

NORTHERN TERRITORY OF AUSTRALIA

FLAG AND EMBLEM ACT

As in force at 21 September 2011

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 21 September 2011

FLAG AND EMBLEM ACT

An act to control the use of the Northern Territory Arms, flag and emblems

1 Short title

This Act may be cited as the *Flag and Emblem 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:

Arms of the Territory means the Territory Arms referred to in section 5.

declared emblem means an emblem declared under section 8 by the Administrator to be:

- (a) a Territory Badge; or
- (b) an official emblem of the Territory,

and includes any other emblem that so nearly resembles an emblem so declared as to be likely to deceive or be capable of being mistaken for an emblem so declared.

4 Delegation

- (1) The Minister may, by instrument in writing, delegate to a person any of his 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 Minister.

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- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

5 Arms of the Territory

The Arms of the Territory described in Schedule 1, being the Arms a reproduction of which is set out in Schedule 2, are the Arms of the Territory.

6 Improper use of Arms of the Territory an offence

- (1) Subject to subsection (2), the Minister may, by notice in writing, authorize a person to use the Arms of the Territory.
- (2) The Minister shall not authorize under subsection (1) the use of the Arms of the Territory except for Territory Government purposes or bona fide educational purposes within the Territory.
- (3) A person who, directly or indirectly, without the prior written authority under subsection (1) of the Minister:
- (a) assumes, uses or otherwise deals with or causes to be assumed, used or otherwise dealt with; or
 - (b) prints, publishes, manufactures, sells or offers or exhibits for sale or causes to be printed, published, manufactured, sold or offered or exhibited for sale or sends, distributes or delivers to or serves on, or causes to be sent, distributed or delivered to, or served on, a person any writing, material or object in or upon which appears,

the Arms of the Territory or Arms or any token insignia, emblem or other thing that so nearly resembles the Arms of the Territory as to be likely to deceive or be capable of being mistaken for the Arms of the Territory is guilty of an offence.

Maximum penalty: 4 penalty units, and 0.8 penalty unit for each day during which the offence continues.

- (4) In proceedings under this section, if a person is named in the writing, on material or an object referred to in this section in such manner as to imply that he is the printer, publisher, manufacturer, seller or sender of it, that person shall, unless the contrary is proved, be taken to be the person who printed, published, manufactured, sold or sent that writing, material or object.

7 Flag of the Territory

The flag described in Schedule 3, being the flag a reproduction of which is set out in Schedule 4, is the Flag of the Territory.

8 Declared emblem

The Administrator may, by notice in the *Gazette*, declare an emblem described, depicted or referred to in the declaration to be:

- (a) a Territory Badge; or
- (b) an official emblem of the Territory.

9 Improper use of declared emblem an offence

- (1) The Minister may, by notice in writing, authorize a person to use a declared emblem, either without defacement or defaced in a manner specified in the notice.
- (2) A person who, directly or indirectly, without the prior written authority under subsection (1) of the Minister:
 - (a) assumes, uses or otherwise deals with or causes to be assumed, used or otherwise dealt with; or
 - (b) prints, publishes, manufactures, sells or offers or exhibits for sale or causes to be printed, published, manufactured, sold or offered or exhibited for sale or sends, distributes or delivers to or serves on, or causes to be sent, distributed or delivered to, or served on, a person, any writing, material or object in which or on which appears,

a declared emblem for any trade, business, calling, profession or commercial purpose, or in connection with a club or any body or association of persons (including, but without limiting the generality of this subsection, a club or body or association of persons formed for the purpose of playing a game or athletic sport) or in such a manner as to suggest that the writing, material or object has official significance, is guilty of an offence.

Maximum penalty: 4 penalty units and 0.8 penalty unit for each day during which the offence continues.

- (3) In proceedings under this section, if a person is named in the writing, on material or an object referred to in this section in such manner as to imply that he is the printer, publisher, manufacturer, seller or sender of it, that person shall, unless the contrary is proved, be taken to be the person who printed, published, manufactured, sold or sent that writing, material or object.

