

NORTHERN TERRITORY OF AUSTRALIA
POWER AND WATER AUTHORITY AMENDMENT ACT 1999

No. 38 of 1999

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NORTHERN TERRITORY OF AUSTRALIA

No. 38 of 1999

AN ACT

to amend the *Power and Water Authority Act*

[Assented to 31 August 1999]

[Second reading 3 June 1999]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Power and Water Authority Amendment Act 1999*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Power and Water Authority Act* is in this Act referred to as the Principal Act.

4. Definitions

Section 3 of the Principal Act is amended —

- (a) by omitting the definition of "Advisory Council" and substituting the following:

" 'appointed member' means a member appointed under section 5(1)(b);";
and

- (b) by omitting from the definition of "member" all words after and including "Advisory Council" and substituting "Authority".

5. Repeal and substitution

Section 5 of the Principal Act is repealed and the following substituted:

"5. Composition of Authority

"(1) The Authority consists of—

- (a) the Chief Executive Officer; and
(b) 4 persons appointed by the Minister.

"(2) The exercise of a power or the performance of a function by the Authority is not affected by reason only of there being a vacancy in the membership of the Authority."

6. Common seal

Section 6 of the Principal Act is amended by omitting subsections (1) and (2).

7. Heading to Part IIA

The heading to Part IIA of the Principal Act is omitted.

8. Repeal and substitution

Section 7 of the Principal Act is repealed and the following substituted:

"7. Chairperson and Deputy Chairperson

"(1) The Minister is to appoint an appointed member to be the Chairperson of the Authority.

"(2) The Minister is to appoint an appointed member to be the Deputy Chairperson of the Authority.

"(3) The Deputy Chairperson is to act in the place of the Chairperson during any period when the Chairperson is unable to perform the duties of the office and, for that purpose, a reference in this Act to the Chairperson is to be read as a reference to the Deputy Chairperson."

9. Terms of appointment

Section 8 of the Principal Act is amended –

- (a) by omitting from subsections (1), (2), (3), (4) and (6) "a member appointed under section 7(2)(b)" and substituting "an appointed member"; and
- (b) by omitting from subsections (5) "A member appointed under section 7(2)(b)" and substituting "An appointed member".

10. Repeal and substitution

Sections 9 and 10 of the Principal Act are repealed and the following substituted:

"9. Acting appointment

"(1) If an appointed member is or is expected to be absent from duty, the Minister may appoint a person to act in the place of the member during the absence.

"(2) The Minister may terminate an appointment made under subsection (1) at any time.

"(3) The validity of a decision of the Authority is not to be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person under subsection (1) had not arisen or that an appointment under that subsection had ceased to have effect.

"10. Dismissal of appointed members

"(1) The Minister may terminate the appointment of an appointed member for inability, inefficiency, misbehaviour or physical or mental incapacity.

"(2) If an appointed member –

- (a) is absent, except by leave of the Authority, from 3 consecutive meetings of the Authority; or
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit,

the Minister must terminate the appointment of the member.

"10A. Meetings of Authority

"(1) The Chairperson may convene meetings of the Authority.

"(2) The Chairperson must convene a meeting of the Authority –

- (a) at least 4 times each year; and
- (b) whenever directed to do so by the Minister.

"(3) At a meeting of the Authority, the Chairperson and 2 other members constitute a quorum.

"(4) The Chairperson must preside at all meetings of the Authority.

"(5) To the extent that they are not prescribed, the proceedings of the Authority are to be as determined by the Authority."

11. Disclosure of interest

Section 11 of the Principal Act is amended –

- (a) by omitting "Advisory Council" (wherever occurring) and substituting "Authority"; and
- (b) by omitting from subsection (3) "the Chief Executive Officer or other person presiding" and substituting "the Chairperson".

12. Delegation

Section 13 of the Principal Act is amended by inserting in subsection (1) "the Chief Executive Officer," after "delegate to".

13. Repeal and substitution

Section 16 of the Principal Act is repealed and the following substituted:

"16. Ministerial control

"(1) The Authority when exercising its powers or performing its functions is subject to the written lawful directions of the Minister.

"(2) Without limiting the words 'lawful directions', a direction is not lawful if complying with it would necessarily result in a breach by the Authority of a legally enforceable contract or agreement or of a commercial undertaking.

"(3) If a direction of the Minister requires the Authority to take an action or disclose information (or to have a corporation over which it has the necessary control take an action or disclose information) that, in the opinion of the Authority, for good commercial reasons, should not be taken or be disclosed, the Authority is, in writing, to advise the Minister of its objection and the reasons for its objection.

"(4) If after receiving the Authority's objections the Minister confirms his or her direction to the Authority in writing, the Minister is to give his or her reasons for so doing and the Authority must comply with the direction.

"(5) The Minister is to cause a copy of each direction given by the Minister to the Authority (and all objections and reasons under subsection (3) and confirmations and reasons under subsection (4)) to be tabled in the Legislative Assembly within 6 sitting days of the Assembly after it or they are given or made."
