

NORTHERN TERRITORY OF AUSTRALIA

INTERPRETATION ACT

As in force at 1 July 2006

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 July 2006

INTERPRETATION ACT

An Act for the interpretation of Acts and for the shortening of their language and for other purposes

Part I Preliminary

1 Short title

This Act may be cited as the *Interpretation Act*.

2 Repeal and savings

- (1) The Ordinances set out in Parts 1, 2 and 3 of the Schedule are repealed.
- (2) The laws of the State of South Australia set out in Part 4 of the Schedule cease to have effect in the Northern Territory as laws of the Northern Territory.
- (3) Where there is, in an Act, or a law of the State of South Australia in its application to the Northern Territory, made before the commencement of this Act, a word, expression or provision as to which there is no provision in this Act which is appropriate to its interpretation, application or effect but as to which a provision of a law in force before the commencement of this Act would, but for the repeal effected by this section, have continued to be appropriate to its interpretation, application or effect, the provision in that last-mentioned law continues to apply to the word, expression or provision in that first-mentioned law, notwithstanding the repeal effected by this section.
- (4) Notwithstanding the repeal effected by this section, in the interpretation, application or effect of a word, expression or provision in an Act, or law of the State of South Australia in its application to the Northern Territory, to or in relation to anything done or suffered before the commencement of this Act, reference shall be made to the law as in force or deemed before the commencement of this Act to be in force at the time when that thing was done or suffered and not to this Act, and that law continues to have effect for that purpose.

3 Application of this Act

- (1) Subject to section 2, this Act applies to each Act, and to each Act and Act of the State of South Australia in its application to the Northern Territory, and to each Act of the Northern Territory, whether made before or after the making of this Act, including this Act, as though that law were an Act.
- (2) This Act binds the Crown not only in right of the Territory but, so far as the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.
- (3) In the application of a provision of this Act to a provision, whether in this Act or in another law, the first-mentioned provision yields to the appearance of an intention to the contrary in that other provision.

4 Application to regulations, &c.

This Act applies, so far as it is applicable:

- (a) to and in respect of statutory instruments made under laws to which this Act applies, and to and in respect of the interpretation, application and effect of such instruments, as if those instruments were Acts; and
- (b) without limiting its general application:
 - (i) to and in respect of references to statutory instruments as if they were references to Acts; and
 - (ii) to and in respect of references to Acts as if they were references to such instruments.

Part II Commencement of Acts**5 When Acts commence**

If an Act or provision of an Act commences on a particular day, it commences at the beginning of that day.

6 Commencement of Acts

- (1) An Act assented to by the Administrator comes into operation on the day on which that assent is declared.
- (2) An Act reserved for the signification of the pleasure of the Governor-General comes into operation on the day upon which notification that the Governor-General has assented to the Act is published in the *Gazette*.

(3) Notwithstanding that an Act is expressed to come into operation:

- (a) on a particular day or date or progressively on a number of different days or dates;
- (b) on a date to be fixed by statutory instrument; or
- (c) on the happening of a particular event,

its long title and short title, and the provision so providing for the commencement of the Act, comes into operation on the day on which the Administrator's assent to the Act is declared or, where the Act is reserved for the signification of the pleasure of the Governor-General, on the day on which the notification that the Governor-General has assented to the Act is published in the *Gazette*.

6A Commencement notices

If an Act is expressed to commence on a day fixed by *Gazette* notice:

- (a) a single day or time may be fixed; or
- (b) different days or times may be fixed for different provisions of the Act.

6B General references to commencement

A reference in an Act to the commencement of the Act, or another Act, (the **Act concerned**) is a reference to:

- (a) if the provisions of the Act concerned (other than those providing for its long and short titles and commencement) commence, or are required to commence, on a single day or at a single time – the commencement of the remaining provisions; or
- (b) if paragraph (a) does not apply and the reference is in a provision of the Act concerned – the commencement of the provision; or
- (c) in any other case – the commencement of the relevant provision of the Act concerned.

7 Evidence of assent, &c.

- (1) The date appearing on a copy of an Act printed by the Government Printer and purporting to be the date upon which assent was given to the Act shall be evidence of that date.

- (2) The date appearing on a copy of an Act printed by the Government Printer and purporting to be the date upon which the assent to the Act was notified in the *Gazette* shall be evidence of that date.
- (3) The dates appearing on a copy of subordinate legislation printed by the Government Printer and purporting to be:
 - (a) the date on which the subordinate legislation was made; and
 - (b) the date on which the subordinate legislation was notified in the *Gazette*,shall be evidence of those dates.

8 Exercise of powers before commencement

- (1) Where a provision of an Act is expressed to confer power, or to amend a provision of another Act in such a manner that the other Act, as amended, will confer power, to take any action, including power to make an appointment or to make a statutory instrument then, before the first-mentioned provision or the second-mentioned provision as amended, as the case may be, comes into operation, that power may be exercised and anything may be done for the purpose of enabling the exercise of that power or of bringing the appointment or instrument into effect.
- (1A) Subsection (1B) applies if a power to appoint a person to an office or to establish an entity is exercised under subsection (1).
- (1B) For the purposes mentioned in subsection (1):
 - (a) the person appointed may act in the office; or
 - (b) the entity may meet and exercise its powers and perform its functions.
- (2) An action taken by virtue of subsection (1), takes effect:
 - (a) on the day on which the provision first therein mentioned comes into operation; or
 - (b) on the day on which the action would have taken effect if that provision had been in operation when the action was taken,whichever is the later day.

9 Amendment before commencement

At any time after a proposed law has been passed by the Legislative Assembly and before it has come into operation:

- (a) it may be cited by its proposed short title; and
- (b) it may be the subject of a further proposed law to amend or repeal it,

and if a provision of an Act to amend or repeal another Act (including a provision relating to the commencement of the Act proposed to be amended) comes into operation before or on the same day as the Act or provision amended or repealed, the Act or provision amended or repealed, as the case may be, shall not come into operation except as amended or for the purpose of making the repeal effective as though the repealed provision had never existed.

Part III Repeal and expiration of Acts**11 Repeal does not revive previous Act**

Subject to section 63(10), the repeal of an Act or part of an Act by which a previous Act or part of an Act was repealed, does not without express words have the effect of reviving that last-mentioned Act or part.

12 Effect of repeal

The repeal of an Act or part of an Act does not:

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of the Act or the part of the Act so repealed, or anything duly done or suffered under the Act or the part of the Act so repealed;
- (c) affect a right, privilege, obligation or liability acquired, accrued or incurred under an Act or the part of the Act so repealed, or an investigation, legal proceeding or remedy in respect of that right, privilege, obligation or liability; or
- (d) affect a penalty, forfeiture or punishment incurred in respect of an offence against the Act or part of the Act so repealed, or an investigation, legal proceeding or remedy in respect of that penalty, forfeiture or punishment,

and the investigation, legal proceeding or remedy may be instituted, continued or enforced, and a penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been made.

13 Effect of State laws ceasing to apply

Where an Act repeals in whole or in part a law of the State of South Australia in its application to the Territory or provides that such a law or any part of such a law shall cease to apply to the Territory sections 11, 12, 14 and 15 apply as if the law of the State were an Act or a part of an Act which had been repealed.

14 Continuance of repealed provisions

Where an Act repeals in whole or in part a former Act and substitutes provisions in lieu thereof, the repealed provisions continue in force until the substituted provisions come into operation.

15 References to repealed provisions

- (1) Where an Act repeals and re-enacts, with or without modification, any provisions of a former Act, references in any other Act to the provisions so repealed shall be construed as references to the provisions so re-enacted.
- (2) Where a Commonwealth Act or regulation repeals and re-enacts, with or without modification, any provisions of a former Commonwealth Act or regulation, references in an Act to the provisions so repealed shall be construed as references to the provisions so re-enacted.

16 Expiration of Acts

Where an Act or part of an Act expires, sections 11, 12, 14 and 15 apply in respect of that expiration as though the Act or part had been repealed.

Part IV Words and references in Acts

17 Definitions

In an Act:

Act means an Act passed by the Legislative Assembly and assented to under the *Northern Territory (Self-Government) Act 1978* (Cth), and includes:

- (a) a Territory Ordinance; and

(b) an Ordinance or Act of South Australia in its application to the Territory; and

(c) a part of an Act.

Acting Administrator means a person appointed under the *Northern Territory (Self-Government) Act 1978* (Cth) to act in the office of Administrator.

ADI means an authorised deposit-taking institution within the meaning of the *Banking Act 1959* (Cth).

Administrative Arrangements Order has the meaning in section 35(1).

Administrator means the Administrator of the Territory, and includes an acting Administrator.

adult means an individual who is at least 18 years old.

Agency has the meaning in section 18A(1).

Allocation has the same meaning as in the *Financial Management Act*.

ASIC means the Australian Securities and Investments Commission continued in existence under the ASIC Act.

ASIC Act means the *Australian Securities and Investments Commission Act 2001* (Cth).

Attorney-General has the same meaning as in section 7 of the *Law Officers Act*.