10 Liability of members of body corporate

Where the Arms of the Territory or a declared emblem or a representation of any of them likely to deceive, is or are assumed or

used, or any writing, material or object is printed, published, distributed, or sent or delivered to a person in connection with a body corporate or club, body or association of persons in contravention of section 6 or 9 then:

- (a) each officer concerned in the management of the body corporate; and
- (b) every member of the governing body by whatever name called and every officer of the club, body or association,

shall be deemed to have committed that offence and shall be liable to the same penalty as the person who actually committed the offence, unless he proves that he did not know and could not, by the use of due diligence, have known of or prevented the commission of that offence.

11 Rules for use of declared emblems, &c.

- (1) The Minister may make and cause to be published rules for the use of declared emblems.
- (2) The rules may prescribe penalties not exceeding 4 penalty units for a contravention or breach of the rules and, in addition, penalties not exceeding 0.8 penalty unit for each day during which such a contravention or breach occurs.

12 Consent of Attorney-General

Proceedings for an offence against this Act or the rules shall not be instituted except by or with the consent in writing of the Attorney-General or Director of Public Prosecutions.

13 Substitute use of Arms of the Territory

Where by or under an Act the use of the Arms of the Territory or a representation thereof, in whatever terms described, is prescribed for a document, form, seal or otherwise as a mark of authority of the Crown, the use for that purpose of a representation of the Arms of the Territory, in the form in which that armorial insignia is or was, at the material time, granted, shall be taken to be and to have always been a sufficient compliance in law with that prescription.

Schedule 1 Description of Arms of the Territory

Section 5

For Arms, Tenny, representations in the Australian Aboriginal manner of an Arnhem Land rock painting of a woman with stylised internal anatomy between in dexter chief and base two symbolic representations of campsites joined by journey or path markings in the manner of the Central Australian Aboriginals and in sinister chief and base the like all Argent; and for a Crest: Upon a Wreath of the Colours a Wedge tailed Eagle (*Aquila audax*) wings elevated grasping with its talons an Australian Aboriginal stone Tjurunga proper; and for Supporters: On either side a Red Kangaroo (*Macropus rufus* (Desmarest)) guardant that to the dexter holding in the dexter fore-paw a Chiragra Spider Conch (*Lambis Chiragra*) and similarly that to the sinister in its sinister fore-paw a True Heart Cockle (*Corculum carelissa*) growing from a compartment comprising a grassy-sandy mound Sturt's Desert Roses (*Gossypium sturtianum*).

Schedule 2 Production of Arms of the Territory

section 5

(Refer pamphlet copy)

Schedule 3 Description of Flag of the Territory

section 7

The Flag of the Territory incorporates the three official Territory colours of black, white and ochre and the official Territory floral emblem, Sturt's Desert Rose. The floral emblem resides in white on an ochre panel which is flanked on the left by a black panel on which is set five white stars representing the form of the constellation of the Southern Cross. The stylised Sturt's Desert Rose on the ochre panel has seven petals with a seven pointed star in the centre, symbolising the six Australian States and the Territory.

Schedule 4 Reproduction of Flag of the Territory

section 7

(Refer pamphlet copy)

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 = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION

Flag and Emblem Act 1985 (Act No. 24, 1985)

Assent date	18 June 1985
Commenced	18 September 1985 (Gaz G37, 18 September 1985, p 9)

Director of Public Prosecutions (Consequential Amendments) Act 1990 (Act No. 29, 1990)

Assent date	11 June 1990
Commenced	21 January 1991 (s 2, s 2 <i>Director of Public Prosecutions Act 1990</i> (Act No. 35, 1990) and Gaz G2, 16 January 1991, p 9)

Penalties Amendment (Chief Minister's and Other Portfolios) Act 2011 (Act No. 27, 2011)

Assent date	31 August 2011
Commenced	21 September 2011 (Gaz G38, 21 September 2011, p 5)

3 LIST OF AMENDMENTS

s 6	amd No. 27, 2011, s 3
s 9	amd No. 27, 2011, s 3
s 11	amd No. 27, 2011, s 3
s 12	amd No. 29, 1990, s 7