

# **NORTHERN TERRITORY OF AUSTRALIA**

## **JABIRU TOWN DEVELOPMENT ACT**

As in force at 1 February 2000

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 February 2000

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## JABIRU TOWN DEVELOPMENT ACT

**An Act to provide for and in relation to the construction and management of the town of Jabiru**

### **Part I Preliminary**

#### **1 Short title**

This Act may be cited as the *Jabiru Town Development Act*.

#### **2 Commencement**

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### **3 Definitions**

In this Act, unless the contrary intention appears:

**Authority** means the Jabiru Town Development Authority established by this Act.

**Chairman** means the Chairman of the Authority and includes the Deputy Chairman while he is acting in the office of the Chairman.

**Council** means the Jabiru Town Council established by this Act.

**Director** means the Director of National Parks and Wildlife appointed under the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth.

**Jabiru** means the town to be constituted and named Jabiru.

**lease** includes sub-lease.

**member** means a member of the Authority and includes:

- (a) the Chairman; and
- (b) the deputy of a member while he is acting in the office of the member.

**participating body** means a body that is declared under section 7(3) to be a participating body.

**principal representative** means a person who is nominated under section 7(2) to be a principal representative on the Authority.

**town clerk** means the person appointed under section 29B(1) as the town clerk of Jabiru.

**utility service** means the supply of water, gas, electricity or other like service and the treatment and disposal of sewage, garbage and other waste products.

## **Part II                      Jabiru Town Development Authority**

### **4                      Establishment of Authority**

- (1) There is established by this Act a corporation by the name of the Jabiru Town Development Authority.
- (2) The Authority:
  - (a) is a body corporate with perpetual succession;
  - (b) shall have a common seal;
  - (c) may acquire, hold and dispose of real and personal property; and
  - (d) may sue and be sued in its corporate name.
- (3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to a document and shall presume that it was duly affixed.
- (4) In the exercise of its powers and the performance of its functions, the Authority shall:
  - (a) comply with the directions, if any, given to it by the Minister;
  - (b) act in accordance with the provisions of the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth in so far as that Act relates to Jabiru; and
  - (c) act in the interests of the good government of Jabiru.

**5 Composition of Authority**

- (1) The Authority consists of:
  - (a) the Chairman; and
  - (b) not more than 6 other members.
- (2) The exercise of the powers and the performance of the functions of the Authority is not affected by reason only of there being a vacancy or vacancies in the membership of the Authority.

**6 Appointment of Chairman**

The Minister may appoint a person who is an employee within the meaning of the *Public Sector Employment and Management Act* to be the Chairman of the Authority.

**7 Appointment of other members**

- (1) Subject to this section, the Minister may, in his discretion, appoint a person to be a member of the Authority.
- (2) Each participating body may nominate one person to be its principal representative on the Authority and, where it does so, the Minister shall appoint that person to be a member of the Authority.
- (3) For the purposes of subsection (2), the Minister may, after giving to persons and bodies who are directly involved financially in:
  - (a) the development of the town of Jabiru; and
  - (b) mining a prescribed substance within the meaning of the *Atomic Energy Act 1953* of the Commonwealth in the Alligator Rivers Region within the meaning of the *Environment Protection (Alligator Rivers Region) Act 1978* of the Commonwealth,

an opportunity to make submissions to him, declare such a person or body, or a person or body in which such a person or body has an interest, to be a participating body.

**8 Deputy members**

- (1) The Minister may appoint a member to be the Deputy Chairman.
- (2) A member, other than the Chairman, may appoint a person to be his deputy.

- (3) The deputy of a member may act in the office of that member:
  - (a) while that member is unable or unwilling to exercise a power or perform a function as a member; or
  - (b) if that member is Deputy Chairman, while the member is acting in the office of the Chairman.

## **9 Termination of appointment**

- (1) Subject to subsection (3), the Minister shall not terminate the appointment of a principal representative except upon the request of the participating body that nominated that member.
- (2) Where a participating body requests the Minister to terminate the appointment of its principal representative, the Minister shall thereupon terminate the appointment of that member.
- (3) The Minister may terminate the appointment of a principal representative who:
  - (a) has been convicted and is under sentence of imprisonment for 3 months or longer for an offence against the law of the Commonwealth or of a State or Territory;
  - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
  - (c) is absent, except on leave granted by the Authority, from 3 consecutive meetings of the Authority; or
  - (d) fails to comply with section 14.

## **10 Resignation**

- (1) A member may resign his office by writing under his hand delivered to the Minister.
- (2) A deputy of a member may resign his office by writing under his hand delivered to the member whose deputy he is, but the resignation is not effective until notice of the resignation is given to the Minister.

**12 Frequency of meetings**

- (1) Subject to this section, the Authority shall meet as often as the Chairman considers necessary for the exercise of its powers and the performance of its functions, but so that the period between any 2 successive meetings does not exceed 3 months.
- (2) The Chairman shall call a meeting of the Authority within 7 days after he receives a written request to do so, signed by not less than 3 members.
- (3) The Chairman shall fix the place, date and time of a meeting of the Authority and shall give not less than 7 days notice of the meeting to each member, unless the member accepts less notice.

**13 Procedure at meetings**

- (1) Subject to this Act, at a meeting of the Authority:
  - (a) 3 members, one of whom is the Chairman and one of whom is a principal representative, form a quorum;
  - (b) the Chairman shall preside;
  - (c) all questions shall be decided by a majority of the votes of the members present and voting; and
  - d) the Chairman shall have a deliberative vote and, in the event of an equality of votes, shall have a casting vote.
- (2) The Authority shall keep a record of its proceedings.
- (3) Subject to this Act and to the *Financial Management Act*, the Authority shall determine its own procedures.

**14 Disclosure of interest**

- (1) A member who is directly or indirectly interested in:
  - (a) a contract made or proposed to be made by the Authority; or
  - (b) an existing or proposed project of the Authority,shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Authority.