Auditor-General has the same meaning as in the *Audit Act*.

bank means an ADI that is permitted under the *Banking Act 1959* (Cth) to assume or use:

(a) the word **bank**, **banker** or **banking**; or

(b) any other word (whether or not in English) that is of like import to a word mentioned in paragraph (a).

bank cheque or **banker's cheque** means a cheque that an ADI draws on itself.

building society means an ADI that is permitted under the *Banking Act 1959* (Cth) to assume or use:

(a) the expression **building society**; or

- (b) any other expression (whether or not in English) that is of like import to the expression mentioned in paragraph (a).

calendar month means a period commencing at the beginning of any day of a named month and ending:

- (a) at the end of the day before the corresponding day of the next named month; or
- (b) if there is no such corresponding day – at the end of the next named month.

calendar year means the period of 12 months commencing on 1 January.

Central Holding Authority means the Central Holding Authority established under the *Financial Management Act*.

Commissioner of Police means the Commissioner of Police appointed or holding office under the *Police Administration Act*.

committed for trial, in relation to a person, means:

- (a) committed to prison with a view to being tried before a judge and jury; or
- (b) admitted to bail on a recognizance to appear and be tried before a judge and jury.

Commonwealth means the Commonwealth of Australia.

Consolidated Revenue Account means the Central Holding Authority.

contravene includes fail to comply with.

Corporations Act 2001 means the *Corporations Act 2001* (Cth).

court of competent jurisdiction means a court having jurisdiction to hear and determine the legal proceeding mentioned in the Act in which the expression occurs.

court of summary jurisdiction means 2 justices of the peace or a magistrate sitting as a court for the making of summary orders or the summary punishment of offenders.

credit union has the same meaning as in section 47 of the *Financial Sector Reform (Northern Territory) Act*.

Criminal Code means the *Criminal Code Act*, Schedule 1.

de facto partner has the meaning in section 19A(3).

de facto relationship has the meaning in section 19A(3).

department means a department of the Public Service of the Territory.

document includes:

- (a) any of, or part of any of, the following things:
 - (i) paper or other material on which there is writing;
 - (ii) a map, plan, drawing or photograph;
 - (iii) paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
 - (iv) an article or any material from which sounds, images or writings are capable of being reproduced with or without the aid of another article or device;
 - (v) an article on which information has been stored or recorded, either mechanically or electronically;
 - (vi) any other record or information; and
- (b) a copy, reproduction or duplicate, or part of a copy, reproduction or duplicate, of a thing mentioned in paragraph (a).

Electoral Commission means the Northern Territory Electoral Commission established by the *Electoral Act*.

Electoral Commissioner means the person holding or occupying the office of Electoral Commissioner established by section 314 of the *Electoral Act*.

estate includes any estate or interest, charge, right, title, claim, demand, lien or encumbrance at law or in equity.

Executive Council means the Executive Council of the Territory.

financial year means the period of 12 months ending on 30 June.

friendly society has the same meaning as in section 48 of the *Financial Sector Reform (Northern Territory) Act*.

function includes duty.

Gazette, Government Gazette, Northern Territory Government Gazette or Gazette of the Northern Territory means the *Government Gazette* of the Territory.

Gazette notice means a notice published in the *Gazette*.

Government Printer includes a person printing with the authority of the Territory.

husband has the meaning in section 19A(2).

Imperial Act means an Act passed by the Parliament of the United Kingdom.

indictable offence includes an act or omission committed outside the Territory that would be an indictable offence if it were committed in the Territory.

indictment includes information.

individual means a natural person.

infant means a person who has not attained the age of 18 years.

instrument of a legislative or administrative character includes regulations, rules, by-laws, orders, determinations, proclamations, awards, documents and authorities made, granted or issued under a power conferred by an Act.

Judge means a Judge of the Supreme Court.

Justice means a justice of the peace.

justice of the peace means a justice of the peace within the meaning of the *Justices of the Peace Act*.

land includes all messuages, tenements and hereditaments, corporeal and incorporeal, of any tenure or description and whatever may be the estate or interest in the land.

law of the Territory means:

- (a) an Act; or
- (b) an instrument of a legislative character; or
- (c) an existing law of the Territory within the meaning of section 57 of the *Northern Territory (Self-Government) Act 1978* (Cth) that is not a law mentioned in paragraph (a) or (b); or

(d) the common law.

legal practitioner has the same meaning as in the *Legal Practitioners Act*.

Legislative Assembly means the Legislative Assembly of the Territory.

Local Court means the court established by the *Local Court Act*.

magistrate means a Magistrate within the meaning of the *Magistrates Act*.

marriage has the meaning in section 19A(2).

medical practitioner means a medical practitioner who has a right of practice under the *Health Practitioners Act*.

member of the Police Force means a member of the Police Force appointed or holding office under the *Police Administration Act*.

minister has the meaning in section 19(1).

ministerial office has the same meaning as in the *Northern Territory (Self-Government) Act 1978* (Cth).

month means a calendar month.

Northern Territory Government Account means the official ADI account opened under the *Financial Management Act*.

Ordinance includes:

- (a) an Act; and
- (b) an Ordinance or Act of South Australia in its application to the Territory.

Parliament means the Legislative Assembly.

party includes a body politic and a body corporate.

penalty unit has the same meaning as in the *Penalty Units Act*.

person includes a body politic and a body corporate.

Note for definition of person

Section 24AA also deals with references to persons generally.

police officer means a member of the Police Force.

prescribed means prescribed by the Act in which the word is used or by a statutory instrument made, granted or issued under that Act.

proclamation means proclamation by the Administrator published in the *Gazette*.

public holiday means a day declared to be a public holiday under the *Public Holidays Act*.

public sector employee means an employee within the meaning of the *Public Sector Employment and Management Act*.

real property includes a lease of land.

Registrar-General means the person holding or occupying the office of Registrar-General mentioned in section 5(1) of the *Registration Act*.

regulatory offence means an offence specified in an Act or subordinate legislation to be a regulatory offence.

sitting day, of the Legislative Assembly, means a day on which the Assembly meets.

Speaker means the Speaker of the Legislative Assembly.

spouse has the meaning in section 19A(1).

State means a State of the Commonwealth.

statutory corporation means a corporation, commission or authority incorporated by name for a public purpose by a law of the Territory, but does not include a council within the meaning of the *Local Government Act* or the Authority or Council within the meaning of the *Jabiru Town Development Act*.

statutory declaration means a statutory declaration made in accordance with the *Oaths Act*.

statutory instrument means an instrument of a legislative or administrative character.

stepchild has the meaning in section 19A(4).

step-relative has the meaning in section 19A(5).

subordinate legislation means:

- (a) regulations, rules or by-laws to which section 63 applies; or

- (b) a statutory instrument that, under an Act, is an instrument to which section 63 applies.

Supreme Court means the Supreme Court of the Northern Territory of Australia established under the *Supreme Court Act*.

table, in the Legislative Assembly, means to lay before the Assembly.

Territory means a Territory of the Commonwealth.

the Agency has the meaning in section 18A(2).

the Chief Executive Officer means the person holding or occupying the office of the Chief Executive Officer of the Agency administering the provision of the Act in which the expression occurs.

the Minister has the meaning in section 19(2).

the Regulations means the regulations made under the Act in which the expression occurs.

the Territory means, according to the context, the body politic established by the *Northern Territory (Self-Government) Act 1978* (Cth) as the Northern Territory of Australia or the geographical area constituting the Northern Territory of Australia.

this Act includes a statutory instrument under the Act in which the expression occurs.

Treasurer means the Treasurer of the Northern Territory.

Valuer-General means the person holding or occupying the office of the Valuer-General mentioned in section 5(1) of the *Valuation of Land Act*.

widow has the meaning in section 19A(2).

widower has the meaning in section 19A(2).

wife has the meaning in section 19A(2).

18 Definitions to be read in context

Definitions in or applicable to an Act apply except so far as the context or subject matter otherwise indicates or requires.

18A References relating to an Agency

- (1) An Agency is a department or unit of a department, or other authority or body, nominated as an Agency in an Administrative Arrangements Order.
- (2) A reference to ***the Agency*** in a provision of an Act is a reference to the Agency administering the provision in which the expression occurs.
- (3) A reference to the Agency administering a provision of an Act or having responsibility for an area or activity of government is a reference to the Agency to which the administration of the provision or responsibility for the area or activity is allotted by an Administrative Arrangements Order or Act.
- (4) A reference to a specified Agency (including a reference to an Agency that no longer exists) includes a reference to the department, authority or body to which the administration of the provision is allotted by an Administrative Arrangements Order or Act.

19 Ministerial references

- (1) A minister is a person holding a ministerial office.
- (2) A reference in an Act to ***the Minister***:
 - (a) is a reference to:
 - (i) the minister administering the Act in or for which the expression is used; or
 - (ii) if different ministers are administering the Act in different respects, each of the ministers to the extent the minister is administering it in the relevant respect; and
 - (b) includes a minister acting for the Minister.
- (3) A reference to the minister administering a provision of an Act or having responsibility for an area or activity of government is a reference to the minister to whom the provision or responsibility for the area or activity is allotted by an Administrative Arrangements Order or Act.
- (4) A reference in a provision of an Act to the Minister or a specified minister (including a reference to a minister that no longer exists) includes a reference to the minister to whom the administration of the provision is allotted by an Administrative Arrangements Order or Act.

