

NORTHERN TERRITORY OF AUSTRALIA

PRISONS (ARBITRAL TRIBUNAL) ACT

As in force at 28 August 2013

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 28 August 2013

PRISONS (ARBITRAL TRIBUNAL) ACT

An Act relating to the fixing of terms and conditions of service of prison officers

Part I Preliminary

1 Short title

This Act may be cited as the *Prisons (Arbitral Tribunal) Act*.

2 Commencement

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

5 Interpretation

Words and expressions used in this Act have the meanings ascribed thereto by the *Prisons (Correctional Services) Act*.

Part IIA The Prison Officers Arbitral Tribunal

11A Prison Officers Arbitral Tribunal

- (1) There shall be a Prison Officers Arbitral Tribunal which shall have jurisdiction to hear and determine the conditions of service of officers with respect to:
 - (a) salaries;
 - (b) cost of living and district allowances;
 - (c) hours of duty, including the provision of breaks for meals, and days off duty;
 - (d) payment for overtime worked at the direction of the Director or a prison officer authorized for that purpose by the Director;

- (e) allowances to be paid to an officer:
 - (i) whilst travelling on duty;
 - (ii) whilst engaged on special duties;
 - (iii) for performing duties higher than those of the office which an officer holds;
 - (iv) in lieu of the provision of living quarters; and
 - (v) in lieu of the provision of uniforms;
 - (f) recreation leave, travelling time and the payment of fares of an officer and of his dependants for the purpose of proceeding on and returning from recreation leave;
 - (g) long service leave;
 - (h) sick leave;
 - (i) leave in special circumstances;
 - (j) the notification of vacancies and the time within which vacancies shall be filled;
 - (k) the payment of the reasonable expenses incurred by an officer in the course of his being transferred from one prison to another;
 - (l) the payment of fares of an officer and of his dependants from the Territory to a place within the Commonwealth upon retirement due to age, ill health or physical incapacity; and
 - (m) such other matters as the Minister from time to time refers to the Tribunal.
- (2) The Tribunal shall be constituted by the following members:
- (a) a person appointed by the Minister, who shall be the Chairman of the Tribunal;
 - (b) the nominated member; and
 - (c) the appropriate available elected member.
- (3) The Minister shall appoint to be the nominated member a person nominated by the Minister.

(3A) The Minister shall appoint to be available elected members:

- (a) a person stated by the Secretary of the Northern Territory Senior Prison Officers Association, in writing under his hand, to be the person elected by that association for the purpose of being appointed to be an available elected member; and
- (b) a person stated by the secretary of the Northern Territory Prison Officers Association, in writing under his hand, to be the person elected by that association for the purpose of being appointed to be an available elected member.

(3B) The appropriate available elected member is:

- (a) where the Tribunal exercises or is to exercise jurisdiction or a power conferred on it by this Act in respect of the conditions of service of senior prison officers – the person appointed to be an available elected member after having been elected by the Northern Territory Senior Prison Officers Association for the purpose of being so appointed; or
- (b) where the Tribunal exercises or is to exercise jurisdiction or a power conferred on it by this Act in respect of the conditions of service of officers other than senior prison officers – the person appointed to be an available elected member after having been elected by the Northern Territory Prison Officers Association for the purpose of being so appointed.

(4) Subject to this Act:

- (a) the person appointed to be the nominated member shall hold office as a member; and
- (b) each person appointed to be an available elected member shall hold office as an available elected member,

for such term, not being more than 3 years, as is specified in the relevant instrument of appointment, and, on the expiration of his term of office, each of them shall be eligible for reappointment.

(5) The office of the nominated member becomes vacant upon the publication in the *Gazette* of a notice by the Administrator that the office of the nominated member is vacant.

(5A) The secretary of an association referred to in this section may, pursuant to a resolution passed at a general meeting of the association, by notice in the *Gazette*, declare that the person elected by the association to be an available elected member no longer holds office as an available elected member.