- (2) A disclosure under subsection (1) shall be recorded in the minutes of the Authority and, unless the Authority otherwise directs or the member is a principal representative, the member:
  - (a) shall not take part after the disclosure in any deliberation or decision of the Authority relating to the contract or project, as the case requires; and
  - (b) shall be disregarded for the purpose of constituting the quorum for any such deliberation or decision.
- (3) A member who has made a disclosure under sub-section (1), may not vote on any question relating to the giving to him of a direction under subsection (2).

#### **14A      Personal liability of members, &c., of Authority**

A member or an officer or servant of the Authority is not rendered personally liable to any action, claim or demand arising from:

- (a) a matter or thing done, or a contract entered into, by the Authority in good faith, in pursuance of and for the purposes of this Act; or
- (b) a matter or thing done or a contract entered into by a member, or an officer or servant of the Authority in good faith, in pursuance of and for the purposes of this Act and for and on behalf of the Authority.

### **Part III                      Functions and powers of the Authority**

#### **15              Functions of the Authority**

- (1) Subject to this Act the functions of the Authority are:
  - (a) to develop and maintain the town of Jabiru;
  - (b) to give leases of land and premises and parts of premises in the town of Jabiru;
  - (c) to administer, manage and control the town of Jabiru;
  - (d) to carry out such local government functions as are conferred on it by or under this Act;
  - (e) to carry out such functions as are conferred on it by or under any law in force in the Territory; and

- (f) to protect the environment in so far as it is affected by the construction and operation of the town of Jabiru.
- (2) The Authority may perform the functions listed in subsection (1) on or in relation to land outside Jabiru.

## **16 Powers of the Authority**

- (1) The Authority has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of its functions and the exercise of its powers and may do those things outside the town of Jabiru.
- (2) Without limiting the generality of subsection (1), for the purpose of performing any or all of its functions, the Authority may, subject to this Act:
  - (a) carry out investigations, conduct tests and design and construct works for the provision of utility services;
  - (b) determine the use of land;
  - (c) carry out sub-divisions, including the building of roads, the provision of street lighting and other works and services and the development of parks and other community areas;
  - (d) construct, erect, repair, extend, demolish or rebuild public buildings, works, utilities and structures of all kinds;
  - (e) build, or encourage the building of, houses, flats, hostels, theatres, shops, offices, amenities, industrial buildings and other business and commercial premises;
  - (f) acquire, hold and dispose of any interest or right in or in relation to any real or personal property;
  - (g) carry on an industry, a business or a commercial operation;
  - (h) encourage the establishment and carrying on of industries, businesses and commercial operations;
  - (j) control, manage and maintain property, works, utility and other services and amenities;
  - (k) make charges for work done and for utility and other services, facilities, amenities and utilities provided;
  - (m) beautify, or provide incentives to persons to beautify, Jabiru;

- (n) satisfy community needs, including by providing, or subsidising the provision of, entertainment, functions and other community activities;
  - (p) arrange for or undertake the impounding, removal, destruction or disposal of animals found straying in Jabiru; and
  - (q) arrange for or undertake the removal of abandoned vehicles or chattels from places where they have been left in contravention of by-laws made under this Act or abandoned and for the impounding and disposal of such vehicles or chattels.
- (3) Nothing contained in subsection (2) shall be read as restricting any other law in force in the Territory in its operation in Jabiru.
- (4) The Authority is not liable to any action, penalty, claim or demand arising from failure for whatever reason to supply or provide any utility service in part or at all or for supplying or providing such service in an irregular manner, nor shall the Authority be compellable in any Court to supply or provide a utility service to any person.

#### **16A Provision of services for Director**

The Authority may:

- (a) upon request, provide services to the Director, and charge for those services;
- (b) accept a delegation of powers or functions made by the Director under section 20 of the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth, and exercise and perform the powers and functions so delegated; and
- (c) authorize the staff of the Authority to exercise such powers and perform such functions as may be given to it in accordance with an arrangement under section 36(4) of the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth.

#### **17 Local government functions**

- (1) The Minister may, by notice in the *Gazette*, declare that such sections of such Acts as are specified in the notice shall apply to and in relation to the Authority or Jabiru as though the Authority were a council, and Jabiru were a municipality or a community government area, within the meaning of the *Local Government Act*, and those sections shall, with the necessary changes, apply

accordingly.

- (2) A declaration made under subsection (1) may, where there is a reference in a section to the exercise or performance of a power or function by a particular officer or employee of a council, specify the member of the staff of the Authority who shall exercise or perform that power or function on behalf of the Authority.

## **18 Cemetery**

- (1) The Minister may, by notice in the *Gazette*, appoint the Authority to be the trustee of a public cemetery at Jabiru.
- (2) Where the Authority is appointed to be the trustee of a cemetery under subsection (1):
  - (a) sections 8 to 12 inclusive and 32 to 35 inclusive of the *Cemeteries Act* do not apply in relation to that cemetery; and
  - (b) a reference in the *Cemeteries Act* to a Board of Trustees shall be read, in relation to that cemetery, as a reference to the Authority.

## **19 Agreements**

- (1) The Authority may, for the purpose of exercising its powers or performing its functions, enter into an agreement with the Commonwealth, the Northern Territory, an authority established by the Commonwealth or the Northern Territory, a participating body or a person approved by the Minister.
- (2) An agreement entered into in pursuance of sub-section (1) may include provisions relating to:
  - (a) the funding of the Authority;
  - (b) the exercise of the powers or the performance of the functions of the Authority by the officers or employees of a party to the agreement; and
  - (c) the acceptance by the Authority of a lease of the area of land surveyed as the site for the town of Jabiru, and of rights in respect of other areas of land.
- (3) The Authority may enter into such agreements as are necessary or convenient for or in connection with or incidental to the performance of its functions and the exercise of its powers.