- (5) If a reference is made in a provision of an Act to "the Minister" and the administration of the provision has not been allotted to a minister by an Administrative Arrangements Order or Act, the reference is a reference to any minister.

19A Definitions of certain domestic relationships

- (1) In any Act:

spouse, of a person, means:

- (a) a person to whom the person is validly married under the *Marriage Act 1961* of the Commonwealth; or
- (b) if the person is an Aboriginal or Torres Strait Islander – an Aboriginal or Torres Strait Islander to whom the person is married according to the customs and traditions of the particular community of Aboriginals or Torres Strait Islanders with which either person identifies.
- (2) In any Act, **marriage**, **husband**, **wife**, **widow** and **widower** have the meanings that correspond with the meaning of **spouse**.
- (3) In any Act, **de facto partner** and **de facto relationship** have the meanings in section 3(1) of the *De Facto Relationships Act*.
- (4) In any Act:

stepchild, of a person, means a child who is:

- (a) if the person is married – a child of the person's spouse but not a child of the person; or
- (b) if the person is in a de facto relationship – a child of the person's de facto partner but not a child of the person.
- (5) In any Act, a reference to a step-relative of a person is read as having the meaning that corresponds with the meaning of **stepchild**.

20 Construction of statutory instruments

- (1) Words, expressions and provisions in a statutory instrument have the same interpretation, application and effect as they have in the Act under which the instrument is made, granted or issued.
- (2) A reference in a statutory instrument to **the Act** is a reference to the Act under which the instrument is made, granted or issued.

21 By, under or pursuant to Act

In an Act, **by, under, pursuant to** or **in pursuance of** that Act or another Act means by, under, pursuant to or in pursuance of that Act or other Act or a statutory instrument under that Act or other Act.

22 Construction of amending Acts

Words, expressions and provisions contained in an Act amending another Act shall have the same interpretation, application and effect as in that Act being amended.

23 Parts of speech and grammatical forms

In an Act, where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

24 Gender and number

- (1) In an Act, words indicating a gender include each other gender.
- (2) In an Act:
 - (a) words in the singular include the plural; and
 - (b) words in the plural include the singular.

24A Range of numbers, words or other things

If an Act refers to a range of numbers, words or other things, the numbers, words or things indicating the beginning and end of the range are included in the range.

Examples for section 24A:

1. A reference to sections 56 to 60 includes sections 56 and 60.
2. A reference to all the words from "eagle" to "kite" includes "eagle" and "kite".
3. A reference to Monday to Friday includes Monday and Friday.

24AA References to persons generally

- (1) In an Act, a reference to a person generally includes a reference to a body politic and body corporate as well as an individual.

Examples of references to persons generally in subsection (1)

1. "anyone".
2. "no-one".
3. "party".

4. "someone".

- (2) Subsection (1) is not displaced merely because there is an express reference to either an individual, body politic or body corporate elsewhere in the Act.

25 Service of documents

- (1) A person may serve a document on an individual or body (the **recipient**):

(a) by giving it to:

- (i) if the recipient is an individual – the recipient; or
- (ii) if the recipient is a body – an executive officer of the body; or
- (iii) in any case – a person authorised by the recipient to receive the document; or

(b) by sending it by prepaid post addressed to the recipient at the recipient's address; or

(c) by sending it to the recipient by fax; or

(d) by leaving it, addressed to the recipient, at the recipient's address with someone who appears to be at least 16 years old and appears to live or be employed there.

- (2) A document served under subsection (1)(b) is taken to be served when it would have been delivered in the ordinary course of post.

- (3) Subject to evidence to the contrary, a document served under subsection (1)(c) is taken to be served when it was sent to a current fax number of the recipient.

- (4) A document served under subsection (1)(d) is taken to be served when it was left with the person mentioned in the subsection.

- (5) This section has effect for the service of a document whether or not the word **serve** is used in the law providing for the service of the document.

- (6) In this section:

address, of a recipient, includes the latest home and business addresses of the recipient that are recorded for a law in force in the Territory.

body includes an incorporated body.

document includes a notice and any other thing that may be sent by a method mentioned in subsection (1).

executive officer, of a body, means:

- (a) for an Agency – the Chief Executive Officer of the Agency; or
- (b) otherwise – a person (however described) who is concerned with, or participates in, the body's management.

26 References to writing

In an Act, words, expressions and provisions referring to writing shall be construed as including references to any mode of representing or reproducing words, figures or symbols in a visible form whether or not an optical, electronic, mechanical or other means or process must be used before they can be perceived.

27 Measurement of distance

In the measurement of a distance for the purposes of an Act the measurement shall be made in a straight line in a horizontal plane.

28 Reckoning of time

- (1) Where in an Act a period of time dating from a given day, act or event is prescribed, allowed or limited for any purpose, the time shall be reckoned exclusive of such day or of the day of such act or event.
- (2) Where the last day of any period prescribed, allowed or limited by an Act for the doing of any thing falls on a Saturday, on a Sunday or on a day which is a public holiday in the place in which the thing is to be or may be done, the thing may be done on the first day following which is not a Saturday, a Sunday or a public holiday in that place.
- (3) In an Act, a reference to time must be read as a reference to standard time declared by section 4 of the *Standard Time Act*.
- (4) A reference in an Act to a thing existing or having effect from time to time is a reference to the thing existing or having effect at any time.
- (5) A reference in an Act to a thing existing or having effect for the time being is a reference to the thing existing or having effect at that time.

29 24 hour clock

- (1) A reference in an Act to a time of day expressed as 4 digits in hours is a reference to the time after midnight that is the number of hours (if any) equal to the number constituted by the first and second of those digits and the number of minutes (if any) less than an hour equal to the number constituted by the third and fourth of those digits.
- (2) For the purposes of subsection (1), where the first of 2 digits constituting a number of hours or a number of minutes is 0, that number of hours or number of minutes, as the case may be, shall be taken to be the number constituted by the second of those 2 digits.

30 Reckoning of age

- (1) In the reckoning of age of a person for the purposes of any Act, the person shall be taken to have attained a particular age on the relevant anniversary of his birth.
- (2) Subject to subsection (3), where in an Act any reference is made to the anniversary of the birth of a person, that reference shall be read as a reference to the day on which the anniversary occurs.
- (3) Where a person was born on 29 February in any year, then, in any subsequent year that is not a leap year, the anniversary of the birth of that person shall be deemed to be 28 February in that subsequent year.

33 References to oaths, &c.

In an Act, the words ***oath*** and ***affidavit*** shall, in the case of a person allowed by law to affirm, declare or promise instead of swearing, be read as including affirmation, declaration and promise, and the word ***swear***, in the case of such a person, shall be read as including affirmation, declaration and promise.

34 References to Administrator

- (1) Subject to this section, a provision of an Act that confers upon the Administrator a power or function shall not be read as requiring, permitting or enabling the Administrator to exercise that power or perform that function except with the advice of the Executive Council.

- (2) The Administrator may, without reference to the Executive Council:
- (a) exercise a power to fix a date for the bringing into operation of an Act or subordinate legislation or provisions of an Act or subordinate legislation; or
 - (b) exercise any other power or perform any function that the Administrator, with the advice of the Executive Council, determines, by notice in the *Gazette*, to be a power that may be exercised, or a function that may be performed, as the case may be, by the Administrator without reference to the Executive Council.
- (3) The Administrator may, without reference to the Executive Council:
- (a) exercise any power where the exercise of that power relates only to; or
 - (b) perform any function where the performance of that function relates only to,

matters in respect of which the Ministers of the Territory do not have executive authority under section 35 of the *Northern Territory (Self-Government) Act 1978* of the Commonwealth.

34A References to Administrator in Council

A reference in an Act to the Administrator in Council shall be read as a reference to the Administrator, and section 34 applies accordingly.

35 Administrative Arrangements Orders

- (1) A reference in an Act to an Administrative Arrangements Order shall be read as a reference to an order made by the Administrator and published in the *Gazette*, being an order by which a department or other Authority or body is nominated as an Agency and the administration of a provision of an Act, or the responsibility for an area or activity of government, is allotted to a specified minister or to a specified Agency.
- (2) It is sufficient compliance with the requirement under subsection (1) to publish the order in the *Gazette* if notice of its making, and of the place where copies of it may be purchased, is published in the *Gazette*.

37 References in agreements

Where an agreement is entered into by or on behalf of the Territory and, after the date of the agreement, the functions of a Agency in

relation to the administration of matters to which the agreement relates are or have been allotted to another Agency by an Administrative Arrangements Order or an Act:

- (a) a reference in the agreement to the Minister administering the first-mentioned Agency shall be read as a reference to the Minister administering the second-mentioned Agency or to a minister acting for the time being for him and on his behalf; and
- (b) a reference in the agreement to the first-mentioned Agency shall be read as a reference to the second-mentioned Agency.