- (5B) Upon the publication of a notice under subsection (5A), the person specified in the notice ceases to hold office as an available elected member.
- (6) The office of the nominated member also becomes vacant upon:
- (a) the death of the member; or
 - (b) the resignation of the member.
- (6A) A person appointed to be an available elected member also ceases to hold office as an available elected member if:
- (a) he dies; or
 - (b) he resigns his appointment as an available elected member.
- (6B) A nominated member who desires to resign his office shall deliver a written resignation to the Minister.
- (6C) An available elected member who desires to resign his appointment as an available elected member shall deliver a written resignation to the Minister.
- (6D) The resignation of a nominated member or available elected member becomes effective when it is received by the Minister.
- (7) When the office of a nominated member becomes vacant the vacancy shall be filled by the appointment by the Minister of a person nominated by the Minister.
- (7A) When a person ceases to hold office as an available elected member another person shall be appointed to be an available elected member in the same manner as previously followed in appointing the person who has ceased to hold office as an available elected member.
- (8) There shall be a Secretary to the Tribunal who shall be appointed by the Minister.

11B Meetings of the Tribunal

- (1) The Tribunal shall, at the request of the nominated member or the appropriate available elected member or upon the motion of the Chairman, be summoned by the Chairman by notice sent by post to the nominated member and the appropriate available elected member.

- (2) The notice shall specify the time and place of the meeting of the Tribunal and the matters to be dealt with by the Tribunal at the meeting.
- (3) At meetings of the Tribunal all questions shall be decided by a majority of votes.

11D Agreements

- (1) The Administrator may make an agreement:
 - (a) relating to conditions of service of senior prison officers with respect to the matters mentioned in section 11A(1) – with the Northern Territory Senior Prison Officers Association; or
 - (b) relating to conditions of service of officers other than senior prison officers with respect to those matters – with the Northern Territory Prison Officers Association.
- (2) Every agreement made in pursuance of this section shall be in writing and for a term to be specified therein and not exceeding 5 years from the date of the making thereof.
- (3) The Chairman of the Tribunal shall certify the agreement, unless he is of the opinion that it is not in the public interest that it should be certified.
- (4) The agreement when so certified shall be filed with the Secretary to the Tribunal and shall, thereupon, be of full force and effect according to its terms.
- (5) Every such agreement shall during its continuance be binding on the Administrator, the Territory and:
 - (a) if the agreement was made by the Northern Territory Senior Prison Officers Association – on senior prison officers; or
 - (b) if the agreement was made by the Northern Territory Prison Officers Association – on officers other than senior prison officers.

11DA Notification of agreements

- (1) Any agreement made in pursuance of section 11D shall be notified in the *Gazette* by a notice that the agreement has been made and specifying the place where copies of the agreement can be purchased or obtained.

- (2) When an agreement is made in pursuance of section 11D the Chairman shall forthwith send a copy of the agreement to the Minister.
- (3) The Minister shall on the first sitting day of the Legislative Assembly after he receives a copy of the agreement cause that copy to be laid before the Assembly.

11E Continuance of agreement

In default of any express provision to the contrary therein contained, an agreement shall, unless rescinded, and subject to any variation, continue in force after the expiration of the term specified therein, until the expiration of one month after either party thereto has given written notice to the Secretary to the Tribunal and the other party of his desire to terminate it.

11F Notification of determination of Tribunal

- (1) Any determination made by the Tribunal in pursuance of this Act shall be notified in the *Gazette* by a notice that such determination has been made and specifying the place where copies of the determination can be purchased or obtained.
- (2) A determination shall, except to the extent to which it is expressed to come into operation on an earlier or later date, but subject to subsection (5), come into operation on the date of its notification in the *Gazette*.
- (3) When the Tribunal makes a determination under this Act, the Chairman shall forthwith send a copy of the determination to the Minister.
- (4) The Minister shall, on the first sitting day of the Legislative Assembly after he receives a copy of the determination, cause that copy to be laid before the Assembly.
- (5) If the Legislative Assembly passes a resolution (of which notice has been given within 12 sitting days of the Assembly after the determination has been laid before it) disallowing the determination, that determination shall cease to have effect.
- (6) Where a determination is disallowed under this section, the disallowance of the determination shall have the same effect as does the repeal of a regulation.