**19A Delegation**

- (1) Subject to subsections (4) and (5), the Authority may, by instrument in writing, delegate to a person any of its powers and functions under this Act, other than this power of delegation.
- (2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purpose of this Act, be deemed to have been exercised or performed by the Authority.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Authority.
- (4) Where the person to whom the Authority has, under subsection (1), delegated a power or function is the Council, the Council may delegate the power or function to:
  - (a) one or more of the members of the Council; or
  - (b) a person who is a member of the staff of the Council.
- (5) The Authority may not delegate its power under section 23 or 29A, unless the Minister:
  - (a) and the participating bodies have agreed that; and
  - (b) has specified a date, by notice in the *Gazette*, on or after which,the Authority may delegate the power.

**19B Delegation subject to power**

A delegation under section 19A shall be read and construed so as not to exceed the power of the Authority under this Act, to the intent that where a delegation would, but for this section, have been construed as being in excess of that power it shall nevertheless be a valid delegation to the extent to which it is not in excess of that power.

**20 Encouragement of industry**

- (1) The Authority may:
  - (a) engage consultants and contractors; and
  - (b) encourage industry, business and commerce,for the purpose of carrying out works and for the purpose of arranging and providing services and facilities.

- (2) Without limiting the generality of subsection (1), the Authority may encourage industry, business and commerce by:
  - (a) providing incentives and concessions;
  - (b) making grants, loans and subsidies;
  - (c) providing, on favourable terms, accommodation, machinery and equipment; and
  - (d) acquiring, holding or disposing of any interest or right in or in relation to any business.

## **21 Sub-leasings**

- (1) The Authority may grant a lease of, or licence to use, land or premises.
- (2) Without limiting the generality of subsection (1), the Authority may:
  - (a) grant a lease for a term of years;
  - (b) determine premiums, rents and other charges payable for, under or in respect of leases and other rights in respect of land;
  - (c) include a building covenant and other terms and conditions in a lease;
  - (d) give assistance, including financial assistance, to a person to purchase a lease or to build on leased land; and
  - (e) restrict the right to sub-lease.
- (3) Subject to any restriction expressed in a lease, a lessee may sub-lease.

## **Part IIIAA Rates and charges**

### **22 Rateable land**

- (1) Subject to subsection (2), all land provided with a utility service in Jabiru is rateable land.
- (2) The Authority may, by notice in the *Gazette*, specify land in Jabiru which is provided with services but is not rateable land for the purposes of this Act.

## **23 Rates and charges**

- (1) The Authority may declare a rate or charge, including an annual rate or charge, in relation to a person who resides in or carries on business in Jabiru or has an interest in rateable land in Jabiru, or on a class of such persons or on any rateable land in Jabiru for:
  - (a) the provision of a specific work or utility service; or
  - (b) the funding of works and services generally, including the annual cost of performing, or providing for the performance of, its functions under section 15.
- (2) A rate or charge declared under subsection (1) may:
  - (a) include a component for the repayment of a loan and interest on the loan from the Authority to the Council;
  - (b) be declared in relation to a person, whether or not that person uses the utility service, if any, to which it relates;
  - (c) apply in relation to a period that commenced before the date on which the rate or charge is declared; and
  - (d) be declared at different rates or amounts for different persons or classes of persons.
- (3) The Authority may exempt or partially exempt a person or class of persons from payment of a rate or charge that is declared under subsection (1).

## **24 Collection of rates**

- (1) Where the Authority has declared under section 23 a rate or charge, the Council or a prescribed person shall serve a prescribed notice of the rate or charge on the person who is liable for the payment of the rate or charge.
- (2) Where, in the opinion of the Council or a prescribed person, it is not practicable to serve a prescribed notice under subsection (1) on a person by serving it personally or by post, the Council or prescribed person shall cause the notice to be published in the *Gazette* and it shall be deemed to have been served on the date on which it is so published.
- (3) A rate or charge that is declared under section 23 becomes due and payable by a person on the expiration of the period of 28 days after the date upon which a notice under subsection (1) of the rate or charge is served or deemed to be served on that person.

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**25 Public places**

- (1) The Authority may, by notice in the *Gazette*, dedicate a road, park or other area of land to the public for such period as is specified in the notice.
- (2) While an area of land is dedicated to the public in pursuance of subsection (1), it is, subject to this section, for the purposes of the laws of the Northern Territory, a public place.
- (3) The Authority may, by notice in the *Gazette*, revoke the dedication of an area of land that has been dedicated under subsection (1), notwithstanding that the period for which it was dedicated has not expired.
- (4) Notwithstanding that an area of land has been dedicated under subsection (1), the Authority may:
  - (a) temporarily or otherwise exclude the public from that area or a part of that area; and
  - (b) lease that land or a part of that land.

**Part IIIA Jabiru Town Council****25A Definitions**

In this Part, unless the contrary intention appears:

***appointed member*** means a member appointed by the Minister.

***Chairman*** means the Chairman of the Council.

***Deputy Chairman*** means the Deputy Chairman of the Council.

***elected member*** means a member elected to the Council in accordance with this Part or co-opted onto the Council in accordance with section 25F.

***general election*** means an election of members held in accordance with section 25E(2).

***member*** means a member of the Council.

***Returning Officer*** means the person named or appointed as Returning Officer under section 25E(1).

**25B Establishment of Council**

- (1) There is established by this Act a corporation by the name of the Jabiru Town Council.
- (2) The Council:
  - (a) is a body corporate with perpetual succession;
  - (b) shall have a common seal;
  - (c) may acquire, hold and dispose of real and personal property; and
  - (d) may sue and be sued in its corporate name.
- (3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Council affixed to a document and shall presume that it was duly affixed.
- (4) In the exercise of its powers and the performance of its functions delegated to it under section 19A, the Council shall:
  - (a) act in accordance with the provisions of the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth in so far as that Act relates to Jabiru; and
  - (b) not be subject to the direction of the Minister.