38 References to offices, &c.

- (1) In an Act:
 - (a) a reference to an officer or office shall be construed as a reference to such an officer or office for the Territory; and
 - (b) references to localities, jurisdictions and other matters and things shall be construed as references to such localities, jurisdictions and other matters and things in and of the Territory.
- (2) Where, in relation to a power or function, there is, in a provision of an Act or in an agreement entered into by or on behalf of the Territory, reference to a person, an officer, an office, a body corporate or a body of persons and there is no longer such a person, officer, office or body, or that power or function is no longer a power or function of that person, officer, office or body, the reference shall be read as including:
 - (a) a reference to a person, officer, office or body for the time being having that power or function; or
 - (b) if there is no person, officer, office or body for the time being having that power or function, a reference to such person, officer, office or body as is specified by order of the Minister administering that provision or administering the Department or other Agency the functions of which include the administration of matters to which the provision relates; or
 - (c) if there is no person, officer, office or body for the time being having that power or function, no minister administering that provision and no department or other Agency with functions that include the administration of matters to which the provision relates, the Administrator.

- (3) Where in an Act or in an order made under subsection (2), a person holding or occupying a particular designation, office or position is mentioned or referred to in general terms, the mention or reference shall be read as including a reference to all persons who at any time for the time being hold or occupy or perform the duties of that designation, office or position.

38A Reference to Commonwealth Ministers, &c.

- (1) Notwithstanding section 38, where in a provision of an Act reference is made to a Commonwealth minister or department or to an office, officer, body corporate or body of persons established by or under an Act of the Commonwealth, that reference shall be read as or as including a reference to such minister, department, office, officer or body, whether Commonwealth or Territory, as is determined by the Administrator by notice published in the *Gazette*.
- (2) Where in a provision of an Act reference is made to a Commonwealth minister or department and there is no longer any such minister or department and no determination has been made under subsection (1), that reference shall be read as a reference to the minister for the time being administering the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, or to the department of that minister, as the case may be.

Part IVA Penalties

38B Penal provisions include bodies corporate

A provision of an Act relating to offences shall be read as referring to bodies corporate as well as to individuals.

38C Penalties at foot of sections and subsections

- (1) The penalty, pecuniary or otherwise, set out:

- (a) at the foot of a section; or
- (b) at the foot of a subsection,

of an Act indicates that a contravention of the section or of the subsection respectively, is an offence against the Act punishable on a finding of guilt by a penalty not exceeding the penalty so set out.

- (1AA) Subsection (1) applies regardless of whether the penalty is expressed as a maximum penalty.

- (1A) For subsection (1), a penalty is taken to be at the foot of a section or subsection even if an example or note appears after the penalty.

- (2) A penalty set out as provided in subsection (1) which is expressed to apply only to a part of the section or subsection applies according to the tenor of the provision.
- (3) In this section **section** includes a rule, regulation or by-law and **subsection** has a corresponding meaning.

38D Alternative penalties

A provision in an Act which confers a discretion to impose a monetary fine or a period of imprisonment as the penalty for the contravention or failure to comply with a provision of an Act shall be read as meaning that a person who contravened or failed to comply with the provision may, on being found guilty, be fined, imprisoned or fined and imprisoned, in accordance with the penalty specified for the contravention or failure to comply with the provision.

38DA Fine in addition to or instead of imprisonment

- (1) An offence against an Act that is punishable by a term of imprisonment only (other than life) is punishable in addition to or instead of imprisonment by a maximum fine worked out under subsection (2).
- (2) The maximum fine is worked out by multiplying 100 penalty units by the term of imprisonment expressed in years or a fraction of a year if the term is less than 12 months.

38DB Corporation fines under penalty provision

- (1) This section applies to a provision prescribing a fine for an offence only if the provision does not expressly prescribe a fine for a body corporate different from the fine for an individual.
- (2) The fine is taken only to be the fine for an individual.
- (3) If a body corporate is found guilty of the offence, the court may impose a fine of an amount equal to 5 times the fine for an individual.

38DC Body corporate fines under provision authorising subordinate legislation

- (1) This section applies to a provision of an Act authorising a maximum fine for an offence that may be imposed under subordinate legislation under the Act only if the provision does not expressly authorise a maximum fine for a body corporate different from the maximum fine for an individual.

- (2) The maximum fine is taken only to be the maximum fine for an individual that may be imposed under the subordinate legislation.
- (3) The maximum fine for a body corporate that may be imposed under the subordinate legislation is taken to be 5 times the maximum fine for an individual.

38E Certain offences crimes

Where an Act provides for a penalty of imprisonment for a period of more than 2 years for an offence by an individual against a provision of or under the Act, the offence is a crime (whether committed by or imputed to a body corporate or committed by an individual) unless expressed to be otherwise.

38F Penalties for breach of subordinate legislation

- (1) Subordinate legislation may prescribe a fine for an offence against the legislation.
- (2) The fine prescribed must not exceed 100 penalty units.

Note for subsection (2)

Because of section 38DC, the maximum fine for a body corporate that may be imposed under the subordinate legislation is 500 penalty units.

- (3) This section has effect subject to the Act under which the legislation is made.

38G Civil penalties

In an Act, a reference to a civil penalty (however described) being imposed or required to be paid for a contravention of a provision of the Act indicates that the contravention may lead to a penalty being imposed not exceeding the penalty specified in, or prescribed for the purposes of, the provision.

Part V Powers, functions and authorities

39 Confirmation of appointments not required

An appointment or other exercise of a power does not cease to have effect or need to be confirmed by reason only that the person making the appointment or exercising the power has ceased to hold office or otherwise to be capable of exercising the power.

40 Death, &c., of office holder

Where:

- (a) a minister is acting for and on behalf of another minister; or
- (b) any other person is acting in or performing the duties of an office, position or designation during the absence or inability of the person for the time being holding or occupying the office, position or designation,

and, for any reason, that second-mentioned minister or that person second-mentioned in paragraph (b) ceases to hold or occupy his office, position or designation, that first-mentioned minister or the person first-mentioned in paragraph (b) may continue to act or to perform those duties until his power or authority to do so is lawfully revoked or until the expiration of one year after the person ceased to hold or occupy his office, position or designation, whichever first occurs.

41 Occasions for exercise of powers, &c.

- (1) Where an Act confers a power or imposes a duty, the power may be exercised and the duty shall be performed from time to time as occasion requires.
- (2) Where an Act confers a power or imposes a duty on the holder of an office or the occupier of a position or designation as such, the power may be exercised and the duty shall be performed by the person for the time being holding or occupying or performing the duties of the office, position or designation.

42 How power may be exercised

- (1) A power under an Act to make, grant or issue a statutory instrument may be exercised:
 - (a) in whole or in part;
 - (b) subject to any conditions, limitations or qualifications specified in the instrument;
 - (c) to make different provision in relation to different matters or classes of matters; or
 - (d) to apply differently by reference to exceptions or factors specified in the instrument.

- (2) The power is not limited to making provision in relation to a particular matter or a particular aspect of a matter merely because the Act makes provision in relation to another matter or another aspect of the matter.
- (3) If the power may be exercised to prescribe penalties not exceeding a specified amount or period of imprisonment, the power does not prevent the instrument from requiring the making of a statutory declaration.
- (4) This section applies in relation to a power whether exercised before or after the commencement of this section.

43 Power to make includes power to rescind

Where an Act confers a power to take an action or to make, grant or issue a statutory instrument, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions to repeal, rescind, revoke, amend or vary any such action or instrument.

44 Power to appoint includes power to remove and appoint temporarily

- (1) Subject to subsection (3), where an Act confers on any person or authority a power to make appointments to any office or position, the power shall be construed as including a power to terminate such an appointment or to remove or suspend any person appointed.
- (2) If an Act authorises or requires a person or authority (the **appointer**) to appoint a person to an office or position, the appointer may appoint a person, or 2 or more people, to act in the office or position:
 - (a) during a vacancy, or all vacancies, in the office or position whether or not an appointment has previously been made to the office or position; or
 - (b) during any period, or all periods, when the holder of the office or position is unable to perform the duties of the office or position.
- (3) Where a power to make appointments to an office or position is exercisable only upon the recommendation or subject to the approval or consent of some other person or authority, the power of termination or removal referred to in subsection (1) is exercisable only upon the recommendation or subject to the approval or consent of that other person or authority.

45 Simultaneous actions

- (1) Where a statutory instrument revokes an action and simultaneously substitutes another action, that second-mentioned action shall be deemed to have effect after the revocation to the intent that the second-mentioned action shall not be held to be ineffective by reason that the revocation had not commenced its effect before the second-mentioned action commenced its effect.
- (2) Where a series of actions has effect simultaneously, it shall be deemed to have effect in such sequence as is indicated or as the nature of the case requires.

