

NORTHERN TERRITORY (SELF-GOVERNMENT) ACT 1978

No. 58 of 1978

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NORTHERN TERRITORY (SELF-GOVERNMENT) ACT 1978

No. 58 of 1978

An Act to provide for the Government of the Northern Territory of Australia, and for related purposes.

WHEREAS the *Northern Territory Acceptance Act* 1910 provided for the ratifying of an Agreement between the Commonwealth and the State of South Australia for the surrender to and acceptance by the Commonwealth of the Northern Territory and provided for the acceptance by the Commonwealth of the Northern Territory:

AND WHEREAS by the Constitution it is provided that the Parliament may make laws for the government of any Territory surrendered by any State to and accepted by the Commonwealth:

AND WHEREAS the Parliament has made provision for the government of the Northern Territory by the *Northern Territory (Administration) Act* 1910 and for a Supreme Court of the Northern Territory of Australia by the *Northern Territory Supreme Court Act* 1961:

AND WHEREAS the Parliament considers it desirable, by reason of the political and economic development of the Northern Territory, to confer self-government on the Territory, and for that purpose to provide, among other things, for the establishment of separate political, representative and administrative institutions in the Territory and to give the Territory control over its own Treasury:

BE IT THEREFORE ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

1. This Act may be cited as the *Northern Territory (Self-Government) Act* 1978.¹ Short title

2. (1) Sections 1, 2 and 70 shall come into operation on the day on which this Act receives the Royal Assent.¹ Commencement

(2) The remaining provisions of this Act shall come into operation on 1 July 1978.

3. The Acts specified in Schedule 1 are repealed.

Repeals

Interpretation

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

“Acting Administrator” means a person appointed under section 40 to act in the office of Administrator;

“Administrator” means the Administrator of the Territory, and includes an Acting Administrator;

“Council” means the Executive Council of the Northern Territory of Australia;

“enactment” means—

(a) a law (however described or entitled) passed by the Legislative Assembly and assented to under section 7 or 8; or

(b) an Ordinance made under the *Northern Territory (Administration) Act* 1910 and continued in force by this Act,

and includes part of any such law or Ordinance;

“Legislative Assembly” means the Legislative Assembly of the Northern Territory of Australia;

“Ministerial office” means an office referred to in section 34;

“Minister of the Territory” means a person holding office under section 36;

“Speaker” means the Speaker of the Legislative Assembly;

“Territory” means the Northern Territory of Australia.

(2) A reference in this Act to the powers or functions of the Speaker shall be read as including a reference to the powers or functions of the Speaker under any law in force in the Territory.

PART II—NORTHERN TERRITORY OF AUSTRALIA

Establishment of body politic

5. The Northern Territory of Australia is hereby established as a body politic under the Crown by the name of the Northern Territory of Australia.

PART III—LEGISLATIVE ASSEMBLY

Division 1—Powers of Legislative Assembly

Legislative power

6. Subject to this Act, the Legislative Assembly has power, with the assent of the Administrator or the Governor-General, as provided by this Act, to make laws for the peace, order and good government of the Territory.

Assent to proposed laws

7. (1) Every proposed law passed by the Legislative Assembly shall be presented to the Administrator for assent.

(2) Upon the presentation of a proposed law to the Administrator for assent, the Administrator shall, subject to this section, declare—

- (a) in the case of a proposed law making provision only for or in relation to a matter specified under section 35—
 - (i) that he assents to the proposed law; or
 - (ii) that he withholds assent to the proposed law; or
- (b) in any other case—
 - (i) that he assents to the proposed law;
 - (ii) that he withholds assent to the proposed law; or
 - (iii) that he reserves the proposed law for the Governor-General's pleasure.

(3) The Administrator may return the proposed law to the Legislative Assembly with amendments that he recommends.

(4) The Legislative Assembly shall consider the amendments recommended by the Administrator and the proposed law, with or without amendments, shall be again presented to the Administrator for assent, and sub-section (2) applies accordingly.

8. (1) Where the Administrator reserves a proposed law for the Governor-General's pleasure, the Governor-General shall, subject to this section, declare—

Signification
of pleasure
on proposed
law reserved

- (a) that he assents to the proposed law;
- (b) that he withholds assent to the proposed law; or
- (c) that he withholds assent to part of the proposed law and assents to the remainder of the proposed law.

(2) The Governor-General may return the proposed law to the Administrator with amendments that he recommends.

(3) The Legislative Assembly shall consider the amendments recommended by the Governor-General and the proposed law, with or without amendments, shall be again presented to the Administrator for assent, and sub-section 7 (2) applies accordingly.

(4) As soon as practicable after the Governor-General has made a declaration in respect of a proposed law in accordance with sub-section (1), the Administrator shall cause to be published in the *Government Gazette* of the Territory a notice of the declaration.

(5) The assent of the Governor-General to a proposed law or part of a proposed law is of no effect until notification of the Governor-General's declaration in respect of the proposed law is published in the *Government Gazette* of the Territory.

9. (1) Subject to this section, the Governor-General may, within 6 months after the Administrator's assent to a proposed law, disallow the law or part of the law.

Disallowance
of
enactments

(2) The Governor-General may, within 6 months after the Administrator's assent to a proposed law, recommend to the Administrator any amendments of the laws of the Territory that the Governor-General considers to be desirable as a result of his consideration of the law.

(3) Where, as a result of his consideration of a law, the Governor-General so recommends any amendments of the laws of the Territory, the time within which the Governor-General may disallow the law, or a part of the law, is extended until the expiration of 6 months after the date of the Governor-General's recommendation.

(4) Upon publication of notice of the disallowance of a law, or part of a law, in the *Government Gazette* of the Territory, the disallowance has, subject to sub-section (5), the same effect as a repeal of the law or part of the law.

(5) If a provision of a disallowed law, or a provision of a disallowed part of a law, amended or repealed a law in force immediately before the commencement of that provision, the disallowance revives the previous law from the date of publication of the notice of disallowance as if the disallowed provision had not been made.