**25C Composition of Council and appointment of members**

- (1) Subject to subsection (2), the Council shall consist of:
  - (a) 5 members elected under this Act by persons residing within 10 kilometres of the Jabiru Police Station; and
  - (b) 3 members appointed under subsection (4) by the Minister.
- (2) The Minister may, by notice in the *Gazette*, determine that:
  - (a) the number of elected members be increased to that specified in the notice;
  - (b) the number of appointed members be decreased to that specified in the notice; or
  - (c) there will no longer be appointed members.

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- (3) The exercise of a power or the performance of a function of the Council is not affected by reason only of there being a vacancy or vacancies in the membership of the Council.
  - (4) Subject to this section, the Minister may appoint a person, who need not be qualified for election as a member, to be a member of the Council.
  - (5) The Minister may appoint a person to act as an appointed member's deputy in the event that the appointed member is unable to attend a meeting of the Council.

#### **25D Function of Council**

The function of the Council is to exercise a power or perform a function delegated to it by the Authority in so far as the power or function:

- (a) falls within the powers of the Authority under or by virtue of this Act;
- (b) is exercised or performed in or in relation to the area administered by the Authority; and
- (c) is or is in relation to a function specified in Schedule 2 of the *Local Government Act*.

#### **25DA Disclosure of interest**

- (1) A member of the Council who is directly or indirectly interested in:
  - (a) a contract made or proposed to be made by the Council; or
  - (b) an existing or proposed project of the Council,shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.
- (2) A disclosure under subsection (1) shall be recorded in the minutes of the Council and, unless the Council otherwise directs, the member shall:
  - (a) not after the disclosure take part in any deliberation or decision of the Council relating to the contract or project, as the case requires; and
  - (b) be disregarded for the purpose of constituting the quorum for any such deliberation or decision.

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- (3) A member who has made a disclosure under subsection (1), may not vote on any question relating to the giving to him of a direction under subsection (2).

**25DB Personal liability of members, &c.**

A member or a member of the staff of the Council is not rendered personally liable for an action, claim or demand arising from a matter or thing done, or a contract entered into by:

- (a) the Council in good faith, in pursuance of this Act; or
- (b) a member or a member of the staff of the Council in good faith, in pursuance of and for the purposes of this Act and for and on behalf of the Council.

**25E Election of members**

- (1) For the purpose of conducting elections under this Part the town clerk shall be the Returning Officer unless the Authority, by instrument in writing, appoints some other person to be the Returning Officer.
- (2) An election of members shall be conducted in the month of May at 2-yearly intervals at the time and in the manner set out in by-laws made under section 25K.
- (3) A person who, on the day fixed in accordance with by-laws made under section 25K as enrolment day:
  - (a) is enrolled as an elector for an election of members of the Legislative Assembly; and
  - (b) resides within 10 kilometres of the Police Station at Jabiru,is qualified to be enrolled by the Returning Officer as an elector for the purpose of electing the elected members of the Council.
- (4) Subject to the by-laws made under section 25K, only persons whose names are included on the roll of electors prepared by the Returning Officer who are residing within 10 kilometres of the Police Station at Jabiru at the date of the election may vote at an election of members.
- (5) A person who:
  - (a) is qualified under this section to be enrolled as an elector;
  - (b) is not a member or employee of the Authority;

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- (c) is not an undischarged bankrupt; and
  - (d) is not under sentence of imprisonment for one year or longer for an offence against a law of the Commonwealth or of a State or Territory of the Commonwealth,

may be nominated, in accordance with the by-laws made under section 25K, for election as a member.

- (6) An elected member retiring or ceasing to hold office by reason of the expiry of the period for which he was elected is, if qualified, eligible for re-election.

## **25F Filling of casual vacancies of elected members**

- (1) Where, within 18 months of the last general election, the office of an elected member becomes vacant or, under section 25C(2)(a), the Minister increases the number of elected members:
  - (a) the town clerk shall prepare a list in accordance with subsection (2); and
  - (b) the Council shall consider the list referred to in subsection (2) and co-opt the person who, according to the list, obtained the highest number of primary votes and who consents to being co-opted onto the Council.
- (2) For the purposes of a list under subsection (1), the town clerk shall ascertain the names of, and the number of primary votes received by, each candidate at the last general election and list, in order of receipt of the highest number to the lowest number of primary votes, the names of candidates who:
  - (a) are not currently members of the Council;
  - (b) are eligible to be elected as members of the Council; and
  - (c) received more than 5% of the primary votes at the last general election.
- (3) Where, within 18 months of the last general election, the office of an elected member becomes vacant or, under section 25C(2)(a), the Minister increases the number of elected members and no person is available to be co-opted under subsection (1), a supplementary election shall be held to fill the vacancy and the by-laws made under section 25K shall, so far as relevant, apply to a supplementary election as if it were a general election.

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- (4) Where, more than 18 months after the last general election, the office of an elected member becomes vacant or, under section 25C(2)(a), the Minister increases the number of elected members, the vacancy shall not be filled until the next succeeding election under section 25E(2) takes place.

#### **25G Vacation of office**

A member of the Council shall be deemed to have vacated his office if he:

- (a) becomes bankrupt or insolvent or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors or makes an assignment of his salary or remuneration for their benefit;
- (b) fails to attend 3 consecutive meetings of the Council without having obtained from the Chairman permission in writing for those absences;
- (c) becomes permanently incapable of performing the duties of his office;
- (d) is found guilty or is liable to be sentenced for an offence punishable under a law of the Commonwealth or of a State or Territory of the Commonwealth by imprisonment for one year or more;
- (e) is no longer qualified to be enrolled under section 25E(3) as an elector; or
- (f) resigns his office by instrument in writing addressed to the town clerk.