46 Indirect exercise of power, &c.

- (1) Subject to this section, where, by, under or in pursuance of an Act or a statutory instrument, a power or function is conferred on a minister or other person (whether by reference to an office or otherwise), the power may be exercised or the function performed:
 - (a) in the case of a power or function conferred on a minister, by a person who has the authority of that minister; or
 - (b) in any other case, by a person who, with the approval of the minister administering the provision conferring the power or function, or of a person authorized by that minister to give that approval, has the authority of that first-mentioned person.
- (2) Subsection (1) does not empower the exercise of a power or the performance of a function by the authority of a person where that authority is not evidenced in a written instrument.
- (3) Authority may be conferred pursuant to subsection (1) on:
 - (a) a person by name;
 - (b) a person by reference to the office, position or designation held or occupied by the person; or
 - (c) a person from time to time holding, acting in or performing the duties of a named office, designation or position.
- (4) A written instrument conferring authority on a person in pursuance of this section may be revoked, rescinded, altered or amended at any time by the person conferring the authority.
- (5) The conferring of authority by a written instrument under this section does not prevent the exercise of the power or the performance of the function by the person conferring the authority or by another person upon whom authority relating to the same

power or function is conferred.

- (6) Subsection (1) does not empower the exercise of a power or the performance of a function by the authority of a person otherwise than subject to such conditions and limitations, if any, as are set out in the written instrument evidencing the authority.
- (7) Subsection (1) does not empower the exercise of a power or the performance of a function by the authority of a person if the power or function:
 - (a) is of a legislative or judicial nature;
 - (b) relates to the investigation or detection of offences or unlawful acts; or
 - (c) relates to the grant or the defeasance or forfeiture of a right or title to land.

46A Power of delegation

- (1) A provision of an Act that confers a power to delegate a power or function on a person (whether by reference to an office, designation, position or otherwise) is to be construed as conferring on the person a power to delegate the power or function to:
 - (a) a person by name;
 - (b) a person by reference to the office, position or designation held or occupied by the person; or
 - (c) a person from time to time holding, acting in or performing the duties of a named office, designation or position.
- (2) A provision of an Act that confers a power to delegate a power or function is not to be construed as including the power to delegate that power of delegation.
- (3) If a power or function is delegated under an Act, the power or function is, when exercised or performed by the delegate, to be taken to be exercised or performed by the person who delegated it.
- (4) The delegation of the power or function under an Act does not prevent the exercise of the power or the performance of the function by the person who delegated it.

48 Discretions

Where, under an Act, the exercise of a power or the performance of a function by a person is dependent upon the opinion, belief or

state of mind of that person in relation to a matter, that power may be exercised or that function may be performed by a delegate or by authority of that person upon the opinion, belief or state of mind of the delegate or authorized person in relation to that matter.

48A Participation in meetings by telephone, &c.

- (1) This section applies to a body (whether or not incorporated) established by an Act if the Act requires or permits meetings of the members of the body to be held.
- (2) The body may permit its members to participate in a meeting or all meetings by:
 - (a) telephone;
 - (b) closed-circuit television;
 - (c) facsimile exchange; or
 - (d) any other means of communication.
- (3) A member who participates in a meeting under a permission under subsection (2) shall be taken to be present at the meeting.

48B Power to correct minor errors

- (1) Where a decision made in proceedings before a person or body authorised by or under an Act to hear and determine a matter contains:
 - (a) a clerical mistake;
 - (b) an error arising from an accidental slip or omission;
 - (c) a material miscalculation of figures or a material mistake in the description of a person, thing or matter referred to in the decision; or
 - (d) a defect of form,the decision maker, of his or her own motion or on application by a party to the proceeding, may correct the decision.
- (2) In this section **decision** includes a judgment, order and determination, and the reasons for a decision.

Part VI Mechanics of legislation

49 Citation

- (1) An Act may be cited:
 - (a) by its short title;
 - (b) by reference to its number and the calendar year in which it received assent;
 - (c) by the words contained in its short title or, in the case of an Ordinance, either by the words contained in its short title or by the words that would be contained in its short title if the word **Ordinance** (last occurring in those words) was **Act**; or
 - (d) if a citation of that Act as amended by another Act is given by that other Act:
 - (i) by the citation so given; or
 - (ii) by the words contained in the citation so given.
- (2) A provision of an Act may be cited by reference to the part, section, subsection or other division of the Act in which the provision is contained.
- (3) Such a reference shall be made according to the copy of the Act printed or purporting to be printed by the Government Printer.

50 References to other Acts

- (1) A reference in an Act to another Act by its short title or by reference to its number and the calendar year in which it received assent shall:
 - (a) if that Act has, at the time the Act in which the reference appears is made, itself been amended, whether or not that amendment is then in force – be read as a reference to that Act only and not to that other Act as amended; or
 - (b) if that Act has not, at that time, been so amended – be read as a reference to that other Act as amended from time to time.
- (2) A reference in an Act to another Act by the words contained in its short title or by a method of citation provided by section 49(1)(d) shall be read as a reference to the Principal Act that may be so cited as amended from time to time.

- (3) Where a provision of an Act amends another Act, a reference in that provision to that other Act shall be read as a reference to that other Act as in force as at the date immediately before the date of commencement of that provision.

52 References to Imperial, Commonwealth and State Acts

An Imperial Act, a Commonwealth Act or an Act of a State or another Territory of Australia may be cited by a reference to the place by the Parliament of which the Act was passed together with such mode of reference as is sufficient in Acts passed by that Parliament and, where it is so cited and that Act is subsequently amended, the reference shall, from the date of the amendment, be deemed to be to that Act as so amended.

53 References in an Act to provisions of that Act

- (1) A reference in an Act to a Part, section or Schedule shall be read as a reference to a Part or section of, or a Schedule to, that Act.
- (2) A reference in a Part of an Act to a Division shall be read as a reference to a Division of that Part.
- (3) A reference in a section of an Act to a subsection or paragraph shall be read as a reference to a subsection or paragraph of that section.
- (4) A reference in a subsection of a section of an Act to a paragraph shall be read as a reference to a paragraph of that subsection.
- (5) A reference in a paragraph of a section, or of a subsection of a section, of an Act to a subparagraph shall be read as a reference to a subparagraph of that paragraph.
- (6) A reference in a Schedule, or part of a Schedule, to an Act to a form, paragraph, item or clause, shall be read as a reference to a form, paragraph, item or clause of that Schedule or part.
- (7) A reference to a form in an Act the Schedule to which or only one of the Schedules to which contains a form or forms shall be read as a reference to a form in that Schedule.

54 Every section a substantive enactment

Every section of an Act shall have effect as a substantive enactment without introducing words.

55 Material that is, and is not, part of an Act

- (1) A heading to a Chapter, Part, Division or Subdivision of an Act is part of the Act.
- (2) A heading to a section of an Act is part of the Act if:
 - (a) the Act is enacted after 1 July 2006; or
 - (b) the heading is amended or inserted after 1 July 2006.
- (3) Subsection (2) does not prevent the amendment of a heading to a section by an Act.
- (4) An example or note in the text of an Act is part of the provision of the Act to which it relates.
- (5) A Schedule to an Act is part of the Act.
- (6) A marginal note, footnote, endnote or any other note that is not part of the text of the Act is not part of the Act

56 Numbering of Acts

- (1) The Acts which receive assent in each calendar year shall be numbered in regular arithmetical series, beginning with the number one, in the order in which they receive assent.
- (2) For the purposes of subsection (1), an Act which receives the Governor-General's assent is deemed to receive assent on the day upon which notification that the Governor-General has assented to the Act is published in the *Gazette*.

57 Numbering of subordinate legislation

- (1) This section applies to subordinate legislation other than:
 - (a) rules of court that relate only to dates of sittings of a court; or
 - (b) by-laws made by the Commissioner for Public Employment under the *Public Sector Employment and Management Act*; or
 - (c) subordinate legislation that expressly provides this section does not apply to it.
- (2) Subordinate legislation made in each calendar year after the commencement of the *Justice Legislation Amendment Act 2006* must be numbered in regular arithmetical series, beginning with the number one, as close as possible to the order in which it is made.

- (3) Subordinate legislation may, without prejudice to any other method of citation, be cited by the number given to it and the calendar year in which it is made

57A Amendment of instruments by Act

- (1) If a statutory instrument under an Act (***the parent Act***) has been amended by an Act, the instrument may be amended, varied, repealed, rescinded or revoked by a statutory instrument under the parent Act.
- (2) Subsection (1) applies in relation to amendments effected before or after the commencement of this section.

Part VII General

Division 1 Construction

58 Amending Act to be construed with amended Act

An Act amending another Act or a law of the State of South Australia in its application to the Territory shall be construed with that other Act or law of the State and as part thereof.

59 Act to be construed subject to power

Every Act shall be read and construed subject to the *Northern Territory (Self-Government) Act 1978* of the Commonwealth and any other Act of the Commonwealth relating to the power of the Legislative Assembly to make laws in respect of particular matters, and so as not to exceed the legislative power of the Legislative Assembly, to the intent that where any Act would, but for this section, have been construed as being in excess of that power it shall nevertheless be a valid Act to the extent to which it is not in excess of that power.

59A Public places, &c., on Aboriginal land

- (1) Where by or under a law of the Territory a right, privilege, obligation or liability is expressed or implied to be acquired, accrued or incurred by reference to a public place, public street, public road, place of public resort or other place, however described, open to or used by the public or to which the public has access, whether as of right or on the payment of a fee or other charge, that reference includes, and shall be deemed always to have included, any place which but for the fact that it was on Aboriginal land within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth, would have been included in such a

reference, and even though that Act of the Commonwealth or the Aboriginal Land Act limits the persons or classes of persons who may enter and remain on that Aboriginal land.

