by 25/2004 s 7(2)</i>	16.8.2004
<i>s 14(5)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
<i>s 14</i>	<i>substituted by 52/2005 s 15</i>	27.10.2005
Pt 3		
Pt 3 Div 1	<i>heading amended by 50/1987 s 3</i>	18.6.1987
<i>s 15</i>		
<i>s 15(1) and (3)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 52/2005 s 31(1), (2)</i>	27.10.2005
<i>s 17</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 52/2005 s 31(1), (2)</i>	27.10.2005
Pt 3 Div 2		
<i>s 18</i>	<i>amended by 52/2005 s 16</i>	27.10.2005
<i>s 19</i>		
<i>s 19(1)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 52/2005 ss 17(1), 31(1), (2)</i>	27.10.2005
<i>s 19(3)</i>	<i>substituted by 50/1987 s 6(a)</i>	18.6.1987
	<i>amended by 52/2005 s 17(2)</i>	27.10.2005
<i>s 19(4) and (5)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 52/2005 s 31(1), (2)</i>	27.10.2005
<i>s 19(5a)–(5c)</i>	<i>inserted by 50/1987 s 6(b)</i>	18.6.1987
<i>s 19(6) and (7)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>deleted by 52/2005 s 17(3)</i>	27.10.2005
<i>s 19(8)</i>	<i>amended by 25/2004 s 8(1)</i>	16.8.2004
	<i>amended by 52/2005 s 17(4)–(9)</i>	27.10.2005
	<i>amended by 84/2009 s 27</i>	1.2.2010
	<b>amended by 22/2014 s 5</b>	<b>11.12.2014</b>
<i>s 19(9)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 25/2004 s 8(2)</i>	16.8.2004
	<i>amended by 52/2005 s 31(1), (2)</i>	27.10.2005
<i>s 19(9a)</i>	<i>inserted by 50/1987 s 6(c)</i>	18.6.1987
	<i>amended by 52/2005 s 31(1), (2)</i>	27.10.2005
<i>s 19(10)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 52/2005 ss 17(10), 31(1), (2)</i>	27.10.2005
<i>s 19(11)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>deleted by 52/2005 s 17(11)</i>	27.10.2005
<i>s 19(12)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>deleted by 52/2005 s 17(11)</i>	27.10.2005
<i>s 19A</i>	<i>inserted by 52/2005 s 18</i>	27.10.2005
Pt 3 Div 3		
<i>s 20</i>		
<i>s 20(2a)</i>	<i>inserted by 50/1987 s 7(a)</i>	18.6.1987



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	amended by 52/2005 s 31(1), (2)	27.10.2005
s 20(4)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 20(5)	amended by 50/1987 s 7(b)	18.6.1987
s 20(6) and (7)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 20(7a) and (7b)	inserted by 50/1987 s 7(c)	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 20(8) and (10)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 20(12)	amended by 17/2006 s 39(1)	4.9.2006
s 20(13)	<i>deleted by 17/2006 s 39(2)</i>	4.9.2006
s 20(14)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 ss 19(1), 31(1), (2)	27.10.2005
s 20(14a) and (14b)	inserted by 50/1987 s 7(d)	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 20(15)	amended by 52/2005 s 19(2)—(7)	27.10.2005
s 20(17), (20) and (21)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 21		
s 21(3)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 21(4)	substituted by 50/1987 s 8	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 21(5) and (6)	<i>deleted by 50/1987 s 8</i>	18.6.1987
s 22		
s 22(2)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 ss 20, 31(1), (2)	27.10.2005
s 23 before substitution by 16/2013		
s 23(1)	<i>amended by 50/1987 ss 3, 9</i>	18.6.1987
	<i>amended by 52/2005 s 31(1), (2)</i>	27.10.2005
s 23	substituted by 16/2013 s 6	17.6.2013
s 24		
s 24(1)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 24(2)	amended by 52/2005 s 21	27.10.2005
s 24(3)	amended by 50/1987 s 10	18.6.1987
Pt 3 Div 4 before substitution by 83/2009		
s 25		
s 25(2)	<i>amended by 43/2006 s 27(1)</i>	1.6.2007