#### **25H Chairman and Deputy Chairman**

- (1) There shall be a Chairman and Deputy Chairman of the Council.
- (3) At its first meeting after a general election, the Council shall elect from amongst the elected members of the Council a Chairman and Deputy Chairman.
- (4) The office of Deputy Chairman becomes vacant if its holder is elected to be the Chairman and the office of Chairman or Deputy Chairman becomes vacant if its holder:
  - (a) ceases to be a member of the Council;

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- (b) resigns his office by instrument in writing addressed to the town clerk; or
  - (c) is removed from office by a resolution of the Council.
- (5) When the office of Chairman or Deputy Chairman becomes vacant, the Council shall elect a Chairman or Deputy Chairman, as the case requires, from amongst the elected members of the Council.
- (6) When the office of Chairman is vacant or when the Chairman is, because of absence or illness or for any other reason, unable to exercise his powers or perform his duties, the Deputy Chairman has and may exercise those powers and has and shall perform those duties.

## **25J Meetings of Council**

- (1) Subject to subsection (2), the Council shall meet at such place within Jabiru and at such times as the Chairman from time to time determines.
- (2) The Chairman shall, within 3 days after he receives a written request to do so, signed by:
- (a) the Chairman of the Authority; or
  - (b) not less than 3 members,
- convene a meeting of the Council for a date not less than 10 days nor more than 21 days after the date upon which he received the written request.
- (2A) In the absence of the Chairman and Deputy Chairman from a meeting of the Council, the members present at the meeting shall elect one of their number to preside at the meeting and that person may exercise the powers and shall perform the functions of the Chairman for that meeting.
- (3) At a meeting of the Council:
- (a) 5 members constitute a quorum;
  - (b) all questions before the Council shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes the person presiding shall have a casting vote as well as a deliberative vote; and
  - (d) the town clerk shall act as secretary to the Council and shall take and record minutes.

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- (4) Subject to this section, Council may determine the procedures to be adopted at meetings of the Council.

**25K Elections by-laws**

- (1) The Authority may make by-laws, not inconsistent with this Part, setting out the manner in which elections held under this Part shall be conducted.
- (2) Without limiting the generality of sub-section (1), the by-laws may make provision for:
- (a) the preparation by the Returning Officer of a roll of electors;
  - (b) fixing the date of an election;
  - (c) the nomination of candidates for election;
  - (d) voting by persons unable to vote on the date fixed for the election;
  - (e) the conduct of the poll; and
  - (f) the counting of votes and determination of the results of the poll.

**Part IV Financial arrangements of Authority and Council**

**26 Moneys of the Authority**

- (1) The moneys of the Authority consist of:
- (a) moneys paid to the Authority out of moneys appropriated for the purpose by the Commonwealth Parliament;
  - (b) moneys paid to the Authority out of moneys appropriated for the purpose by the Northern Territory Legislative Assembly;
  - (c) moneys paid to it by a participating body; and
  - (d) such other moneys as the Authority receives in the exercise of its powers and the performance of its functions.
- (2) The Minister for Finance of the Commonwealth, or the Treasurer of the Northern Territory, may give directions as to the amounts in which, and the times at which, moneys appropriated for the use of the Authority by the Commonwealth Parliament or the Northern Territory Legislative Assembly, as the case may be, are to be

payable to the Authority.

## **27 Application of moneys**

The moneys of the Authority shall be applied only:

- (a) in payment or discharge of the expenses and other obligations of the Authority or the Council incurred by the Council in performing its functions under this Act; and
- (b) in payment of the remuneration, allowances and expenses of members of the Authority.

## **28 Audit, &c., provisions**

- (1) The Authority shall, within the period of 6 months immediately following the end of the financial year or such other period as the Minister determines, prepare a report on its operations during the financial year and forward it to the Minister.
- (2) The Minister shall table the report under subsection (1), together with the financial statement and report of the Auditor-General on the financial statement required pursuant to subsection (3), in the Legislative Assembly within 6 sitting days of the Assembly after the delivery of the later of the reports to the Minister.
- (3) Subject to subsection (2), section 10 of the *Financial Management Act* applies to and in relation to the Authority as if its activities were a Government Business Division within the meaning of that Act.
- (4) For the purposes of the application of section 10 of the *Financial Management Act* as referred to in subsection (3), the Authority shall, in writing, nominate an employee, within the meaning of the *Public Sector Employment and Management Act* to be its Accountable Officer.

## **28A Moneys of Council**

The moneys of the Council include:

- (a) rates, charges, fees and fines collected or received by the Council in exercising the municipal powers or performing the municipal functions delegated to it by the Authority;
- (b) proceeds from the disposal of the property of the Council;
- (c) subsidies, grants or donations to the Council from the Commonwealth, Territory or another person;

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- (d) a loan from the Territory to the Council, where the loan has been approved by the Authority;
  - (e) loans from the Authority to the Council; and
  - (f) all other moneys received by or on behalf of the Council under this Act or otherwise.

## **28B Estimates of receipts and expenditures**

- (1) The Council shall prepare statements, in such form as the Authority directs, of its estimated receipts and expenditures for each financial year and, if so directed by the Authority, for any other period and shall submit those statements to the Authority not later than such date as the Authority directs.
- (2) Where a statement of estimated receipts and expenditures is submitted to the Authority under subsection (1), the Authority shall:
  - (a) with or without amendment, approve the statement; and
  - (b) give notice to the Council of its approval, with or without amendment.
- (3) Moneys shall not be expended by the Council in the exercise of its powers or the performance of its functions except in accordance with a statement, which has been approved under subsection (2), of receipts and expenditures.
- (4) Where the Council:
  - (a) after approval under subsection (2) of a statement of receipts and expenditures, proposes to perform a function or activity not provided for in the statement; or
  - (b) in a review of a statement of receipts and expenditures, is of the opinion that inadequate provision has been made for a function or activity or that the provision allowed for a function or activity is too high,the Council may:
  - (c) where the proposed variation does not provide for expenditure in excess of the total approved estimated expenditure – vary the approved statement; or
  - (d) in any other case – apply to the Authority to approve a variation of the statement.