- (2) For the purposes of a law of the Territory referred to in subsection (1), the persons who are not precluded by the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth or the Aboriginal Land Act from entering or remaining on Aboriginal land, or who are on Aboriginal land whether or not they are entitled by those Acts, or either of them, to enter or remain on Aboriginal land, are capable of constituting, and shall be deemed always to have been capable of constituting, a section of the public in relation to that land.

61 Construction of subordinate legislation

- (1) Where an Act confers upon any authority power to make, grant or issue a statutory instrument, any instrument so made, granted or issued shall be read and construed subject to the Act under which it was made and so as not to exceed the power of that authority, to the intent that, where any such instrument would, but for this section, have been construed as being in excess of the power conferred upon that authority, it shall nevertheless be a valid instrument to the extent to which it is not in excess of that power.
- (2) It is presumed, unless the contrary is proved, that all conditions and steps required for the making, granting or issuing of a statutory instrument have been satisfied and carried out.

62 Construction of resolutions of Legislative Assembly

Where a resolution is passed by the Legislative Assembly purportedly in pursuance of an Act, the resolution shall be read and construed subject to the *Northern Territory (Self-Government) Act 1978* of the Commonwealth and to the Act in pursuance of which it purports to have been passed, to the intent that, where the resolution would, but for this section, have been construed as being in excess of authority, it shall, nevertheless, be a valid resolution to the extent to which it is not in excess of authority.

62A Regard to be had to purpose or object of Act

In interpreting a provision of an Act, a construction that promotes the purpose or object underlying the Act (whether the purpose or object is expressly stated in the Act or not) is to be preferred to a construction that does not promote the purpose or object.

62B Use of extrinsic material in interpreting Act

- (1) In interpreting a provision of an Act, if material not forming part of the Act is capable of assisting in ascertaining the meaning of the provision, the material may be considered:
 - (a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act; or
 - (b) to determine the meaning of the provision when:
 - (i) the provision is ambiguous or obscure; or
 - (ii) the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act leads to a result that is manifestly absurd or is unreasonable.
- (2) Without limiting subsection (1), the material that may be considered in interpreting a provision of an Act includes:
 - (a) all matters not forming part of the Act that are set out in the document containing the text of the Act as printed by the Government Printer;
 - (b) any relevant report of a Royal Commission, Law Reform Commission, committee of inquiry or other similar body that was laid before the Legislative Assembly before the time when the provision was enacted;
 - (c) any relevant report of a committee of the Legislative Assembly that was made to the Legislative Assembly before the time when the provision was enacted;
 - (d) any treaty or other international agreement that is referred to in the Act;
 - (e) any explanatory memorandum relating to the Bill containing the provision, or any other relevant document, that was laid before, or furnished to the members of the Legislative Assembly by a Minister before the time when the provision was enacted;
 - (f) the speech made to the Legislative Assembly by a Minister on the occasion of the moving by that Minister of a motion that the Bill containing the provision be read a second time in the Legislative Assembly; and

- (g) any document (whether or not a document to which a preceding paragraph applies) that is declared by the Act to be a relevant document for the purposes of this section.

62C Changes in drafting practice do not affect meaning

- (1) Subsection (2) applies if:
 - (a) a provision of an Act expresses an idea in particular words; and
 - (b) a provision of the Act enacted later appears to express the same idea in different words for the purpose of implementing a different legislative drafting practice.
- (2) The ideas must not be taken to be different merely because different words are used.

62D Examples

If a provision of an Act includes an example:

- (a) the example is not exhaustive;
- (b) the example does not limit or extend the meaning of the provision; and
- (c) if the example is inconsistent with the provision, the provision prevails to the extent of the inconsistency.

Division 2 Statutory instruments and other papers

63 Procedure for making subordinate legislation

- (1) Where an Act contains a power to make regulations, all regulations made by virtue of that power shall:
 - (a) be notified in the *Gazette*;
 - (b) subject to this section, take effect from the date of the notification, or, where another date is provided for in the regulations, from the date so provided for; and
 - (c) be laid before the Legislative Assembly within 3 sitting days of that Assembly after the making of the regulations.

- (2) Where an Act contains a power to make rules or by-laws, all rules or by-laws made by virtue of that power shall be:
 - (a) signed by the person making them, or, if that person is a statutory corporation or a council as defined in the *Local Government Act*, by a person authorized by it to sign them; and
 - (b) forwarded to the Minister administering the provision containing the power.
- (3) Subject to this section, where rules or by-laws are forwarded to a minister in pursuance of subsection (2):
 - (a) that minister shall cause them to be notified in the *Gazette*;
 - (b) they take effect from the date of the notification, or, where another date is provided for in the rules or by-laws, from the date so provided for; and
 - (c) that minister shall lay them before the Legislative Assembly within 3 sitting days of that Assembly after they are notified in the *Gazette*.
- (4) Where rules or by-laws are forwarded to a minister in pursuance of subsection (2), that minister may, before he causes them to be notified in the *Gazette*, return them to the person signing them with amendments that he recommends.
- (5) Where a minister returns rules or by-laws in pursuance of subsection (4), the person making the rules or by-laws shall consider those amendments and the rules or by-laws, with or without amendments, shall be again forwarded to the minister, and subsection (3) applies accordingly.
- (6) If subordinate legislation is required by an Act to be published or notified in the *Gazette*, it is sufficient compliance with the requirement if notice of the making of the legislation, and of the place where copies of it may be purchased, is published in the *Gazette*.
- (7) Subordinate legislation or a provision of subordinate legislation must not be expressed to take effect or be in terms that it takes effect from a date before the date of notification in the *Gazette* if:
 - (a) the rights of a person (other than the Territory or a statutory corporation) existing at the date of notification would be affected in a manner prejudicial to the person; or

- (b) liabilities would be imposed on a person (other than the Territory or a statutory corporation) in relation to anything done or omitted to be done before the date of notification.
- (7A) Subordinate legislation or a provision of subordinate legislation made in contravention of subsection (7) is of no effect.
- (8) If subordinate legislation is not tabled in the Legislative Assembly in accordance with subsection (1)(c) or (3)(c), it is of no effect.
- (9) If the Legislative Assembly passes a resolution of which notice has been given at any time within 12 sitting days after subordinate legislation has been tabled in the Assembly disallowing the legislation or provisions of it, the disallowance has, subject to subsection (10), the same effect as a repeal of the legislation or provisions.
- (10) If a provision of disallowed subordinate legislation (the **disallowed provision**) amended or repealed a provision of other subordinate legislation in force immediately before the commencement of the disallowed provision, the disallowance revives the other provision from the date of the disallowance as if the disallowed provision had not been made.

64 Subordinate legislation not to be made in terms of disallowed subordinate legislation

- (1) This section applies if, under section 63, the Legislative Assembly passes a resolution disallowing subordinate legislation or provisions of subordinate legislation (the **disallowed legislation**).
- (2) Subordinate legislation or provisions of subordinate legislation that is the same in substance or has the same effect as the disallowed legislation must not be made within 6 months after the disallowance unless the Legislative Assembly rescinds the resolution for disallowance.
- (3) Subordinate legislation or provisions of subordinate legislation made in contravention of subsection (2) is of no effect.

65 Power to make subordinate legislation

- (1) If an Act authorises or requires the making of subordinate legislation under the Act, the power enables subordinate legislation to be made with respect to any matter that:
 - (a) is required or permitted to be prescribed by the Act; or
 - (b) is necessary or convenient to be prescribed for carrying out or giving effect to the Act.

- (2) Subsection (1) applies even though the Act also authorises the making of subordinate legislation for a particular purpose.
- (3) Power conferred by the Act to make subordinate legislation for a particular purpose is in addition to, and does not limit the effect of, power conferred by the Act to make subordinate legislation under the Act unless the Act expressly provides otherwise.

65A Subordinate legislation may prohibit

If an Act authorises or requires a matter to be regulated by subordinate legislation, the power may be exercised by prohibiting by subordinate legislation the matter or any aspect of the matter.

65B Subordinate legislation may provide for review or appeal

- (1) Subordinate legislation may provide for the review of, or a right of appeal against, a decision made under the legislation or the Act under which the legislation is made or in force.
- (2) For subsection (1), the subordinate legislation may confer jurisdiction on any court, tribunal, person or body.