Reason for withholding assent, &c. to be tabled in Legislative Assembly

10. Where the Administrator withholds assent to a proposed law, or the Governor-General withholds assent to a proposed law or part of a proposed law or disallows a law or part of a law, a message of the Administrator stating the reasons for the withholding of assent, or for the disallowance, as the case may be, shall be laid before the Legislative Assembly within 6 sitting days of the Legislative Assembly after the date on which the assent was withheld or the date of the disallowance, as the case may be.

Proposal of money votes

11. An enactment, vote, resolution or question, the object or effect of which is to dispose of or charge any revenues, loans or other moneys received by the Territory, shall not be proposed in the Legislative Assembly unless it has in the same session been recommended by message of the Administrator to the Legislative Assembly.

Powers, privileges and immunities of Legislative Assembly

12. The power of the Legislative Assembly conferred by section 6 in relation to the making of laws extends to the making of laws—

- (a) declaring the powers (other than legislative powers), privileges and immunities of the Legislative Assembly and of its members and committees, but so that the powers, privileges and immunities so declared do not exceed the powers, privileges and immunities for the time being of the House of Representatives, or of the members or committees of that House, respectively; and
- (b) providing for the manner in which powers, privileges and immunities so declared may be exercised or upheld.

Division 2—Constitution and Membership of Legislative Assembly

13. (1) There shall be a Legislative Assembly of the Northern Territory of Australia. Legislative Assembly

(2) The Legislative Assembly shall consist of such number of members as is provided by enactment.

(3) Subject to this Act, the members of the Legislative Assembly shall be elected as provided by enactment.

(4) For the purposes of the election of members of the Legislative Assembly, the Territory shall be distributed into as many electoral divisions as there are members to be elected, and a quota shall be calculated by dividing the whole number of electors in the Territory, as nearly as can be ascertained, by the number of members to be elected.

(5) For the purposes of sub-section (4), each electoral division shall contain a number of electors not exceeding, or falling short of, the quota calculated under that sub-section by more than one-fifth of the quota.

(6) A member of the Legislative Assembly shall, before taking his seat, make and subscribe an oath or affirmation of allegiance in the form in Schedule 2 and also an oath or affirmation of office in the form in Schedule 3.

(7) An oath or affirmation under sub-section (6) shall be made before the Administrator or a person authorized by the Administrator to administer such oaths or affirmations.

14. All persons who are, under Part V of the Northern Territory Electoral Regulations from time to time in force under the *Northern Territory Representation Act* 1922 and the *Commonwealth Electoral Act* 1918, qualified to vote at an election of a member of the House of Representatives for the Northern Territory, shall be qualified to vote at an election of members of the Legislative Assembly. Qualification of electors

15. Writs for the election of members of the Legislative Assembly shall be issued by the Administrator. Writs for elections

16. Subject to this Act, the term of office of a member of the Legislative Assembly commences on the date of his election and ends immediately before the date of the next general election of members of the Legislative Assembly. Term of office of member

17. (1) A general election of members of the Legislative Assembly shall be held on a date determined by the Administrator. Dates of elections

(2) The period from the first meeting of the Legislative Assembly after a general election of members of the Assembly to the date of the next succeeding general election shall not be more than 4 years.

Resignation
of members
of
Legislative
Assembly

18. A member of the Legislative Assembly may resign his office by writing signed by him and delivered to the Speaker or, if there is no Speaker or the Speaker is absent from the Territory, to the Administrator, and on the receipt of the resignation by the Speaker or the Administrator, as the case may be, his office shall become vacant.

Filling of
casual
vacancy

19. Where a casual vacancy occurs in the office of a member of the Legislative Assembly less than 3 years and 9 months after the first meeting of the Assembly following the last preceding general election, an election shall be held for the purpose of filling the vacant office for the remainder of the term of office of the member who last held that office.

Qualifications
for election

20. Subject to section 21, a person is qualified to be a candidate for election as a member of the Legislative Assembly if, at the date of nomination—

- (a) he is an Australian citizen or otherwise has the status of a British subject;
- (b) he has attained the age of 18 years;
- (c) he is entitled, or qualified to become entitled, to vote at elections of members of the Legislative Assembly; and
- (d) he has been resident within the Commonwealth for at least 6 months and within the Territory for at least 3 months.

Disqualifi-
cations for
membership
of
Legislative
Assembly

21. (1) A person is not qualified to be a candidate for election as a member of the Legislative Assembly if, at the date of nomination—

- (a) he is employed in the Public Service or the Police Force of the Territory or of the Commonwealth;
- (b) he is an undischarged bankrupt; or
- (c) he has been convicted and is under sentence of imprisonment for one year or longer for an offence against the law of the Commonwealth or of a State or Territory.

(2) A member of the Legislative Assembly vacates his office if—

- (a) he becomes a person to whom any of the paragraphs of subsection (1) applies;
- (b) he ceases to be a person who is an Australian citizen or who otherwise has the status of a British subject;
- (c) he fails to attend the Legislative Assembly for 2 consecutive months of any session of the Assembly without the permission of the Assembly;
- (d) he ceases to be entitled, or qualified to become entitled, to vote at elections of members of the Legislative Assembly; or
- (e) he takes or agrees to take, directly or indirectly, any remuneration, allowance or honorarium for services rendered in the Legislative Assembly, otherwise than in accordance with an enactment that provides for remuneration and allowances to be paid to persons in respect of their services as members of the

Legislative Assembly, members of the Executive Council or Ministers of the Territory.

(3) A member of the Legislative Assembly who is a party to, or has a direct or indirect interest in, a contract made by or on behalf of the Territory under which goods or services are to be supplied to the Territory shall not take part in a discussion of a matter, or vote on a question, in the Legislative Assembly where the matter or question relates directly or indirectly to that contract.

(4) Any question concerning the application of sub-section (3) shall be decided by the Legislative Assembly, and a contravention of that sub-section does not affect the validity of anything done by the Legislative Assembly.