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- (5) Where the Council makes an application under subsection (4), the Authority may:
- (a) approve, with or without amendment, the application or reject the application; and
  - (b) give notice to the Council of its approval, with or without amendment, or rejection.

## **28C Financial statement and annual report**

- (1) The *Financial Management Act* does not apply to or in relation to the Council.
- (2) The Council shall cause to be prepared, within 3 months immediately after the end of a financial year:
  - (a) a prescribed financial statement, audited in accordance with the Regulations; and
  - (b) a report of the Council's operations during the financial year.
- (3) The Council shall consider a prescribed financial statement and report referred to in subsection (2) within 4 months immediately after the end of the financial year to which the financial statement and report relate and shall forward the financial statement and report to the Authority within 10 days after such consideration by it.
- (4) Where a prescribed financial statement and report are forwarded to the Authority under subsection (3), it shall forward a copy of the financial statement and report to the Minister within 6 months of the end of the financial year to which the financial statement and report relate.
- (5) Where the Minister causes a copy of the annual report of the Authority to be laid before the Legislative Assembly, he shall cause a copy of the latest prescribed financial statement and report referred to in subsection (4) to be laid before the Legislative Assembly at the same time.
- (6) The Regulations may prescribe another period for a requirement under this section to be complied with, except a requirement under subsection (5), and where another period is so prescribed that period is an alter-native period to the period specified in this section and the requirement need not be complied with until the expiration of the alternative period.

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**28D Council to appoint auditor each alternate year**

- (1) The Council shall, in August next after the commencement of the *Jabiru Town Development Amendment Act 1984* and then in August of each alternate year:
  - (a) appoint a person to be the auditor of the finances of the Council; and
  - (b) determine the amount of the fee to be paid to the auditor.
- (2) A person appointed as the auditor under this section shall hold office on and after 1 September next following his appointment until 31 August in the second year after his appointment.
- (3) Subject to section 28G, a person appointed as the auditor is eligible for re-appointment.

**28E Council to fill vacancy occurring in office of auditor**

- (1) Where a vacancy occurs in the office of the auditor, the Council shall, within 28 days after and including the date of that vacancy occurring:
  - (a) appoint another person to that office; and
  - (b) determine the amount of the fee to be paid to the person so appointed.
- (2) A person appointed under subsection (1) shall hold office until the appointment of the auditor in whose stead he is appointed would have expired in accordance with section 28D(2).
- (3) The town clerk shall cause notice of the appointment of the auditor to be published in the *Gazette* within 14 days after the date of the appointment under subsection (1).

**28F Only qualified persons to be appointed as auditor**

- (1) Subject to this section, the Council shall not appoint a person to be the auditor unless he is a member of an institute or association of accountants which the Chairman of the Authority has approved as an institute or association for the purposes of this section.
- (2) Where, on an application being made to him by the Council, the Chairman of the Authority is satisfied that:
  - (a) no person who is a member of an approved institute or association of accountants is available for appointment as the auditor; and

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- (b) a person nominated by the Council is competent to carry out the duties of the auditor,

he may approve of the appointment as the auditor of the person nominated, notwithstanding that the person is not a member of an approved institute or association of accountants.

## **28G Person disqualified from being auditor**

- (1) A person who:

- (a) is a member of the Council;
- (b) holds an office of profit under, or at the disposal of, the Council other than as the auditor; or
- (c) is directly or indirectly interested in a contract with, or employment under, the Council, other than as a shareholder in, or a member, director, manager or servant of, a company which consists of at least 20 registered shareholders or members, which is incorporated or registered in the Commonwealth, and which is concerned in a contract or dealing with the Council,

is disqualified from holding office as the auditor.

- (2) A person who:

- (a) is an undischarged bankrupt; or
- (b) has been sentenced to a term of imprisonment for an indictable offence, until that term expires,

is disqualified from holding office as the auditor.

## **28H Town clerk to inform Council of certain matters**

The town clerk shall inform the Council at the first meeting held after he becomes aware that the auditor:

- (a) is disqualified under section 28G from holding office as the auditor;
- (b) has died;
- (c) is the subject of a report of the Chief Health Officer, based on advice from 2 medical practitioners, that as a result of the auditor's mental illness, as defined in the *Mental Health and Related Services Act*, he or she has become incapable of performing his or her duties as auditor;

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- (d) has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, has compounded with his creditors or has made an assignment of his remuneration for their benefit;
  - (e) has been, or will be, absent from the Territory at a time at which a periodical audit has been, is or will be, appointed to be held by the Council; or
  - (f) being in the Territory, has failed to attend at the time and place appointed by the Council for the holding of an audit after the town clerk has given 14 days notice of that proposed audit to the auditor.

**28J Council to declare office of auditor vacant in certain circumstances**

- (1) At a meeting of the Council at which:
  - (a) the Council accepts the resignation of the auditor; or
  - (b) the town clerk informs the Council of a matter pursuant to section 28H,the Council shall, by resolution, declare the office of auditor to be vacant.
- (2) The office of auditor becomes vacant when:
  - (a) the Council passes a resolution to that effect under subsection (1); or
  - (b) the term for which the auditor was appointed expires.

**28K Chairman of Authority may appoint auditor in certain circumstances**

Where the Council fails to appoint an auditor in accordance with this Part, the Chairman of the Authority may, by notice in the *Gazette*, appoint an auditor and fix the fee to be paid to that auditor by the Council.

**28M Term of office of auditor appointed under section 28k**

An auditor appointed under section 28K shall:

- (a) subject to this Act, hold office until 31 August in the second year after his appointment; and

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- (b) be paid by the Council such fee as is fixed by the notice referred to in that section.

**28N Auditor may sue for fees**

An auditor, whether appointed by the Council or by the Chairman of the Authority, may sue for and recover as a debt fees due and payable to him by the Council.