66 Prescribing matters by reference to other instruments

Where an Act confers upon an authority power to make, grant or issue a statutory instrument, then any instrument so made, granted or issued may apply, adopt or incorporate, with or without modification:

- (a) the provisions of any Territory or Commonwealth Act, or of a statutory instrument made under such an Act, as in force at a particular time or as in force from time to time; or
- (b) any matter contained in any other instrument or writing as in force or existing at the time when the first-mentioned instrument takes effect,

but a statutory instrument must not, except as provided by this section, make provision for or in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

67 Presentation of papers to Legislative Assembly

- (1) Where, by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth or by an Act within the meaning of this Act, provision is made permitting or requiring the presentation (however expressed) of a paper to the Legislative Assembly, it is sufficient compliance with the provision if:

- (a) the paper is presented in the Legislative Assembly in accordance with the Standing Orders of the Legislative Assembly; or
 - (b) in accordance with those Standing Orders, the paper is delivered to the Clerk of the Legislative Assembly and recorded in the Minutes of Proceedings of the Legislative Assembly.
- (2) Where such a provision as is mentioned in subsection (1) provides for a specified person to present or cause the paper to be presented, it is sufficient compliance with that provision if that person or any other person who could, by virtue of this Act or of any other Act, act in the place of that person, makes or causes to be made the presentation or delivery of the paper.
- (3) Where such a provision as is mentioned in subsection (1) specifies a period within which the paper is to be presented, it is sufficient compliance with that provision if the paper is presented, in accordance with subsection (1), within that period.
- (4) In this section ***paper*** includes:
 - (a) a regulation, rule or by-law, order, determination, proclamation or award;
 - (b) a report; and
 - (c) any other document or instrument required or permitted to be presented.

Division 3 General

68 Compliance with forms

Strict compliance with the forms prescribed by or under an Act is not necessary and substantial compliance, or such compliance as the circumstances of a particular case allow, is sufficient.

69 Civil proceedings

Where moneys are due in pursuance of an Act, the moneys are recoverable in a court having, in the Territory, civil jurisdiction to the extent of the amount due.

70 Powers of persons authorized to adjudicate

A court, Judge, Justice of the Peace, officer, commissioner, arbitrator or other person authorized by law or consent of parties to hear and determine any matter, has authority to receive evidence

and examine witnesses and to administer an oath to all witnesses called before him.

71 Amendment in same session

An Act may be amended or repealed in the session of the Legislative Assembly in which it was passed.

72 Sunday observance

- (1) It is hereby declared that all laws and statutes of England, to the extent that they relate to the observance of or actions that are permitted to be carried out or prohibited on a Sunday (however described), have no force or effect in the Territory.
- (2) Except as provided by or under a law of the Territory or of the Commonwealth, it is lawful to do any act on a Sunday if the act would be otherwise lawful.

**Part VIII Transitional matters for Justice Legislation
Amendment Act 2006**

73 Subordinate legislation

- (1) This section applies if, immediately before the commencement of this section, a reference in an Act to regulations is construed as a reference to rules or by-laws because of the definition of **regulations** in section 18 as in force immediately before the commencement.
- (2) Despite the repeal of the definition, the reference is taken to include a reference to rules or by-laws if the context permits or requires.

74 Numbering of subordinate legislation

Regulations, rules and by-laws numbered under section 57 before the commencement of this section are taken to have been numbered as subordinate legislation under section 57 as in force on the commencement and may be cited accordingly.

Example for section 74

Regulations No. 5 of 2005 may be cited as Subordinate Legislation No. 5 of 2005.

Schedule Ordinances repealed

section 2(1)

Part 1 – Repeal of Interpretation Ordinances

Interpretation Ordinance 1931
Interpretation Ordinance 1932
Interpretation Ordinance 1933
Interpretation Ordinance 1934
Interpretation Ordinance 1938
Interpretation Ordinance 1940
Interpretation Ordinance 1948
Interpretation Ordinance 1949
Interpretation Ordinance 1952
Interpretation Ordinance (No. 2) 1952
Interpretation Ordinance 1954
Interpretation Ordinance 1956
Interpretation Ordinance 1957
Interpretation Ordinance 1959
Interpretation Ordinance 1962
Interpretation Ordinance 1968
Interpretation Ordinance (No. 2) 1968
Interpretation Ordinance 1969
Interpretation Ordinance 1972
Interpretation Ordinance 1973
Interpretation Ordinance (No. 2) 1973
Interpretation Ordinance 1976
Interpretation Ordinance (No. 3) 1976
Interpretation Ordinance 1977
Interpretation Ordinance (No. 2) 1977
Interpretation (Amendment) Ordinance 1978

Part 2 – Repeal of Regulations Publication Ordinance

Regulations Publication Ordinance 1940
Regulations Publication Ordinance 1952

Part 3 – Repeal of Administrator's Council Ordinance

Administrator's Council Ordinance 1959
Administrator's Council Ordinance 1963
Administrator's Council Ordinance 1976

Part 4 – Repeal of State Acts

The Act entitled "*An Act for shortening and explaining the Language used in Acts of Parliament, and for other Purposes*", being Act No. 9 of 1872.

The Language of Acts Amendment Act, 1900.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION

Interpretation Ordinance 1978 (Act No. 59, 1978)

Assent date	1 July 1978
Commenced	1 July 1978

Interpretation Act (No. 2) 1978 (Act No. 78, 1978)

Assent date	23 August 1978
Commenced	23 August 1978

Interpretation Act (No. 3) 1978 (Act No. 1, 1979)

Assent date	3 January 1979
Commenced	3 January 1979

Interpretation Act 1979 (Act No. 112, 1979)

Assent date	24 September 1979
Commenced	1 October 1979 (s 3, s 2 <i>Supreme Court Act 1979</i> (Act No. 109, 1979) and <i>Gaz S18</i> , 28 September 1979, p 1)

Interpretation Act (No. 2) 1979 (Act No. 122, 1979)

Assent date	15 October 1979
Commenced	15 October 1979

Interpretation Act 1980 (Act No. 21, 1980)

Assent date	14 March 1980
Commenced	14 March 1980

Statute Law Revision Act (No. 4) 1981 (Act No. 4, 1982)

Assent date	12 February 1982
Commenced	12 February 1982

Statute Law Revision Act 1982 (Act No. 21, 1982)

Assent date	27 April 1982
Commenced	27 April 1982

Statute Law Revision Act (No. 2) 1982 (Act No. 54, 1982)

Assent date 8 October 1982
Commenced 8 October 1982

Interpretation (Criminal Code) Amendment Act 1983 (Act No. 62, 1983)

Assent date 28 November 1983
Commenced 1 January 1984 (s 2, s 2 *Criminal Code Act 1983* (Act No. 47, 1983), Gaz G46, 18 November 1983, p 11 and Gaz G8, 26 February 1986, p 5)

Interpretation Amendment Act 1985 (Act No. 44, 1985)

Assent date 18 September 1985
Commenced 18 September 1985

Statute Law Revision Act 1985 (Act No. 49, 1985)

Assent date 1 October 1985
Commenced 1 October 1985

Statute Law Revision Act 1986 (Act No. 64, 1986)

Assent date 19 December 1986
Commenced 19 December 1986

Interpretation Amendment Act 1988 (Act No. 1, 1988)

Assent date 21 March 1988
Commenced 21 March 1988

Interpretation Amendment Act (No. 2) 1988 (Act No. 27, 1988)

Assent date 1 September 1988
Commenced 1 September 1988

Interpretation Amendment Act (No. 3) 1988 (Act No. 28, 1988)

Assent date 1 September 1988
Commenced 1 September 1988

Local Court (Consequential Amendments) Act 1989 (Act No. 14, 1989)

Assent date 5 June 1989
Commenced 1 January 1991 (s 2, s 2 *Local Court Act 1989* (Act No. 31, 1990) and Gaz G49, 12 December 1990, p 2)

Statute Law Revision Act 1989 (Act No. 60, 1989)

Assent date 2 October 1989
Commenced 2 October 1989

Statute Law Revision Act 1990 (Act No. 33, 1990)

Assent date 11 June 1990
Commenced 11 June 1990

Corporations (Consequential Amendments) Act 1990 (Act No. 59, 1990)

Assent date 14 December 1990
Commenced 1 January 1991 (s 2, s 2 *Corporations (NT) Act 1990* (Act No. 56, 1990) and Gaz S76, 21 December 1990)

Interpretation Amendment Act 1992 (Act No. 25, 1992)

Assent date 2 June 1992
Commenced 1 July 1992 (s 2, s 2 *Financial Institutions (NT) Act 1992* (Act No. 22, 1992) and Gaz S35, 30 June 1992)

Interpretation Amendment Act 1993 (Act No. 73, 1993)

Assent date 18 November 1993
Commenced 1 January 1994 (*Gaz* G50, 15 December 1993, p 3)

Local Government (Consequential Amendments) Act 1993 (Act No. 84, 1993)

Assent date 31 December 1993
Commenced 1 June 1994 (s 2, s 2 *Local Government Act 1993* (Act No. 83, 1993) and *Gaz* S35, 20 May 1994)

Financial Management (Consequential Amendments) Act 1995 (Act No. 5, 1995)

Assent date 21 March 1995
Commenced 1 April 1995 (s 2, s 2 *Financial Management 1995* (Act No. 4, 1995) and *Gaz* S13, 31 March 1995)

Medical (Consequential Amendments) Act 1995 (Act No. 8, 1995)

Assent date 10 April 1995
Commenced 1 June 1995 (s 2, s 2 *Medical Act 1995* (Act No. 7, 1995) and *Gaz* S21, 1 June 1995)

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date 19 April 1996
Commenced 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

Financial Institutions (Miscellaneous Amendments) Act 1997 (Act No. 23, 1997)

Assent date 2 June 1997
Commenced 2 June 1997

Interpretation Amendment Act 1998 (Act No. 27, 1998)