(5) For the purposes of this section, a person employed under the law relating to the Public Service of the Territory or of the Commonwealth as a temporary employee or as an officer or employee to whom any provisions of that law do not apply shall be deemed to be employed in the Public Service of the Territory or of the Commonwealth, as the case may be.

Division 3—Procedure of Legislative Assembly

22. (1) The Administrator may, by notice published in the *Government Gazette* of the Territory, appoint such times for holding the sessions of the Legislative Assembly as he thinks fit and may also, from time to time, in like manner, prorogue the Legislative Assembly.

Sessions of
Legislative
Assembly

(2) At the request of such number of members of the Legislative Assembly as is prescribed by enactment, the Administrator shall, by notice published in the *Government Gazette* of the Territory, appoint a time, being not later than 14 days after the day on which he receives the request, for holding a session of the Legislative Assembly.

23. The number of members necessary to constitute a meeting of the Legislative Assembly for the exercise and performance of its powers and functions shall be as prescribed by enactment.

Quorum

24. (1) The Legislative Assembly shall, before proceeding to the despatch of any other business, choose a member of the Legislative Assembly to be the Speaker of the Legislative Assembly and, as often as the office of Speaker becomes vacant, the Legislative Assembly shall again choose a member to be the Speaker.

Election of
Speaker

(2) The Speaker continues to hold his office until—

- (a) the Legislative Assembly first meets after a general election of the Legislative Assembly that takes place after his election under sub-section (1);

- (b) he resigns his office by writing signed by him and delivered to the Administrator;
 - (c) he ceases to be a member of the Legislative Assembly otherwise than by reason of the dissolution of the Legislative Assembly; or
 - (d) he is removed from office by the Legislative Assembly,
- whichever first happens.

Acting
Speaker—
appointment
by
Legislative
Assembly

25. (1) Before or during any absence of the Speaker, or during any inability of the Speaker, for any reason, to exercise the powers or perform the functions of the Speaker, the Legislative Assembly may appoint a member to exercise those powers and perform those functions during the absence or inability of the Speaker.

(2) A reference in this Act or in any other law in force in the Territory to the Speaker shall be read as including a reference to a person appointed under sub-section (1).

- (3) An appointment under sub-section (1) remains in force until—
- (a) the absence or inability of the Speaker ceases;
 - (b) the appointment is revoked by the Legislative Assembly;
 - (c) the person appointed resigns his appointment by writing signed by him and delivered to the Administrator;
 - (d) the person appointed ceases to be a member of the Legislative Assembly otherwise than by reason of the dissolution of the Legislative Assembly; or
 - (e) the Legislative Assembly first meets after a general election of the Legislative Assembly that takes place after the appointment takes effect,
- whichever first happens.

Acting
Speaker—
appointment
by Adminis-
trator

26. (1) Where—

- (a) the office of Speaker has become vacant and the Legislative Assembly has not chosen another Speaker to fill the vacancy;
- (b) the Speaker is absent or is unable, for any reason, to exercise the powers or perform the functions of the Speaker and the Legislative Assembly has not appointed a person under sub-section 25 (1);
- (c) the appointment of a person under sub-section 25 (1) has ceased to be in force, otherwise than by reason of the absence or inability of the Speaker ceasing, and the Legislative Assembly has not appointed another member under that sub-section; or
- (d) a person appointed under sub-section 25 (1) is absent or is unable, for any reason, to exercise the powers or perform the functions of the Speaker and the Legislative Assembly has not appointed another person under that sub-section,

the Administrator may, by instrument in writing, appoint a member of the Legislative Assembly to exercise the powers and perform the functions of the Speaker.

(2) A reference in this Act or in any other law in force in the Territory to the Speaker shall be read as including a reference to a person appointed under sub-section (1).

(3) An appointment under sub-section (1) remains in force until—

- (a) the next meeting of the Legislative Assembly is held;
- (b) the Administrator, by instrument in writing, revokes the appointment;
- (c) the person appointed resigns his appointment by writing signed by him and delivered to the Administrator;
- (d) the person appointed ceases to be a member of the Legislative Assembly otherwise than by reason of the dissolution of the Legislative Assembly;
- (e) in the case of the absence or inability of the Speaker—that absence or inability ceases; or
- (f) in the case of the absence or inability of a person appointed under sub-section 25 (1)—that absence or inability ceases or, if the absence or inability of the Speaker ceases before the absence or inability of that person ceases, the absence or inability of the Speaker ceases,

whichever first happens.

27. (1) Questions arising in the Legislative Assembly shall be determined by a majority of votes. Voting in
Legislative
Assembly

(2) Subject to sub-section 21 (3), the Speaker or other member presiding at any meeting of the Legislative Assembly shall in all cases be entitled to vote and shall also, where there is an equality of votes on any question, have a casting vote.

28. Where a person who has, whether before or after the commencement of this section, purported to sit or vote as a member of the Legislative Assembly at a meeting of the Legislative Assembly or of a Committee of the Legislative Assembly— Validation of
acts of
Legislative
Assembly

- (a) was not a duly elected member by reason of his not having been qualified for election or of any other defect in his election; or
- (b) had vacated his office as a member,

all things done or purporting to have been done by the Legislative Assembly or that Committee shall be deemed to be as validly done as if that person had, when so sitting or voting, been a duly elected member of the Legislative Assembly, or had not vacated his office, as the case may be.

Minutes of
proceedings

29. (1) The Legislative Assembly shall cause minutes of its proceedings to be kept.

(2) A copy of any minutes so kept shall, on request made by any person, be made available for inspection by him or, on payment of such fee as is fixed by or under enactment, be supplied to him.

Standing
rules and
orders

30. The Legislative Assembly may make standing rules and orders, not inconsistent with a law of the Territory, with respect to the order and conduct of its business and proceedings.

