

NORTHERN TERRITORY SUPREME COURT AMENDMENT ACT (No. 2) 1978

No. 64 of 1978

An Act to amend the *Northern Territory Supreme Court Act 1961* for purposes related to the self-government of the Northern Territory.

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

1. (1) This Act may be cited as the *Northern Territory Supreme Court Amendment Act (No. 2) 1978*.¹ Short title,
&c.

(2) The *Northern Territory Supreme Court Act 1961*² is in this Act referred to as the Principal Act.

2. This Act shall come into operation on 1 July 1978.

Commence-
ment

3. Section 5 of the Principal Act is amended by omitting “, and includes the Territory of Ashmore and Cartier Islands” from the definition of “the Territory”. Interpret-
ation

4. After section 5 of the Principal Act the following section is inserted in Part I:

“5A. (1) The Commonwealth may bring a suit against the Territory in the Supreme Court in respect of a cause of any description, whether at law or in equity, including (but without limiting the generality of the foregoing) a claim in tort. Common-
wealth may
sue Territory”

“(2) Sub-section (1) shall not be taken to limit the operation of any other provision of this Act or any provision of the *Judiciary Act 1903*.”

5. Section 15 of the Principal Act is amended—

Jurisdiction
of Supreme
Court

(a) by inserting after paragraph (a) of sub-section (1) the following paragraph:

“(aa) has jurisdiction in matters between the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, and the Territory, or a person suing or being sued on behalf of the Territory;”;

(b) by omitting from paragraph (c) of sub-section (1) “Australia” and substituting “the Commonwealth”; and

(c) by adding at the end thereof the following sub-sections:

“(4) The jurisdiction of the Supreme Court extends to matters in which an injunction or declaratory order or a writ of mandamus, prohibition or certiorari is sought by or on behalf of the Commonwealth against the Territory or an officer of the Territory.

“(5) The jurisdiction conferred on the Supreme Court by paragraph (aa) of sub-section (1) and by sub-section (4) is in addition to, and not in derogation of, any jurisdiction otherwise conferred on the Court.

“(6) No execution or attachment, or process in the nature thereof, shall be issued against the property or moneys of the Territory.”.

Application
of laws in
Territory

6. (1) Section 49 of the Principal Act is amended—

- (a) by omitting “Australia” and substituting “the Commonwealth”;
- (b) by omitting “*Northern Territory (Administration) Act 1910-1959*” (first occurring) and substituting “*Northern Territory (Self-Government) Act 1978*”;
- (c) by omitting “Legislative Council for the Territory by the *Northern Territory (Administration) Act 1910-1959* to make Ordinances for the peace, order and good government of the Territory shall be construed as including provision to make Ordinances so applying” and substituting “Legislative Assembly of the Northern Territory of Australia by the *Northern Territory (Self-Government) Act 1978* in relation to the making of laws for the peace, order and good government of the Territory shall be construed as extending to the making of laws so applying”; and
- (d) by adding at the end thereof the following sub-section:

“(2) Without derogating from the generality of sub-section (1), nothing in this or any other Act shall be taken to limit the power of the Legislative Assembly of the Northern Territory in relation to the making of laws relating to the prosecution in the Supreme Court of indictable offences against laws in force in the Territory under or by virtue of the *Northern Territory (Self-Government) Act 1978*.”.

(2) Notwithstanding the amendments of section 49 of the Principal Act made by sub-section (1), Ordinances in force at the commencement of this Act having an application to which that section refers are continued in force, but may be amended or repealed by laws made in pursuance of that section.

7. Section 51 of the Principal Act is amended—

Indictable
offences

(a) by omitting from sub-section (1) “Australia” and substituting “the Commonwealth”; and

(b) by adding at the end thereof the following sub-section:

“(10) In this section—

‘indictable offence’ means an indictable offence against a law of the Commonwealth, and ‘indictment’ shall be construed accordingly;

‘law of the Commonwealth’ does not include a law in force in the Territory under or by virtue of the *Northern Territory (Self-Government) Act 1978.*”.

NOTES

1. Act No. 64, 1978; assented to 22 June 1978.
2. Act No. 11, 1961, as amended. For previous amendments *see* Act No. 92, 1965; No. 93, 1966; No. 116, 1968; No. 40, 1969; No. 99, 1971; Nos. 216 and 220, 1973; No. 84, 1975; Nos. 37 and 159, 1976; and No. 4, 1978.