11G On whom determination is binding

Any determination made by the Tribunal in pursuance of this Act shall be binding on the Administrator, the Territory and the prison officers to whom it is expressed to relate and the Administrator, the Territory and such prison officers shall comply with the provisions of any such determination.

11J Interpretation of determination

- (1) Notwithstanding anything contained in this Act, the Tribunal may, on its own motion or on the submission of any person or organization interested in any determination, give an interpretation of any term of an existing determination, and the provisions of this Act shall apply to any such interpretation in like manner as they apply to a determination.
- (2) Before giving any such interpretation on its own motion the Tribunal shall hear argument on behalf of any person or organization who or which is interested in the determination and is desirous of being heard.

11K Power to send for witnesses and documents

- (1) For the purpose of this Act, the Tribunal may, by writing under the hand of the Chairman, summon any person to attend the Tribunal at a time and place named in the summons, and then and there to give evidence and to produce any books, documents or writings in his custody or control which the Chairman deems relevant to any proceedings before the Tribunal and which he is required by the summons to produce.
- (2) The Tribunal may, in its discretion, on the application of any party to any proceedings before it, by writing under the hand of the Chairman, summon any person to appear as witness before the Tribunal.

11L Power to examine on oath

The Tribunal may require a person appearing before it to give evidence on oath.

11N Penalty for failing to attend or produce documents

If any person served with a summons to attend the Tribunal, when the summons is served personally, fails without reasonable excuse to attend the Tribunal, or to produce any documents, books or writings in his custody or control, which he was required by the summons to produce, he shall be guilty of an offence.

Maximum penalty: 0.8 penalty unit.

11P Penalty for refusing to take oath or to give evidence

If any person appearing as a witness before the Tribunal refuses to take an oath when required by the Tribunal to do so or to answer any question relevant to the proceedings before the Tribunal put to him by any member of the Tribunal, he shall be guilty of an offence.

Maximum penalty: 0.8 penalty unit.

11Q Giving false testimony

Any witness before the Tribunal who knowingly gives false testimony touching any matter, material to any proceedings before the Tribunal, shall be guilty of an offence.

Maximum penalty: Imprisonment for one year.

11R Protection of members of the Tribunal

A member of the Tribunal shall not be personally liable for any act or default of the Tribunal done or omitted to be done in good faith in administering this Act.

11S Definitions

In this Part, unless the contrary intention appears:

available elected member means a person appointed under section 11A(3A) to be an available elected member.

member means member of the Tribunal.

secretary, in relation to an association, includes a person for the time being performing the duties and functions of secretary of that association.

senior prison officer means an officer who is a superintendent, deputy superintendent or chief prison officer.

the Tribunal means the Prison Officers Arbitral Tribunal established under section 11A.

The Schedule

The *Prison Ordinance 1928*
The *Prison Ordinance 1929*
The *Prison Ordinance 1932*
The *Prison Ordinance 1935*

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

Prisons Ordinance 1950 (Act No. 12, 1950)

Assent date	22 August 1950
Commenced	1 January 1954 (<i>Gaz</i> No. 51, 30 December 1953)

Prisons Ordinance 1952 (Act No. 3, 1952)

Assent date	23 January 1952
Commenced	1 January 1954 (s 2, s 2 <i>Prisons Ordinance 1950</i> (Act No. 12, 1950) and <i>Gaz</i> No. 51, 30 December 1953)

Prisons Ordinance 1953 (Act No. 2, 1953)