PART IV—THE ADMINISTRATION

Extent of
executive
power

31. The duties, powers, functions and authorities of the Administrator, the Executive Council and the Ministers of the Territory imposed or conferred by or under this Part extend to the execution and maintenance of this Act and the laws of the Territory and to the exercise of the prerogatives of the Crown so far as they relate to those duties, powers, functions and authorities.

Office of
Adminis-
trator

32. (1) There shall be an Administrator of the Territory, who shall be appointed by the Governor-General by Commission under the Seal of Australia and shall hold office during the pleasure of the Governor-General.

(2) The Administrator is charged with the duty of administering the government of the Territory.

(3) Subject to this Act, the Administrator shall exercise and perform all powers and functions that belong to his office, or that are conferred on him by or under a law in force in the Territory, in accordance with the tenor of his Commission and (in the case of powers and functions other than powers and functions relating to matters specified under section 35 and powers and functions under sections 34 and 36) in accordance with such instructions as are given to him by the Minister.

The
Executive
Council

33. (1) There shall be an Executive Council of the Northern Territory of Australia to advise the Administrator in the government of the Territory in relation to matters in respect of which the Ministers of the Territory have executive authority under section 35.

(2) The Council shall consist of the persons for the time being holding Ministerial office.

(3) The Administrator is entitled to attend all meetings of the Council, and shall preside at all meetings at which he is present.

(4) The Administrator may introduce into the Council any matter for discussion in the Council.

(5) Meetings of the Council shall be convened by the Administrator and not otherwise.

(6) Subject to the preceding provisions of this section and to any provision made by the regulations, the procedure of the Council shall be as the Council determines.

34. There shall be such number of offices of Minister of the Territory, having such respective designations, as the Administrator from time to time determines. Ministerial offices

35. The regulations may specify the matters in respect of which the Ministers of the Territory are to have executive authority. Transfer of functions to Executive

36. The Administrator may appoint a member of the Legislative Assembly to a Ministerial office, and may, at any time, terminate the appointment. Appointment of Ministers

37. The appointment of a person to a Ministerial office takes effect on the day specified in the instrument of appointment and terminates when— Tenure of office

- (a) he ceases, by reason of his resignation or by reason of the provisions of section 21, to be a member of the Legislative Assembly;
- (b) his appointment is terminated by the Administrator;
- (c) he resigns his office by writing signed by him and delivered to the Administrator and the resignation is accepted by the Administrator; or
- (d) the Legislative Assembly first meets after a general election of the Legislative Assembly that takes place after the appointment takes effect.

38. (1) A member of the Council shall, before entering on the duties of his office, make and subscribe an oath or affirmation in accordance with the form in Schedule 4. Oath to be taken by Member of Council and Minister

(2) A person who is appointed to a Ministerial office shall, before entering on the duties of his office, make and subscribe an oath or affirmation in accordance with the form in Schedule 5.

(3) An oath or affirmation under sub-section (1) or (2) shall be made before the Administrator or a person authorized by the Administrator to administer such oaths or affirmations.

39. Where a person appointed to the office of Administrator of the Territory was, immediately before his appointment, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act 1928* applied— Rights of officer appointed to office of Administrator

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service in the office of Administrator shall be taken into account as if it were service in the Australian Public Service; and

- (c) that Act applies as if this Act and this section had been specified in the Schedule to that Act.

Acting
Adminis-
trator

40. (1) The Governor-General may, by Commission under the Seal of Australia, appoint a person to act in the office of Administrator and to administer the government of the Territory during any vacancy in the office of Administrator or whenever the Administrator is absent from duty or from the Territory or is, for any other reason, unable to exercise and perform the powers and functions of his office.

(2) Whenever—

- (a) there is a vacancy in the office of Administrator or the Administrator is, or is about to be, absent from duty or from the Territory or is, for any other reason, unable to exercise and perform the powers and functions of his office; and
- (b) there is no Acting Administrator holding office in pursuance of sub-section (1) or the Acting Administrator so holding office is absent from duty or from the Territory or is, for any other reason, unable to act in the office of Administrator,

the Governor-General may appoint a person to act in the office of Administrator and to administer the government of the Territory during the period of the vacancy or of the absence or inability of the Administrator.

(3) A person acting as Administrator in pursuance of sub-section (2) shall cease so to act when a person appointed in pursuance of sub-section (1) notifies him that the person so appointed is ready to assume duty as Acting Administrator.

(4) An Acting Administrator administering the government of the Territory has, and may exercise and perform, all the powers and functions of the Administrator.

(5) The exercise or performance by an Acting Administrator of the powers or functions of the Administrator during the absence of the Administrator from the Territory does not prevent the exercise or performance by the Administrator of any of those powers or functions.

(6) The appointment of an Acting Administrator, and any act done by a person purporting to act under this section, shall not be called in question by reason of any defect or irregularity in or in connexion with his appointment or on the ground that the occasion for his so acting had not arisen or had ceased.

41. (1) The Administrator may appoint a person, or persons jointly or severally, to be the deputy or deputies of the Administrator in the Territory, or a part of the Territory, and in that capacity to exercise during the pleasure of the Administrator such powers and functions of the Administrator as he assigns to the deputy or deputies.

Deputies of
Adminis-
trator

(2) The appointment of a deputy does not affect the exercise of a power or performance of a function by the Administrator.

42. (1) The Administrator, an Acting Administrator or a deputy of the Administrator shall, before entering on the duties of his office, make and subscribe an oath or affirmation of allegiance in the form in Schedule 2 and also an oath or affirmation of office in the form in Schedule 6.

Oath to be
taken by
Adminis-
trator, &c.

(2) An oath or affirmation under this section shall be made before the Governor-General, a Judge of the Supreme Court of the Northern Territory of Australia or a person authorized by the Governor-General to administer the oath or affirmation.

PART V—FINANCE

43. In this Part—

Interpret-
ation

“public moneys of the Territory” means revenues, loans and other moneys received by the Territory;

“Territory authority” means a body corporate established for a public purpose by or under an enactment, being an authority that is empowered by enactment to borrow moneys.