**28P Duties of auditor as to audit**

The auditor shall inspect and audit the accounts of the Council at:

- (a) the times and in the manner prescribed; and
- (b) such other times as the Council directs.

**28Q Manner of carrying out audit**

The auditor shall make a full and complete audit of the statements and accounts of the Council and shall certify:

- (a) whether in his opinion the statements and accounts of the Council are full and fair statements and accounts, properly drawn up so as to exhibit a full and true view of the Council's affairs;
- (b) whether they are in accordance with the books of the Council and this Act and the Regulations; and
- (c) as to the amount which, in accordance with this Act, the Council may borrow from the Territory or the Authority.

**Part V Miscellaneous**

**29A Staff of Council**

- (1) The Authority shall determine:
  - (a) the number and classification of staff which may be employed by the Council; and
  - (b) the terms and conditions upon which the Council may employ staff.
- (2) The Council may employ staff only in accordance with a determination under subsection (1).

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**29B Appointment, &c., of town clerk**

- (1) Subject to subsection (2), the Council shall, in accordance with a determination under section 29A(1), appoint a person as the town clerk of Jabiru.
- (2) The Council shall not appoint a person as town clerk, unless he:
  - (a) has attained the age of 18 years; and
  - (b) possesses qualifications that qualify him for appointment as a town clerk of a municipal body of a State or his appointment is approved by the Authority.
- (3) The Council shall not dismiss the town clerk, if he has held office as the town clerk for more than 12 months, without giving him at least 6 months notice, except on the ground of his:
  - (a) incompetence;
  - (b) having become bankrupt or insolvent or applied to take the benefit of a law for the relief of bankrupt or insolvent debtors or compounded with his creditors or made an assignment of his remuneration for their benefit; or
  - (c) having failed properly to carry out duties which, under this Act, he is required to perform or which have been assigned to him by the Council.

**30 Service of notices**

A notice that is required or permitted to be served by or under this Act may be served personally or by post.

**31 By-laws**

- (1) The Authority may make by-laws, not inconsistent with this Act, prescribing all things required or permitted to be prescribed, or necessary or convenient to be prescribed, for or in relation to the exercise of its powers and the performance of its functions.
- (1A) The Authority may make by-laws:
  - (a) where regulations made under the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth, applying to the Kakadu National Park, are not applied to Jabiru, in place of those regulations; and

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- (b) where a matter contained in the lease of Jabiru from the Director to the Authority, or the plan of management prepared by the Director under section 11 of the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth is such that it is necessary or convenient for the Authority to make provision for it in by-laws.
- (2) Without limiting the generality of subsection (1), the Authority may make by-laws in accordance with that subsection for or in relation to:
- (a) the control and management of an area of land that has been dedicated under section 25(1) whether or not that area has been leased;
  - (b) the levying and collection of rates, fees or charges;
  - (c) the authorizing of persons to demand the names and addresses of persons who are believed on reasonable grounds to have contravened or failed to comply with a by-law made in pursuance of this section and requiring persons to comply with such a demand made by a person so authorized;
  - (d) the imposing of a penalty not exceeding such amount as is prescribed for a contravention of or a failure to comply with a by-law made in pursuance of this section;
  - (da) the enabling of a person who is alleged to have contravened a provision of by-laws made under this section to pay to the Authority as an alternative to prosecution, a fixed penalty in lieu of the penalty by which a contravention of that provision is otherwise punishable; and
  - (e) the conferring on a person authorized by the Authority of a right of entry on to private land and a right to take such action as is necessary or convenient to inspect, repair, protect or remove the property of the Authority on private land.
- (3) By-laws which provide for the imposition of a fixed penalty shall specify:
- (a) the amount of the fixed penalty;
  - (b) subject to subsection (4), the form of a notice of infringement;
  - (c) the person or persons who may issue a notice of infringement; and

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- (d) the period within which the fixed penalty shall be paid in order to avoid prosecution.
- (4) A notice of infringement shall indicate:
- (a) the name of the alleged offender or a description of the property creating or the subject of the alleged offence sufficient to identify that property;
  - (b) in general terms the nature of the offence alleged to have been committed;
  - (c) the date, time and place of the alleged offence;
  - (d) the amount of the fixed penalty;
  - (e) the period within which, and the place where, the fixed penalty may be paid; and
  - (f) that the alleged offender may, if he so wishes, be dealt with by a court of competent jurisdiction.

### **31A Proceedings taken by Authority**

The Authority or its Chairman, or the Council or its Chairman, or a person authorized by the Authority or Council in that behalf, may direct, either generally or in a particular case, that proceedings be taken:

- (a) for the recovery of any rate, charge, fee or money owing under this Act; or
- (b) for the recovery of any penalty in respect of an offence against this Act or by-laws made under this Act.

### **31B Fines to be paid to Authority**

All fines and monetary penalties recovered for offences against by-laws made under this Act shall be paid to the Council.

## **32 Regulations**

- (1) The Administrator 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 or in connection with the carrying out of this Act.
- (2) Where a provision of or made under an Act is inconsistent with the *National Parks and Wildlife Conservation Act 1975* of the Commonwealth or any regulations made under that Act, the

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Administrator may make regulations either declaring that that provision shall not apply in or in relation to Jabiru or adapting or modifying that provision in its application to or in relation to Jabiru and, where a provision has been so adapted or modified, the provision shall apply accordingly.

- (3) Without limiting the generality of subsection (1), the Administrator may make regulations providing for or in relation to:
- (a) moneys of the Council; and
  - (b) the preparation and auditing of prescribed statements.