<i>s 25(9)</i>		
<i>close personal relationship</i>	<i>inserted by 43/2006 s 27(2)</i>	1.6.2007
<i>domestic partner</i>	<i>inserted by 43/2006 s 27(3)</i>	1.6.2007
<i>spouse</i>	<i>inserted by 43/2006 s 27(3)</i>	1.6.2007
<i>s 26</i>		
<i>s 26(3)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 52/2005 ss 22(1), 31(1), (2)</i>	27.10.2005
<i>s 26(4)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 52/2005 s 31(1), (2)</i>	27.10.2005
<i>s 26(6)</i>	<i>amended by 52/2005 s 22(2)</i>	27.10.2005
<i>s 26(8a)</i>	<i>inserted by 84/2009 s 28</i>	1.2.2010
<i>s 27</i>		
<i>s 27(1)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 52/2005 s 31(1), (2)</i>	27.10.2005
<i>s 27(2)</i>	<i>amended by 52/2005 s 23</i>	27.10.2005
<i>s 27(4)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 52/2005 s 31(1), (2)</i>	27.10.2005
<i>s 28</i>		
<i>s 28(1), (4), (7) and (9)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 52/2005 s 31(1), (2)</i>	27.10.2005
<i>s 29</i>		
<i>s 29(2)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 52/2005 s 31(1), (2)</i>	27.10.2005
Pt 3 Div 4	substituted by 83/2009 s 5	1.7.2012
	will expire: s 26	
Pt 3 Div 5		
<i>s 30</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 52/2005 ss 24, 31(1), (2)</i>	27.10.2005
Pt 3 Div 6		
<i>s 31</i>		
<i>s 31(1)—(3)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 52/2005 s 31(1), (2)</i>	27.10.2005
<i>s 32</i>		
<i>s 32(1), (2), (4)—(6)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
	<i>amended by 52/2005 s 31(1), (2)</i>	27.10.2005
Pt 4		
<i>s 35 before substitution by 52/2005</i>		
<i>s 35(2)</i>	<i>amended by 50/1987 s 3</i>	18.6.1987
<i>s 35</i>	substituted by 52/2005 s 25	27.10.2005

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s 36		
s 36(1)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 26(1)	27.10.2005
s 36(1a) and (1b)	inserted by 52/2005 s 26(3)	27.10.2005
s 36(2)	amended by 52/2005 s 26(2)	27.10.2005
s 36(3)	amended by 52/2005 s 26(2), (4)	27.10.2005
s 36(4)	substituted by 52/2005 s 26(5)	27.10.2005
s 36(5)	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 ss 26(2), (6), 31(1), (2)	27.10.2005
s 36(6)	inserted by 52/2005 s 26(7)	27.10.2005
s 37		
s 37(1) and (2)	substituted by 52/2005 s 27	27.10.2005
Pt 5		
s 38	<i>deleted by 19/2006 s 5</i>	29.9.2006
s 39	amended by 50/1987 s 3	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 42A	inserted by 50/1987 s 11	18.6.1987
s 42B	inserted by 50/1987 s 11	18.6.1987
	substituted by 52/2005 s 28	27.10.2005
s 42C	<i>inserted by 50/1987 s 11</i>	18.6.1987
	<i>expired: s 42C(11)—omitted under Legislation Revision and Publication Act 2002</i>	
s 42C	inserted by 52/2005 s 29	27.10.2005
s 42D	<i>inserted by 50/1987 s 11</i>	18.6.1987
	<i>expired: proclamation (Gazette 18.6.1987 p 1542)—omitted under Legislation Revision and Publication Act 2002</i>	(18.6.1987)
s 42D	inserted by 19/2006 s 6	29.9.2006
s 43		
s 43(1)	amended by 50/1987 s 12(b)	18.6.1987
	(c) and (d) deleted by 50/1987 s 12(a)	18.6.1987
	(f) deleted by 50/1987 s 12(b)	18.6.1987
s 43(2)	amended by 50/1987 ss 3, 12(c)	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 43(3)	inserted by 50/1987 s 12(d)	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
	amended by 19/2006 s 7(1)	29.9.2006
s 43(4)	inserted by 50/1987 s 12(d)	18.6.1987
s 43(5)	inserted by 50/1987 s 12(d)	18.6.1987
	amended by 52/2005 s 31(1), (2)	27.10.2005
s 43(6)	inserted by 50/1987 s 12(d)	18.6.1987
s 43(7) and (8)	inserted by 50/1987 s 12(d)	18.6.1987
	substituted by 19/2006 s 7(2)	29.9.2006
s 43(9)	<i>inserted by 50/1987 s 12(d)</i>	18.6.1987

