ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL 1978

Date Introduced: 10 April 1978
House: House of Representatives
Presented by: Hon. R.I. Viner, M.P., Minister for Aboriginal Affairs

Purpose

To give effect to those recommendations of the Ranger Uranium Environmental Inquiry which affect Aboriginal land rights and to amend certain sections of the Act to ensure that the intentions of the Act are carried out.

Background

Section 11(2) of the Aboriginal Land Rights Act enabled the Ranger Inquiry to make recommendations to the Minister concerning Aboriginal land claims in the Alligator Rivers region. The Inquiry recommended that Aboriginal title be given in respect of a large area of vacant crown land in the region; that Mudginberri and Munmarlary pastoral leases be resumed and opportunity be given for Aboriginal land claims to be made and determined in respect of these areas; that the Land Rights Act be amended to ensure the common case of mining leases approved by the Northern Territory Administrator are included in the prohibition against granting a mining interest without consent; that the southern boundary of the Ranger Project Area be moved further away from Aboriginal sacred sites; and that provision be made for Aboriginal participation in the management of the national park.

Other amendments to the Act arise from difficulties encountered as the Act began to operate.

Main Provisions

Sections 4 and 5 of the Principal Act are amended to remove the requirement that groups of Aboriginals be identified as beneficiaries under an Aboriginal Land Trust. This is to overcome the legal difficulty referred to in the Second Reading Speech.

Section 11 is similarly amended and a new sub-section (1A) inserted which provides that in the Alligator Rivers Area (No. 3) it is not a requirement for the Minister to ensure that the estates and
interests held in the land by the Director of National Parks and Wildlife are acquired by the Crown.

New sub-sections to section 12 of the Principal Act provide that

(a) when a grant of land in the Alligator Rivers Area (No. 3) is made to a Land Trust the Director's estate or interest in the land ceases to exist

(b) such a grant is subject to the condition that the Land Council for the area directs the Land Trust to enter into an agreement with the Director to lease the land to him for the purposes of the National Parks and Wildlife Conservation Act 1975.

New sections inserted after section 12 provide that where the Director's estate or interest has ceased to exist

. the Director may continue to occupy land for the purposes of the National Parks and Wildlife Conservation Act 1975

. if the Land Council and Director cannot agree on the terms of an agreement the Minister, after consulting both, may appoint an impartial arbitrator to determine the terms of the agreement, which terms must be in accordance with both the Land Rights Act and the National Parks Act and any other Commonwealth Act or any Law of the Northern Territory. The Land Council and Director must then enter into the agreement or, if the Land Council refuses, the Minister may enter the agreement on behalf of the Land Council. Where the Land Council refuses to direct a Land Trust to grant the Director a lease in accordance with the agreement or the Land Trust refuses to grant the lease on the direction of the Land Council the Minister may grant the lease on behalf of the Land Trust.

The insertion of a new section 20A provides that in land dealings by the Land Trust the law of the Northern Territory shall apply.

New sections are inserted after section 23 of the Principal Act to empower any person authorized by the Land Council to obtain information and documents relating either to uranium mining operations in the Alligator Rivers Region or to applications made by the Land Council to the Supreme Court of the Northern Territory concerning matters affecting the environment of the Alligator Rivers Region. Penalties are provided for furnishing false information or for refusing to grant access to an authorized person. The Land Council may apply for a court order if necessary.
An authorized person, a member of the Land Council or a member of the staff of the Land Council may not reveal information thus acquired, except in performance of his functions and duties; or to the Supreme Court of the Northern Territory; the Minister; the Permanent Head or approved officer of the relevant Department; or to a person authorized by the Minister. The Permanent Head or authorized officer must only use the information for the purpose of advising the Minister. The penalties provided are $1000 fine or 6 months imprisonment.

Section 44 of the Principal Act is amended by the addition of a sub-section which provides for the payment out of Consolidated Revenue of amounts specified in an agreement between the Commonwealth and the Land Council in respect of mining.

Section 50 of the Principal Act is amended by the addition of a sub-section which provides that in the Alligator River Area (No. 3) alienated Crown Land in which the interests are held by the Director of National Parks and Wildlife shall be deemed unalienated land for the purpose of land claims before the Commissioner.

The protection and immunity of a Justice of the High Court are extended to the Commissioner in new section 53A.

Amendments to section 54 and new sections 54A and 54B provide that the Commissioner may administer an oath or affirmation to a voluntary witness and provide penalties for failure to answer or for false information.

Amendments to sections 62-64 and the insertion of new section 62A provide for the transfer of funds from the Aboriginal Benefits Trust Fund to the Aboriginal Benefits Trust Account which was established by the Principal Act. An amendment to section 65 requires the Minister to have regard for the number of Aboriginals living in the area when he fixes the number of members of a Land Council to be elected to the Trust Account Advisory Committee.

The new schedules provide for the land in the Alligator Rivers area to become Aboriginal land. The amendment to Schedule 2 of the Principal Act moves the boundary of the Ranger Project Area further away from the sacred sites on Mt. Brockman.

1 May 1978

Education and Welfare Group

LEGISLATIVE RESEARCH SERVICE