44. (1) The public moneys of the Territory shall be available to defray the expenditure of the Territory.

Public
moneys

(2) The receipt, expenditure and control of public moneys of the Territory shall be regulated as provided by enactment.

45. (1) No public moneys of the Territory shall be issued or expended except as authorized by enactment.

Withdrawals
of public
moneys

(2) The public moneys of the Territory may be invested in such manner as is provided by enactment.

46. The Minister of State for Finance may, on behalf of the Commonwealth, out of moneys appropriated by the Parliament for the purpose, lend moneys to the Territory or to a Territory authority at such rates of interest and on such other terms and conditions as he determines.

Borrowing—
from
Common-
wealth

47. (1) The Territory or a Territory authority may, from time to time, borrow moneys (otherwise than from the Commonwealth) in such amounts, and on such terms and conditions, as the Treasurer of the Commonwealth approves.

Borrowing—
otherwise
than from
Common-
wealth

(2) Approvals for the purposes of sub-section (1) may be given in respect of particular borrowings or in respect of borrowings included within specified classes of borrowings.

(3) The Territory may give security for the repayment of amounts borrowed under this section and the payment of interest on amounts so borrowed.

(4) Without limiting the generality of sub-sections (1) and (3), a borrowing by the Territory under sub-section (1) may be by the issue of securities of such kinds as are prescribed by or under enactment.

(5) The Treasurer of the Commonwealth may, on behalf of the Commonwealth, guarantee the repayment by the Territory of amounts borrowed under this section and the payment of interest on amounts so borrowed.

(6) Where the Territory borrows moneys under this section by the issue of securities as provided by sub-section (4), the Treasurer of the Commonwealth may determine that the repayment by the Territory of amounts borrowed and the payment of interest on those amounts is, by force of this sub-section, guaranteed by the Commonwealth as if the Treasurer had, under sub-section (5), guaranteed the repayment of those amounts.

(7) Before giving a guarantee under sub-section (5) or making a determination under sub-section (6), the Treasurer may require the Territory to indemnify the Commonwealth against any action, claim or demand brought or made by any person against the Commonwealth or the Treasurer in respect of the guarantee.

(8) The Territory or a Territory authority shall not borrow moneys except in accordance with section 46 or this section.

Common-
wealth
Auditor-
General may
audit
Territory
accounts

48. It is lawful for the Auditor-General for the Commonwealth to accept appointment as auditor under any enactment relating to the audit of the accounts of the Territory or the audit of the accounts of a body corporate established for a public purpose by or under any other enactment.

PART VI—MISCELLANEOUS

Trade and
commerce
with States
to be free

49. Trade, commerce and intercourse between the Territory and the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.

Acquisition
of property
to be on just
terms

50. (1) The power of the Legislative Assembly conferred by section 6 in relation to the making of laws does not extend to the making of laws with respect to the acquisition of property otherwise than on just terms.

(2) Subject to section 70, the acquisition of any property in the Territory which, if the property were in a State, would be an acquisition to which paragraph 51 (xxxi) of the Constitution would apply, shall not be made otherwise than on just terms.

51. (1) Where an Act (whether or not by express provision) binds each of the States or the Crown in right of each of the States, that Act, by force of this sub-section, binds the Territory or the Crown in right of the Territory, unless that Act specifically provides otherwise.

Acts that
bind States
to bind
Northern
Territory

(2) Nothing in sub-section (1) shall be taken to affect the application of any law of the Commonwealth in and in relation to the Territory otherwise than as provided in that sub-section.

52. (1) The *Secret Commissions Act* 1905 applies in the Territory to trade and commerce with the Territory as if the words “with other countries and among the States” were omitted from section 2 of that Act.

Application
of Secret
Commissions
Act

(2) Nothing in sub-section (1) prevents the making of any enactment, not inconsistent with the *Secret Commissions Act* 1905, in relation to trade and commerce with the Territory, but such an enactment shall not be taken for the purposes of this sub-section to be inconsistent with that Act if it can be complied with without contravention of that Act.

53. (1) The *Conciliation and Arbitration Act* 1904 applies to industrial disputes in the Territory as if—

Application
of
Conciliation
and
Arbitration
Act

- (a) from paragraph (a) of the definition of “industrial dispute” in section 4 of that Act the words “which extends beyond the limits of any one State” were omitted;
- (b) from paragraph (b) of that definition the words “which so extends” were omitted; and
- (c) from the definitions of “industrial dispute” in sub-sections 71 (1) and 81 (1) of that Act the words “which extends beyond the limits of any one State” were omitted.

(2) For the purposes of the application of the *Conciliation and Arbitration Act* 1904 in accordance with sub-section (1)—

- (a) a person employed, otherwise than in an industry, for the performance of work wholly or mainly in the Territory shall be deemed to be employed in an industry; and
- (b) an industrial dispute in relation to the employment of persons employed for the performance of work wholly or mainly in the Territory shall be deemed to be an industrial dispute in the Territory.

(3) Until provision to the contrary is made by an Act, the powers of the Australian Conciliation and Arbitration Commission do not extend to employment in respect of which a tribunal established by an enactment before 1 July 1978 has power to hear and determine disputes, claims or matters relating to the terms and conditions of the employment.

(4) Provision may be made by enactment for a member of the Australian Conciliation and Arbitration Commission to constitute, or to be a member of, a tribunal of the kind referred to in sub-section (3), and nothing in this section or in the *Conciliation and Arbitration Act 1904* prevents a member of the Commission from accepting appointment, or performing duties, as, or as a member of, such a tribunal.

(5) The power of the Legislative Assembly conferred by section 6 in relation to the making of laws does not extend to the making of a law conferring on any court, tribunal, board, body, person or other authority any power with reference to the hearing and determining of disputes, claims or matters relating to terms and conditions of employment.