	<i>deleted by 19/2006 s 7(2)</i>	29.9.2006
s 43(10) and (11)	inserted by 50/1987 s 12(d)	18.6.1987
s 43(12) and (13)	inserted by 50/1987 s 12(d)	18.6.1987
	substituted by 19/2006 s 7(3)	29.9.2006
Sch 3	inserted by 25/2004 s 9	16.8.2004
cl 1		
<i>electorate</i>	<i>deleted by 52/2005 s 30(1)</i>	27.10.2005
cl 2	substituted by 52/2005 s 30(2)	27.10.2005
cl 3		
cl 3(3)	amended by 52/2005 s 30(3)	27.10.2005
cl 4		
cl 4(1)	amended by 52/2005 s 30(4), (5)	27.10.2005
cl 4(2)	amended by 52/2005 s 30(6)	27.10.2005
cl 4(3)	inserted by 52/2005 s 30(7)	27.10.2005
cl 5		
cl 5(2)	amended by 52/2005 s 30(8)—(10)	27.10.2005
cl 6		
cl 6(1)	amended by 52/2005 s 30(11), (12)	27.10.2005
cl 6(2)	amended by 52/2005 s 30(13)	27.10.2005
cl 6(5)	amended by 52/2005 s 30(14)	27.10.2005
cl 8		
cl 8(1)	amended by 52/2005 s 30(15), (16)	27.10.2005
cl 8(2)	amended by 52/2005 s 30(17)	27.10.2005
cl 8(4)	amended by 52/2005 s 30(18)	27.10.2005
cl 8(5)	substituted by 52/2005 s 30(19)	27.10.2005
cl 8(6)	inserted by 52/2005 s 30(19)	27.10.2005
cl 17		
cl 17(3)	amended by 52/2005 s 30(20)	27.10.2005
cl 20		
cl 20(2)	amended by 52/2005 s 30(21), (22)	27.10.2005
cl 21		
cl 21(2)—(4)	amended by 52/2005 s 31(1), (2)	27.10.2005
cl 24		
cl 24(1) and (2)	amended by 52/2005 s 30(23), (24)	27.10.2005
cl 25		
cl 25(1)—(3)	amended by 52/2005 s 31(1), (2)	27.10.2005
cl 28		
cl 28(1)	amended by 52/2005 s 31(1), (2)	27.10.2005
cl 30	amended by 52/2005 s 30(25)	27.10.2005
cl 31	inserted by 52/2005 s 30(26)	27.10.2005

## Transitional etc provisions associated with Act or amendments

### *Pitjantjatjara Land Rights (Executive Board) Amendment Act 2004, Sch 1— Transitional provisions*

1 In this Schedule—

*Anangu Pitjantjatjara* means the body corporate of that name established under the principal Act;

*Executive Board* means the Executive Board of Anangu Pitjantjatjara established under the principal Act;

*principal Act* means the *Pitjantjatjara Land Rights Act 1981*.

2 Subject to clause 3, and despite a provision of the principal Act, or a relevant provision of the constitution of Anangu Pitjantjatjara, an election conducted in accordance with section 9 of the principal Act (as amended by this Act) at which the members and Chairperson of the Executive Board are elected must be conducted not later than 8 weeks after the date of commencement of this Act.

3 However, if the returning officer for the election determines that it would be impracticable or culturally inappropriate to conduct the election within the period referred to in clause 2, the election may be conducted after the end of that period (but should be held as soon as is practicable and culturally appropriate).

4 Despite a provision of the principal Act, or a relevant provision of the constitution of Anangu Pitjantjatjara, the term of office of a member of the Executive Board elected on 7 November 2002 will be taken to be the period from 7 November 2002 until the election referred to in clause 2 (and the member is, subject to the constitution, eligible for re-election).

5 An act or decision of the Executive Board that would have been valid if done or made after the commencement of clause 4 will be taken to be valid for all purposes.

### *Pitjantjatjara Land Rights (Miscellaneous) Amendment Act 2005*

#### 32—Review of Act by Minister

- (1) The Minister responsible for the administration of the *Pitjantjatjara Land Rights Act 1981* (the *Minister*) must cause an independent review of the operation of the amendments effected by this Act to be conducted and a report on the results of the review to be submitted to him or her.
- (2) The review must be conducted by a panel of 3 persons of whom—
  - (a) 1 must be an Anangu nominated by the Executive Board of Anangu Pitjantjatjara Yankunytjatjara; and
  - (b) 2 must be persons selected by the Minister with the agreement of the Executive Board of Anangu Pitjantjatjara Yankunytjatjara.
- (3) The Minister must ensure that, as part of the review, reasonable steps are taken to seek submissions from Anangu Pitjantjatjara Yankunytjatjara, the Executive Board of Anangu Pitjantjatjara Yankunytjatjara and the Aboriginal Lands Parliamentary Standing Committee.
- (4) The review and the report must be completed before the third anniversary of the commencement of section 1.

(5) The Minister must cause a copy of the report submitted under subsection (1) to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

(6) In this section—

*Anangu* has the same meaning as in the *Pitjantjatjara Land Rights Act 1981*.