Assent date 30 March 1998
Commenced 30 March 1998

Statute Law Revision Act (No. 2) 1998 (Act No. 92, 1998)

Assent date 11 December 1998
Commenced 11 December 1998

Interpretation Amendment Act 1999 (Act No. 3, 1999)

Assent date 26 February 1999
Commenced 1 April 1999 (s 2, s 2 *Penalties Act 1999* (Act No. 2, 1999) and *Gaz* G11, 24 March 1999, p 3)

Interpretation Amendment Act (No. 2) 1999 (Act No. 37, 1999)

Assent date 31 August 1999
Commenced 31 August 1999

Miscellaneous (Interpretation Act and Penalties Act) Amendment Act 2000 (Act No. 28, 2000)

Assent date 27 June 2000
Commenced s 4: 1 April 1999; rem: 27 June 2000

Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)

Assent date 29 June 2001
Commenced 15 July 2001 (s 2, s 2 *Corporations Act 2001* (Cth Act No. 50, 2001) and *Cth Gaz* S285, 13 July 2001)

Interpretation Amendment Act 2002 (Act No. 14, 2002)

Assent date 7 June 2002
Commenced 5 August 2002 (s 2, s 2(2) *Penalties Amendment Act 2002* (Act No. 15, 2002) and Gaz G25, 26 June 2002, p 2)

Statute Law Revision (Financial Provisions) Act 2002 (Act No. 38, 2002)

Assent date 13 September 2002
Commenced 30 October 2002 (Gaz G43, 30 October 2002, p 3)

Law Reform (Gender, Sexuality and De Facto Relationships Act 2003 (Act No. 1, 2004)

Assent date 7 January 2004
Commenced 17 March 2004 (Gaz G11, 17 March 2004, p 8)

Electoral (Consequential Amendments) Act 2004 (Act No. 12, 2004)

Assent date 1 March 2004
Commenced 15 March 2004 (s 2, s 2 *Electoral Act 2004* (Act No. 11, 2004) and Gaz S6, 15 March 2004)

Standard Time Act 2005 (Act No. 19, 2005)

Assent date 5 May 2005
Commenced 1 September 2005 (s 2)

Justice Portfolio (Miscellaneous Amendments) Act 2005 (Act No. 20, 2005)

Assent date 6 May 2005
Commenced 6 May 2005 (s 2(2))

Statute Law Revision Act 2005 (Act No. 44, 2005)

Assent date 14 December 2005
Commenced 14 December 2005

Justice Legislation Amendment Act 2006 (Act No. 13, 2006)

Assent date 18 May 2006
Commenced 1 July 2006 (s 2(3))

3 SAVINGS AND TRANSITIONAL PROVISIONS

s 2(2) and (3) *Interpretation Amendment Act (No. 3) 1988* (Act No. 28, 1988)
s 39 *Law Reform (Gender, Sexuality and De Facto Relationships Act 2003* (Act No. 1, 2004)

4 LIST OF AMENDMENTS

It	amd No. 73, 1993, s 14
ss 1 – 2	amd No. 73, 1993, s 14
s 3	amd No. 73, 1993, ss 4 and 14
s 4	amd No. 73, 1993, s 14; No. 13, 2006, s 44
s 5	amd No. 78, 1978, s 3
	sub No. 13, 2006, s 18
s 6	amd No. 78, 1978, s 4; No. 1, 1988, s 2; No. 13, 2006, ss 19 and 44
ss 6A – 6B	ins No. 13, 2006, s 20
s 7	amd No. 13, 2006, s 44
s 8	amd No. 13, 2006, ss 21 and 44
s 9	amd No. 122, 1979, s 3
s 10	rep No. 13, 2006, s 22
s 11	amd No. 78, 1978, s 12

s 14	amd No. 13, 2006, s 44
s 15	amd No. 78, 1978, s 5; No. 13, 2006, s 44
s 17	amd No. 78, 1978, s 12; No. 122, 1979, s 4; No. 14, 1989, s 7; No. 73, 1993, s 5; No. 50, 1994, s 9 sub No. 13, 2006, s 23
s 18	amd No. 122, 1979, s 5; No. 62, 1983, s 4; No. 60, 1989, s 2; No. 33, 1990, s 4; No. 73, 1993, ss 6 and 14; No. 84, 1993, s 6; No. 5, 1995, s 19; No. 8, 1995, s 3; No. 38, 2002, s 5; No. 12, 2004, s 3; No. 20, 2005, s 29 sub No. 13, 2006, s 23
s 18A	ins No. 13, 2006, s 23
s 19	amd No. 64, 1986, s 2; No. 59, 1990, s 3; No. 25, 1992, s 3; No. 73, 1993, s 7; No. 23, 1997, s 2; No. 17, 2001, s 9; No. 14, 2002, s 3; No. 38, 2002, s 5; No. 1, 2004, s 37; No. 20, 2005, s 30 sub No. 13, 2006, s 23
s 19A	ins No. 1, 2004, s 38
s 20	sub No. 13, 2006, s 24
s 21	sub No. 20, 2005, s 31
s 24	amd No. 13, 2006, s 44 amd No. 4, 1982, s 3 sub No. 20, 2005, s 32
s 24A	ins No. 20, 2005, s 32
s 24AA	ins No. 13, 2006, s 25
s 25	sub No. 13, 2006, s 26
s 28	amd No. 60, 1989, s 6; No. 20, 2005, s 33; No. 19, 2005, s 8
s 31	amd No. 112, 1979, s 4 rep No. 13, 2006, s 27
s 32	rep No. 73, 1993, s 8
s 34	sub No. 78, 1978, s 6 amd No. 122, 1979, s 6; No. 13, 2006, s 44
s 34A	ins No. 1, 1979, s 3
s 34B	ins No. 8, 1995, s 3 amd No. 44, 2005, s 22 rep No. 13, 2006, s 28
s 35	amd No. 5, 1995, s 19; No. 13, 2006, s 29
s 36	amd No. 1, 1979, s 4; No. 5, 1995, s 19; No. 92, 1998, s 12 rep No. 13, 2006, s 30
s 37	amd No. 5, 1995, s 19
s 38	amd No. 73, 1993, s 14
s 38A	ins No. 78, 1978, s 7
pt VIA hdg	ins No. 62, 1983, s 5
s 38B	ins No. 62, 1983, s 5
s 38C	ins No. 62, 1983, s 5 amd No. 17, 1996, s 6; No. 20, 2005, s 34; No. 13, 2006, s 31
s 38D	ins No. 62, 1983, s 5 amd No. 17, 1996, s 6
ss 38DA –	
38DC	ins No. 13, 2006, s 32
s 38E	ins No. 62, 1983, s 5 sub No. 73, 1993, s 9
s 38F	ins No. 73, 1993, s 9 amd No. 3, 1999, s 3 sub No. 13, 2006, s 33
s 38G	ins No. 28, 2000, s 3
s 42	sub No. 20, 2005, s 35 amd No. 13, 2006, s 44
s 43	amd No. 13, 2006, s 44
s 44	amd No. 78, 1978, s 8; No. 54, 1982, s 2; No. 13, 2006, s 34
s 45	amd No. 13, 2006, s 44

s 46	amd No. 78, 1978, s 9; No. 1, 1979, s 5; No. 20, 2005, s 36; No. 13, 2006, s 44
s 47	rep No. 13, 2006, s 35
s 46A	ins No. 37, 1999, s 2
ss 48A – 48B	ins No. 73, 1993, s 10
s 49	amd No. 78, 1978, s 10
s 50	amd No. 78, 1978, s 12
s 51	rep No. 78, 1978, s 11
s 55	amd No. 21, 1980, s 2
	sub No. 20, 2005, s 37; No. 13, 2006, s 36
s 57	amd No. 73, 1993, s 11
	sub No. 13, 2006, s 37
s 57A	ins No. 20, 2005, s 38
	amd No. 13, 2006, s 44
s 59	amd No. 27, 1988, s 2; No. 73, 1993, s 14
s 59A	ins No. 28, 1988, s 2
s 60	rep No. 44, 1985, s 2
s 61	amd No. 13, 2006, s 38
s 62	amd No. 73, 1993, s 14
ss 62A – 62B	ins No. 27, 1998, s 2
ss 62C – 62D	ins No. 20, 2005, s 39
pt VII	
div 2 hdg	sub No. 13, 2006, s 39
s 63	amd No. 78, 1978, s 12; No. 21, 1982, s 2; No. 49, 1985, s 4; No. 73, 1993, s 14; No. 92, 1998, s 12; No. 13, 2006, s 40
s 64	amd No. 78, 1978, s 12
	sub No. 13, 2006, s 41
s 65	rep No. 73, 1993, s 12
	ins No. 13, 2006, s 41
ss 65A – 65B	ins No. 13, 2006, s 41
s 66	amd No. 13, 2006, s 44
s 67	amd No. 73, 1993, s 14
pt VII	
div 4 hdg	sub No. 60, 1989, s 6
s 71	rep No. 73, 1993, s 12
	ins No. 13, 2006, s 42
s 72	ins No. 73, 1993, s 13
pt VIII hdg	ins No. 13, 2006, s 43
ss 73 – 74	ins No. 13, 2006, s 43