(6) Sub-section (5) does not prevent the making of—

- (a) a law conferring the power to make determinations by way of the ascertainment of rights or obligations conferred or imposed on persons by law; or
- (b) a law conferring power on the Public Service Commissioner of the Territory, on a body established by enactment, or on the holder of an office established by enactment, to make determinations by way of the fixing of terms and conditions of employment of persons employed in the Public Service of the Territory or employed by that body or by the holder of that office, as the case may be.

(7) Where an enactment, or a determination referred to in paragraph (6) (b), coming into operation on or after 1 July 1978 is inconsistent with an award or order made, whether before, on or after that date, under the *Conciliation and Arbitration Act 1904*, the latter prevails and the former, to the extent of the inconsistency, is invalid.

(8) Nothing in this section affects the operation of the *Public Service Arbitration Act 1920*.

Power to
confer
jurisdiction
on
Remunera-
tion Tribunal
in relation to
members,
&c.

54. (1) Provision may be made by enactment to confer on the Remuneration Tribunal established by the *Remuneration Tribunals Act 1973* the function of inquiring into, and reporting on or determining, remuneration and allowances to be paid, and other entitlements to be granted, to persons in respect of their services as members of the legislative Assembly, members of the Executive Council and Ministers of the Territory.

(2) Nothing in sub-section (1) shall be taken to limit the power to make other provision by enactment for and in relation to remuneration, allowances and other entitlements referred to in that sub-section.

55. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations

PART VII—TRANSITIONAL PROVISIONS

56. In this Part, unless the contrary intention appears—

“commencing date” means 1 July 1978;

“existing Legislative Assembly” means the Legislative Assembly established by section 4 of the previous Act;

“instrument” includes rules, regulations or by-laws;

“interest” includes any right, title, estate, power, privilege, claim, demand, charge, lien or encumbrance, whether at law or in equity;

“Ordinance” means an Ordinance made under the previous Act;

“previous Act” means the *Northern Territory (Administration) Act* 1910.

Interpretation

57. (1) Subject to this Act, on and after the commencing date, all existing laws of the Territory have the same operation as they would have had if this Act had not been enacted, subject to alteration or repeal by or under enactment. Continuance of laws

(2) Where any existing law of the Territory, the operation of which is preserved by this section, is a law of the State of South Australia, any power or function which by that law is vested in the Governor of the State of South Australia, in the Governor of that State with the advice of his Executive Council or in any authority of that State shall, in relation to the Territory, be vested in and exercised or performed by the Administrator, the Administrator acting with the advice of the Council or the authority exercising similar powers and functions in the Territory, as the case may be, or as the Administrator directs.

(3) In this section, “existing law of the Territory” means—

(a) any law in force in the Territory immediately before the commencing date, other than an Act or an instrument (not being an Ordinance or an instrument made under an Ordinance) made under an Act; or

(b) an Ordinance, or an instrument under an Ordinance, in force immediately before the commencing date or made and assented to before that date but not in force before that date.

Adminis-
trator, &c. to
continue in
office

58. (1) Where, immediately before the commencing date, a person holds office by virtue of a provision of the previous Act as the Administrator, an Acting Administrator or a deputy Administrator, he continues on and after that date, but subject to this Act, to hold office for the remainder of his term of office as if he had been appointed under the corresponding provision of this Act, and any instrument by which his appointment was made continues in force accordingly.

(2) Section 42 does not apply for the purposes of the continuance in office of a person by virtue of sub-section (1) of this section.

Legislative
Assembly,
&c. to
continue

59. (1) Notwithstanding the repeal of the previous Act, but subject to this Act, until the day of the first general election of members of the Legislative Assembly after the commencing date—

- (a) the existing Legislative Assembly continues in existence and shall, for the purposes of this Act, be deemed to be the Legislative Assembly referred to in section 13;
- (b) the members of the existing Legislative Assembly holding office immediately before the commencing date continue to hold office; and
- (c) the Speaker holding office immediately before the commencing date continues to hold office.

(2) Notwithstanding sub-section 17 (2) of this Act and the repeal of the previous Act, until the day of the first general election of members of the Legislative Assembly after the commencing date, sub-sections 4G (2) and (3) of the previous Act shall be deemed to continue in force in relation to the existing Legislative Assembly.

(3) Notwithstanding the repeal of the previous Act, the standing rules and orders of the existing Legislative Assembly in force immediately before the commencing date continue in force, but may be altered or repealed in accordance with this Act.

(4) Until provision is made by enactment for the purposes of sub-section 13 (2), the Legislative Assembly consists of 19 members.

(5) Sub-section 13 (6) does not apply for the purposes of the continuance in office of a member of the existing Legislative Assembly by virtue of sub-section (1) of this section.

Functions
performed
by
Legislative
Assembly
and
Executive
Council

60. An act done or decision made by, on behalf of, or in the name of, the existing Legislative Assembly or the Executive Council under the previous Act before the commencing date has effect on and after that date as if it had been done or made by, on behalf of, or in the name of, the Legislative Assembly or the Executive Council under this Act.

61. An act done or decision made by, on behalf of, or in the name of, a person under a provision of the previous Act before the commencing date has effect on and after that date as if it had been done or made by, on behalf of, or in the name of, the appropriate person under the corresponding provision of this Act.

Functions performed by specified persons

62. (1) Notwithstanding the repeal of the previous Act, until provision is made by enactment for the purposes of sub-section 13 (3), or until the day of the second general election of members of the Legislative Assembly after the commencing date, whichever first happens—

Election of members of Legislative Assembly

- (a) sections 4C to 4CH (inclusive) and section 4E of the previous Act;
- (b) sub-section 4J (1) of that Act; and
- (c) regulations made for the purposes of sections 4CA and 4E of that Act,

shall be deemed to continue in force for the purpose of electing members of the Legislative Assembly.

(2) Sub-sections 13 (4) and (5) apply for the purposes of the second general election of members of the Legislative Assembly after the commencing date and for the purposes of all subsequent elections of members of the Legislative Assembly.

63. Until provision is made by enactment for the purposes of sub-section 22 (2), the number of members of the Legislative Assembly required for the purposes of that sub-section is 10.