Assent date	20 February 1953
Commenced	1 January 1954 (s 2, s 2 <i>Prisons Ordinance 1950</i> (Act No. 12, 1950) and <i>Gaz</i> No. 51, 30 December 1953)

Prisons Ordinance 1960 (Act No. 3, 1960)

Assent date	2 September 1960
Commenced	2 September 1960

Prisons Ordinance 1965 (Act No. 9, 1965)

Assent date	8 April 1965
Commenced	8 April 1965

Prisons Ordinance (No. 2) 1965 (Act No. 41, 1965)

Assent date	12 November 1965
Commenced	14 February 1966 (s 2)

Prisons Ordinance 1966 (Act No. 34, 1966)

Assent date	7 September 1966
Commenced	7 September 1966

Prisons Ordinance (No. 2) 1968 (Act No. 49, 1968)

Assent date	20 August 1968
Commenced	20 August 1968

Prisons Ordinance (No. 3) 1968 (Act No. 65, 1968)

Assent date 1 October 1968
Commenced 30 October 1968 (Gaz No. 47, 30 October 1968)

Prisons Ordinance 1969 (Act No. 11, 1969)

Assent date 11 April 1969
Commenced 11 April 1969

Prisons Ordinance 1972 (Act No. 64, 1972)

Assent date 5 December 1972
Commenced 20 December 1972 (Gaz No. 51, 20 December 1972)

Ordinances Revision Ordinance 1973 (Act No. 87, 1973)

Assent date 11 December 1973
Commenced 11 December 1973 (s 12(2))

Amending Legislation

Ordinances Revision Ordinance 1974 (Act No. 34, 1974)

Assent date 26 August 1974
Commenced 11 December 1973 (s 3(2))

Ordinances Revision Ordinance (No. 2) 1974 (Act No. 69, 1974)

Assent date 24 October 1974
Commenced 11 December 1973 (s 3)

Ordinances Revision Ordinance 1976 (Act No. 27, 1976)

Assent date 28 June 1976
Commenced ss 1, 2 and 6: 28 June 1976 (s 6(2));
ss 3 and 4: 11 December 1973; s 5: 24 October 1974

Prisons Ordinance (No. 2) 1974 (Act No. 33, 1974)

Assent date 26 August 1974
Commenced 26 August 1974

Prisons Ordinance 1976 (Act No. 11, 1976)

Assent date 1 March 1976
Commenced 1 March 1976

Transfer of Powers Ordinance 1976 (Act No. 64, 1976)

Assent date 22 December 1976
Commenced ss 1 and 2: 22 December 1976; rem: 1 January 1977, (ss 2(2) and (3) and 6)

Amending Legislation

Transfer of Powers Ordinance (No. 2) 1976 (Act No. 65, 1976)

Assent date 22 December 1976
Commenced 22 December 1976

Prisons Ordinance 1977 (Act No. 16, 1977)

Assent date 26 May 1977
Commenced 9 September 1977 (Gaz No. 36, 9 September 1977)

Transfer of Powers (Self-Government) Ordinance 1978 (Act No. 54, 1978)

Assent date 1 July 1978
Commenced 1 July 1978

Statute Law Revision Act 1978 (Act No. 95, 1978)

Assent date 5 September 1978
Commenced 5 September 1978

Statute Law Revision Act (No. 2) 1978 (Act No. 19, 1979)

Assent date 2 February 1979
Commenced 2 February 1979

Prisons Act 1979 (Act No. 155, 1979)

Assent date 12 December 1979
Commenced 12 December 1979

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

Assent date 14 January 1980
Commenced 8 February 1980 (Gaz G6, 8 February 1980, p 6)

Prisons (Correctional Services) Act 1980 (Act No. 49, 1980)

Assent date 4 June 1980
Commenced 1 June 1981 (Gaz S5, 1 June 1981)

Prisons (Arbitral Tribunal) Amendment Act 1983 (Act No. 25, 1983)

Assent date 24 June 1983
Commenced 21 October 1983 (Gaz G42, 21 October 1983, 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)

Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 (Act No. 40, 2010)

Assent date 18 November 2010
Commenced 1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and Gaz G7, 16 February 2011, p 4)

Penalties Amendment (Miscellaneous) Act 2013 (Act No. 23, 2013)

Assent date 12 July 2013
Commenced 28 August 2013 (Gaz G35, 28 August 2013, p 2)

3 SAVINGS AND TRANSITIONAL PROVISIONS

s 11 *Prisons Ordinance (No. 3) 1968* (Act No. 65, 1968)
s 12 *Prisons Ordinance 1977* (Act No. 16, 1977)

4 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Ordinances Revision Ordinance 1973* (Act No. 87, 1973) (as amended) to the following provisions: ss 3, 9, 11, 11A, 11C, 11D, 11DA, 11F, 11H, 11N, 11P, 11S, 14, 17, 18, 24, 27, 28, 31, 35, 37, 40 and 41.

5 LIST OF AMENDMENTS

lt	amd No. 49, 1980, s 3
s 1	sub No. 49, 1980, s 3
s 2	amd No. 49, 1980, s 3
s 3	rep No. 49, 1980, s 3
s 4	amd No. 65, 1968, s 3
	rep No. 16, 1977, s 4
s 5	amd No. 16, 1977, s 5
	sub No. 49, 1980, s 3
pt II hdg	rep No. 49, 1980, s 3
s 6	amd No. 64, 1976, s 4
	sub No. 16, 1977, s 6
	amd No. 54, 1978, s 3; No. 19, 1979, s 22
	rep No. 49, 1980, s 3
s 6A	ins No. 16, 1977, s 6
	rep No. 49, 1980, s 3
s 7	amd No. 64, 1976, s 4; No. 16, 1977, s 7
	rep No. 49, 1980, s 3
s 8	rep No. 49, 1980, s 3
s 9	amd No. 64, 1976, s 4
	rep No. 49, 1980, s 3
s 10	amd No. 16, 1977, s 11
	rep No. 49, 1980, s 3
s 11	amd No. 3, 1952, s 2; No. 64, 1976, s 4; No. 54, 1978, s 3
	rep No. 49, 1980, s 3
pt IIA hdg	ins No. 65, 1968, s 4
s 11A	ins No. 3, 1960, s 2
	amd No. 9, 1965, s 2; No. 65, 1968, s 5; No. 11, 1969, s 2; No. 11, 1976, s 3;
	No. 64, 1976, s 4; No. 54, 1978, s 3; No. 49, 1980, s 3; No. 25, 1983, s 3
s 11B	ins No. 3, 1960, s 2
	amd No. 65, 1968, s 6
s 11C	ins No. 3, 1960, s 2
	sub No. 34, 1966, s 2
	amd No. 64, 1976, s 4
	rep No. 9, 1980, s 6
s 11D	ins No. 3, 1960, s 2
	amd No. 65, 1968, s 7; No. 64, 1976, s 4; No. 49, 1980, s 3
s 11DA	ins No. 65, 1968, s 8
	amd No. 64, 1976, s 4; No. 54, 1978, s 3; No. 49, 1980, s 3
s 11E	ins No. 3, 1960, s 2
s 11F	ins No. 3, 1960, s 2
	amd No. 64, 1976, s 4; No. 54, 1978, s 3; No. 49, 1980, s 3
s 11G	ins No. 3, 1960, s 2
	amd No. 49, 1980, s 3
s 11H	ins No. 3, 1960, s 2
	amd No. 49, 1980, s 3
	rep No. 28, 1993, s 3
s 11J	ins No. 3, 1960, s 2
	amd No. 49, 1980, s 3
s 11K	ins No. 3, 1960, s 2
	amd No. 49, 1980, s 3
s 11L	ins No. 3, 1960, s 2
	sub No. 40, 2010, s 103
s 11M	ins No. 3, 1960, s 2
	rep No. 40, 2010, s 103