***Pitjantjatjara Land Rights (Miscellaneous) Amendment Act 2005, Sch 1—  
Transitional provisions***

1 The person holding the position of Director of Administration, however referred to, immediately before the commencement of section 14, will be taken, on commencement of that section, to have been appointed as the Director of Administration under the *Pitjantjatjara Land Rights Act 1981* as amended by this Act.

2 The person holding the position of General Manager, however referred to, immediately before the commencement of section 14, will be taken, on commencement of that section, to have been appointed as the General Manager under the *Pitjantjatjara Land Rights Act 1981* as amended by this Act.

***Anangu Pitjantjatjara Yankunytjatjara Land Rights (Mintabie) Amendment Act 2009, Sch 1***

**Part 2—Variation of *Pitjantjatjara Land Rights (Control of Alcoholic Liquor) By-Laws 1987***

**4—Variation of by-laws**

By-laws—delete "Pitjantjatjara Land Rights Act, 1981" (wherever occurring) and substitute in each case:

*Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

**5—Variation of by-law 1**

By-law 1—delete "Pitjantjatjara" and substitute:

*Anangu Pitjantjatjara Yankunytjatjara*

**6—Substitution of by-laws 6 and 7**

By-laws 6 and 7—delete by-laws 6 and 7 and substitute:

6 Despite the provisions of by-laws 3 and 4, a person who is entitled to be on the Mintabie precious stones field under section 19 of the Act, or under section 29C of the Act and who does not have any other right to be on the lands under the Act, may (in accordance with any relevant licence) possess or consume liquor at premises on the Mintabie precious stones field licensed under the *Liquor Licensing Act 1997*.

7 The provisions of by-laws 3 and 4 do not apply to a person who holds a licence under the *Liquor Licensing Act 1997* in relation to premises on the Mintabie precious stones field, or a person employed or otherwise engaged by such a person, if the person—

(a) is acting in accordance with the licence; or

(b) —

- (i) is delivering liquor to the relevant premises by the Mintabie to Stuart Highway Road (commonly known as the "Mintabie Road") for sale or supply in accordance with the licence; and
- (ii) has notified a police officer stationed at the Marla police station of the delivery not less than 24 hours before the liquor enters the lands; and
- (iii) complies with any reasonable direction in relation to the delivery given by a police officer stationed at the Marla police station.

### **7—Variation of by-laws 8 and 9**

By-laws 8 and 9—delete "Anangu Pitjantjatjara" wherever occurring and substitute in each case:

*Anangu Pitjantjatjara Yankunytjatjara*

### **8—Variation of by-law 11**

By-law 11—delete "Anangu Pitjantjatjara" and substitute:

*Anangu Pitjantjatjara Yankunytjatjara*

## **Part 3—Variation of *Pitjantjatjara Land Rights (Control of Gambling) By-Laws 1987***

### **9—Variation of by-laws**

By-laws—delete "Pitjantjatjara Land Rights Act, 1981" (wherever occurring) and substitute in each case:

*Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

### **10—Variation of by-law 1**

By-law 1—delete "Pitjantjatjara" and substitute:

*Anangu Pitjantjatjara Yankunytjatjara*

## **Part 4—Variation of *Pitjantjatjara Land Rights (Control of Petrol) By-Laws 1987***

### **11—Variation of by-laws**

- (1) By-laws—delete "Pitjantjatjara Land Rights Act, 1981" (wherever occurring) and substitute in each case:

*Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

- (2) By-laws—delete "Anangu Pitjantjatjara" wherever occurring and substitute in each case:

*Anangu Pitjantjatjara Yankunytjatjara*

## **12—Variation of by-law 1**

By-law 1—delete "Pitjantjatjara" and substitute:

*Anangu Pitjantjatjara Yankunytjatjara*

## **Part 5—Transitional provisions**

### **13—Transitional provision—*Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981***

- (1) A person who, immediately before the commencement of section 5 of this Act, was entitled to enter and remain on the Mintabie precious stones field under section 25(2)(c) of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*, is entitled to enter and remain on the precious stones field until the expiry of the precious stones prospecting permit on which the entitlement is based.
- (2) Despite section 29D(6) of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* (as enacted by this Act), the Minister may issue a licence under subsection (1) of that section to a person who was, in the 6 months immediately preceding the commencement of section 5 of this Act, entitled (whether under that Act or otherwise) to occupy land that would, on the commencement of that section, be within the Mintabie township lease area.

## **Historical versions**

Reprint No 1—15.11.1991

16.8.2004

27.10.2005

4.9.2006

29.9.2006

1.6.2007

1.2.2010

1.7.2012

17.6.2013