Sessions of Legislative Assembly

64. Until provision is made by enactment for the purposes of section 23, the number of members of the Legislative Assembly required for the purposes of that section is 10.

Quorum

65. Notwithstanding the repeal of the previous Act, until a person receives remuneration, allowances and other entitlements in accordance with an enactment, he shall receive in respect of his services as a member of the Legislative Assembly, a member of the Council or a Minister of the Territory, as the case may be, remuneration, allowances and other entitlements in accordance with the relevant determination by the Remuneration Tribunal in force immediately before the commencing date, and paragraph 21 (2) (e) does not apply in relation to remuneration, allowances and other entitlements so received.

Remuneration and allowances

66. (1) An Ordinance made by the existing Legislative Assembly before the commencing date but not assented to before that date (other than an Ordinance to which sub-section (2) applies) shall, for the purposes of this Act, be deemed to be a proposed law passed by the Legislative Assembly under this Act.

Ordinances made but not assented to before commencing date

(2) Where, before the commencing date, the Administrator had, in accordance with section 4V or 4W of the previous Act, reserved an Ordinance for the Governor-General's pleasure and the Governor-General had not made a declaration under sub-section 4X (1) of that Act in relation to the Ordinance, the Ordinance shall, for the purposes of this Act, be deemed to be a proposed law passed by the Legislative Assembly under this Act and to have been reserved for the Governor-General's pleasure in accordance with section 7 of this Act.

References
in other laws.

67. In any law of the Commonwealth or of the Territory or any instrument having effect under such a law (including a law or instrument that came into operation before the commencing date), except so far as the context otherwise requires—

- (a) a reference, however expressed, to the Legislative Assembly for the Territory shall be read as a reference to the Legislative Assembly of the Northern Territory of Australia;
- (b) a reference, however expressed, to an Ordinance shall be read as including a reference to an enactment;
- (c) a reference, however expressed, to the Executive Council established by the previous Act shall be read as including a reference to the Executive Council of the Northern Territory of Australia; and
- (d) a reference, however expressed, to a person holding office under a provision of the previous Act shall be read as including a reference to a person holding office under the corresponding provision of this Act.

Certain
provisions of
previous Act
to continue
to operate

68. Notwithstanding the repeal of the previous Act, the provisions of sections 11, 12, 13, 14, 15, 16, 19, 19A and 20 of the previous Act continue to have effect, by virtue of this Act and except so far as they are inconsistent with a provision of this Act, as if that Act had not been repealed.

Transfers of
property, &c.

69. (1) In this section—

“mineral” means a naturally occurring substance or mixture of substances, whether in a solid, liquid or gaseous state;

“personal property” does not include—

- (a) money;
- (b) things in action (other than rights in relation to inventions, trade marks or designs); or
- (c) leasehold interests in land.

(2) All interests of the Commonwealth in land in the Territory, other than interests referred to in sub-section (5), are, by force of this section, vested in the Territory on the commencing date.

(3) All interests in land in the Territory held from the Commonwealth immediately before the commencing date are, by force of this section, held from the Territory on and after that date on the same terms and conditions as those on which they were held from the Commonwealth.

(4) All interests of the Commonwealth in respect of minerals in the Territory (other than prescribed substances within the meaning of the *Atomic Energy Act* 1953 and the regulations made under that Act and in force immediately before the commencing date) are, by force of this section, vested in the Territory on that date.

(5) On, or as soon as practicable after, the date when a matter is specified under section 35, the Minister shall transfer or cause to be transferred to the Territory—

- (a) all interests held by the Commonwealth immediately before that date in land in the Territory, being—
 - (i) interests under easements, rights of way or mortgages; or
 - (ii) interests as lessee or sub-lessee; and
- (b) all personal property held by the Commonwealth immediately before that date,

being interests and property that, in the opinion of the Minister, were so held for the purposes of the Commonwealth in connexion with that matter.

(6) Where an interest is transferred to the Territory under paragraph (5) (a), being an interest derived from a contract, the Territory is, by force of this section, substituted for the Commonwealth as a party to the contract.

(7) The Commonwealth is not liable to pay to the Territory any duties, fees or other charges in respect of anything done under sub-section (5).

70. (1) The Minister may, from time to time, recommend to the Governor-General that any interest in land vested or to be vested in the Territory by sub-section 69 (2) (including an interest less than, or subsidiary to, such an interest) be acquired from the Territory by the Commonwealth under this section.

Acquisition
of certain
land, &c.

(2) The Governor-General may, on the recommendation of the Minister under sub-section (1), authorize the acquisition of the interest for a public purpose approved by the Governor-General.

(3) The Minister may cause to be published in the *Gazette* notice of the authorization by the Governor-General and, in the notice, declare that the interest is acquired under this section for the public purpose approved by the Governor-General.

(4) Upon publication of the notice in the *Gazette* or immediately after the commencement of section 69, whichever is the later, the interest to which the notice relates is, by force of this section—

- (a) vested in the Commonwealth; and
- (b) freed and discharged from any restriction, dedication or reservation made by or under any enactment (not being an interest to which sub-section (6) applies),

to the intent that the legal estate in the interest, and all rights and powers incident to that estate or conferred by the *Lands Acquisition Act* 1955 in relation to that estate, are vested in the Commonwealth.

(5) An interest that may be acquired under this section may be an interest that did not previously exist as such.

(6) Upon the acquisition of an interest by the Commonwealth under this section, all interests that were held from the Territory immediately before the acquisition, being interests derived from the first-mentioned interest, are, by force of this section, held from the Commonwealth on the same terms and conditions as those on which they were held from the Territory.

(7) The Crown Solicitor shall lodge with the registrar of titles of the Territory a copy of a notice published under this section, certified under the hand of the Crown Solicitor or of an officer of the Attorney-General's Department authorized by the Crown Solicitor to certify such copies.