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## ENDNOTES

### 1 KEY

Key to abbreviations

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

### 2 LIST OF LEGISLATION

***Jabiru Town Development Act 1978 (Act No. 2, 1979)***

Assent date	3 January 1979
Commenced	12 January 1979 ( <i>Gaz G2</i> , 12 January 1979, p 4)

***Jabiru Town Development Act 1979 (Act No. 88, 1979)***

Assent date	19 July 1979
Commenced	19 July 1979

***Remuneration (Statutory Bodies) Act 1979 (Act No. 9, 1980)***

Assent date	14 January 1980
Commenced	8 February 1980 ( <i>Gaz G6</i> , 8 February 1980, p 6)

***Jabiru Town Development Amendment Act 1980 (Act No. 17, 1981)***

Assent date	9 January 1981
Commenced	9 January 1981

***Jabiru Town Development Amendment Act 1981 (Act No. 45, 1981)***

Assent date	29 June 1981
Commenced	ss 5 and 6(a): 12 January 1979 (s 3(1)); rem: 29 June 1981 (s 3(2))

***Jabiru Town Development Amendment Act 1982 (Act No. 24, 1982)***

Assent date	16 June 1982
Commenced	16 June 1982

***Jabiru Town Development Amendment Act 1984 (Act No. 6, 1984)***

Assent date	26 June 1984
Commenced	4 July 1984 (s 2)

***Public Service and Statutory Authorities Amendment Act 1985 (Act No. 28, 1985)***

Assent date	26 June 1985
Commenced	26 June 1985

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***Jabiru Town Development Amendment Act 1987 (Act No. 47, 1987)***

Assent date 16 November 1987  
Commenced 27 January 1988 (*Gaz G4*, 27 January 1988, p 2)

***Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)***

Assent date 30 June 1993  
Commenced 1 July 1993 (s 2, s 2 *Public Sector Employment and Management Act 1993* (Act No. 11, 1993) and *Gaz S53*, 29 June 1993)

***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 Act 1992* (Act No. 4, 1995) and *Gaz S13*, 31 March 1995)

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

Assent date 19 April 1996  
Commenced s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz S15*, 13 June 1996)

***Mental Health and Related Services (Consequential Amendments) Act 1999 (Act No. 11, 1999)***

Assent date 25 March 1999  
Commenced 1 February 2000 (s 2, s 2 *Mental Health and Related Services Act 1998* (Act No. 63, 1998) and *Gaz G3*, 26 January 2000, p 2)

***Statute Law Revision Act 1999 (Act No. 27, 1999)***

Assent date 18 June 1999  
Commenced 18 June 1999

### 3 SAVINGS AND TRANSITIONAL PROVISIONS

s 21 *Jabiru Town Development Amendment Act 1984* (Act No. 6, 1984)

### 4 LIST OF AMENDMENTS

s 3 amd No. 88, 1979, s 3; No. 17, 1981, s 3; No. 45, 1981, s 4; No. 6, 1984, s 4  
s 4 amd No. 88, 1979, s 4  
s 6 amd No. 28, 1993, s 3  
s 11 rep No. 9, 1980, s 6  
s 13 amd No. 27, 1999, s 15  
s 14A ins No. 17, 1981, s 4  
s 15 amd No. 88, 1979, s 5; No. 45, 1981, s 5  
s 16 amd No. 17, 1981, s 5; No. 45, 1981, s 6  
s 16A ins No. 45, 1981, s 7  
s 17 sub No. 45, 1981, s 8  
s 19 amd No. 17, 1981, s 6  
s 19A ins No. 45, 1981, s 9  
amd No. 6, 1984, s 5  
s 19B ins No. 6, 1984, s 6  
pt IIIAA hdg ins No. 6, 1984, s 7  
s 22 rep No. 88, 1979, s 6  
ins No. 6, 1984, s 7

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s 23	amd No. 45, 1981, s 10 sub No. 6, 1984, s 7
s 24	sub No. 6, 1984, s 7
pt IIIA hdg	ins No. 24, 1982, s 2 amd No. 6, 1984, s 8
s 25A	ins No. 24, 1982, s 2 amd No. 6, 1984, s 9
ss 25B – 25C	ins No. 24, 1982, s 2 sub No. 6, 1984, s 10
s 25D	ins No. 24, 1982, s 2 sub No. 6, 1984, s 10 amd No. 47, 1987, s 4
ss 25DA – 25DB	ins No. 6, 1984, s 10
s 25E	ins No. 24, 1982, s 2 amd No. 6, 1984, s 20; No. 47, 1987, s 5
s 25F	ins No. 24, 1982, s 2 sub No. 6, 1984, s 11
s 25G	ins No. 24, 1982, s 2 amd No. 47, 1987, s 6; No. 17, 1996, s 6
s 25H	ins No. 24, 1982, s 2 amd No. 6, 1984, s 12; No. 47, 1987, s 7
s 25J	ins No. 24, 1982, s 2 amd No. 6, 1984, s 13; No. 47, 1987, s 8
s 25K	ins No. 24, 1982, s 2
pt IV hdg	amd No. 6, 1984, s 14
s 27	amd No. 6, 1984, s 15
s 28	sub No. 5, 1995, s 19
s 28A	ins No. 6, 1984, s 16
s 28B	ins No. 6, 1984, s 16 amd No. 47, 1987, s 9
s 28C	ins No. 6, 1984, s 16 amd No. 5, 1995, s 19
ss 28D – 28G	ins No. 6, 1984, s 16
s 28H	ins No. 6, 1984, s 16 amd No. 11, 1999, s 4
ss 28J – 28P	ins No. 6, 1984, s 16
s 28Q	ins No. 6, 1984, s 16 amd No. 47, 1987, s 10
pt V hdg	ins No. 6, 1984, s 16
s 29	amd No. 28, 1985, s 9
ss 29A – 29B	ins No. 6, 1984, s 17
s 31	amd No. 45, 1981, s 11
s 31A	ins No. 45, 1981, s 12 amd No. 6, 1984, s 18
s 31B	ins No. 45, 1981, s 12 amd No. 6, 1984, s 20
s 32	amd No. 45, 1981, s 13; No. 6, 1984, s 19