s 11N	ins No. 3, 1960, s 2 amd No. 41, 1965, s 3; No. 49, 1980, s 3; No. 23, 2013, s 9
s 11P	ins No. 3, 1960, s 2 amd No. 41, 1965, s 4; No. 49, 1980, s 3; No. 40, 2010, s 104; No. 23, 2013, s 9
s 11Q	ins No. 3, 1960, s 2 amd No. 23, 2013, s 9
s 11R	ins No. 3, 1960, s 2 amd No. 49, 1980, s 3
s 11S	ins No. 65, 1968, s 9 amd No. 11, 1976, s 4; No. 49, 1980, s 3
pt III hdg	rep No. 49, 1980, s 3
s 12	amd No. 64, 1976, s 4; No. 54, 1978, s 3 rep No. 49, 1980, s 3
s 13	amd No. 64, 1976, s 4; No. 16, 1977, s 8; No. 54, 1978, s 3 rep No. 49, 1980, s 3
pt IV hdg	rep No. 49, 1980, s 3
s 14	amd No. 33, 1974, s 3; No. 64, 1976, s 4; No. 16, 1977, s 9; No. 54, 1978, s 3 rep No. 49, 1980, s 3
s 15	amd No. 33, 1974, s 4; No. 64, 1976, s 4; No. 54, 1978, s 3 rep No. 49, 1980, s 3
pt V hdg	rep No. 49, 1980, s 3
s 16	rep No. 49, 1980, s 3
s 16A	ins No. 155, 1979, s 3 rep No. 49, 1980, s 3
s 17	rep No. 49, 1980, s 3
s 18	amd No. 16, 1977, s 11 rep No. 49, 1980, s 3
s 19	amd No. 16, 1977, s 11 rep No. 49, 1980, s 3
s 20	amd No. 16, 1977, s 11 rep No. 49, 1980, s 3
s 21	rep No. 49, 1980, s 3
s 22	amd No. 64, 1976, s 4 sub No. 16, 1977, s 10 rep No. 49, 1980, s 3
s 23	rep No. 49, 1980, s 3
s 24	amd No. 3, 1960, s 3; No. 33, 1974, s 5 rep No. 49, 1980, s 3
ss 25 – 26	rep No. 49, 1980, s 3
s 27	amd No. 87, 1973, s 12 rep No. 49, 1980, s 3
ss 28 – 29	rep No. 49, 1980, s 3
pt VI hdg	rep No. 49, 1980, s 3
s 30	amd No. 33, 1974, s 6; No. 16, 1977, s 11 rep No. 49, 1980, s 3
s 31	amd No. 33, 1974, s 7; No. 16, 1977, s 11 rep No. 49, 1980, s 3
s 32	amd No. 33, 1974, s 8; No. 16, 1977, s 11 rep No. 49, 1980, s 3
s 33	rep No. 49, 1980, s 3
s 34	amd No. 16, 1977, s 11 rep No. 49, 1980, s 3
pt VII hdg	rep No. 49, 1980, s 3
ss 35 – 36	rep No. 49, 1980, s 3
s 36A	ins No. 64, 1972, s 4 amd No. 64, 1976, s 4 rep No. 49, 1980, s 3

s 36B	ins No. 33, 1974, s 9 rep No. 49, 1980, s 3
s 36C	ins No. 33, 1974, s 9 amd No. 64, 1976, s 4 rep No. 49, 1980, s 3
ss 37 – 39	rep No. 49, 1980, s 3
s 40	amd No. 41, 1965, s 5; No. 49, 1968, s 2 rep No. 49, 1980, s 3
s 41	amd No. 2, 1953, s 2; No. 41, 1965, s 6; No. 49, 1968, s 3; No. 65, 1968, s 10; No. 64, 1972, s 5; No. 87, 1973, s 12; No. 95, 1978, s 14 rep No. 49, 1980, s 3