(8) Upon the lodgment of a copy of a notice in accordance with sub-section (7), the registrar of titles shall register the acquisition to which the notice relates in the manner as nearly as may be in which dealings with land are registered, and shall deal with and give effect to the copy of the notice as if it were a grant, conveyance, memorandum or instrument of transfer of the land or interest, as the case may be, to the Commonwealth duly executed under the laws in force in the Territory.

(9) The Commonwealth is not liable to pay to the Territory—

- (a) any compensation in respect of an acquisition made under this section; or
- (b) any duties, fees or other charges in respect of anything done under sub-section (7) or (8).

(10) A notice shall not be published under this section after the expiration of one year after the commencing date.

Contracts

71. (1) The regulations may make provision for and in relation to—

- (a) the substitution of the Territory for the Commonwealth as a party to a prescribed contract or a contract included in a class of prescribed contracts; and

(b) matters arising from, connected with or consequential upon any such substitution.

(2) In sub-section (1), “prescribed contract” means a contract—

(a) which was subsisting immediately before the commencing date;

(b) to which the Commonwealth is a party; and

(c) which relates to a matter specified under section 35,

other than a contract referred to in sub-section 69 (6).

72. (1) The Commonwealth shall indemnify the Territory, and keep the Territory indemnified, against any action, claim or demand brought or made against the Territory in respect of any act done or omitted to be done by or on behalf of the Commonwealth, being an action, claim or demand that, but for the operation of this Act, could be brought or made against the Commonwealth.

Commonwealth to indemnify Territory

(2) The indemnification under sub-section (1) extends to damages, expenses and costs arising from, connected with or consequential upon an action, claim or demand referred to in that sub-section.

73. For the avoidance of doubt, it is hereby declared that an Ordinance made by the existing Legislative Assembly under the previous Act (including an Ordinance that was not assented to before the commencing date) is as valid as if it had been passed by the Legislative Assembly under this Act.

Validity of Ordinances

74. The Minister may arrange with the Administrator for the Territory to perform functions on behalf of the Commonwealth or for the Commonwealth to perform functions on behalf of the Territory.

Agency arrangements

75. (1) With the consent of the Administrator for the Territory acting with the advice of the Council, the regulations may make provision (including provision by way of modifications and adaptations of any Act) for and in relation to any matter arising from, consequential upon or otherwise connected with the establishment of the Territory as a body politic under the Crown.

Regulations

(2) The power to make regulations under sub-section (1) extends to the making of regulations expressed to take effect on and from a date earlier than the date of the making of the regulations, not being a date earlier than the commencing date.

(3) Regulations shall not be made under this section after 30 June 1979.

SCHEDULE 1

Section 3

ACTS REPEALED

Northern Territory (Administration) Act 1910
Northern Territory (Administration) Act 1926
Northern Territory (Administration) Act 1931
Northern Territory (Administration) Act (No. 2) 1931
Northern Territory (Administration) Act 1933
Northern Territory (Administration) Act 1939
Northern Territory (Administration) Act 1940
Northern Territory (Administration) Act (No. 2) 1940
Northern Territory (Administration) Act 1947
Northern Territory (Administration) Act 1949
Northern Territory (Administration) Act 1952
Northern Territory (Administration) Act 1953
Northern Territory (Administration) Act 1955
Northern Territory (Administration) Act 1956
Northern Territory (Administration) Act (No. 2) 1956
Northern Territory (Administration) Act 1959
Northern Territory (Administration) Act 1961
Northern Territory (Administration) Act 1962
Northern Territory (Administration) Act 1965
Northern Territory (Administration) Act 1968
Northern Territory (Administration) Act (No. 2) 1968
Northern Territory (Administration) Act 1969
Northern Territory (Administration) Act 1972
Northern Territory (Administration) Act 1973
Northern Territory (Administration) Act 1974
Northern Territory (Administration) Amendment Act 1976

SCHEDULE 2

Sub-sections 13 (6) and 42 (1)

OATH

I, *A.B.*, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth, Her heirs and successors according to law: So help me God!

AFFIRMATION

I, *A.B.*, do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth, Her heirs and successors according to law.

SCHEDULE 3

Sub-section 13 (6)

OATH

I, *A.B.*, do swear that I will render true and faithful service as a member of the Legislative Assembly for the Northern Territory of Australia: So help me God!

AFFIRMATION

I, *A.B.*, do solemnly and sincerely promise and declare that I will render true and faithful service as a member of the Legislative Assembly for the Northern Territory of Australia.

SCHEDULE 4

Sub-section 38 (1)

OATH

I, *A.B.*, do swear that, except as may be required by law, I will not divulge any information (including the contents of any document) of which I have become aware by reason of my membership of the Executive Council of the Northern Territory of Australia: So help me God!

AFFIRMATION

I, *A.B.*, do solemnly and sincerely promise and declare that, except as may be required by law, I will not divulge any information (including the contents of any document) of which I have become aware by reason of my membership of the Executive Council of the Northern Territory of Australia.

SCHEDULE 5

Sub-section 38 (2)

OATH

I, *A.B.*, do swear that, except in the course of my duties or as may be required by law, I will not divulge any information (including the contents of any document) of which I have become aware by reason of my holding Ministerial office: So help me God!

AFFIRMATION

I, *A.B.*, do solemnly and sincerely promise and declare that, except in the course of my duties or as may be required by law, I will not divulge any information (including the contents of any document) of which I have become aware by reason of my holding Ministerial office.

SCHEDULE 6

Sub-section 42 (1)

OATH

I, *A.B.*, do swear that I will well and truly serve our Sovereign Lady the Queen in the office of Administrator (*or* Acting Administrator, *or* Deputy Administrator) of the Northern Territory of Australia, and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will: So help me God!

AFFIRMATION

I, *A.B.*, do solemnly and sincerely promise and declare that I will well and truly serve our Sovereign Lady the Queen in the office of Administrator (*or* Acting Administrator, *or* Deputy Administrator) of the Northern Territory of Australia, and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will.

NOTE

1. Act No. 58, 1978; assented to 22 June 1978.