

NORTHERN TERRITORY OF AUSTRALIA

STATUTE LAW REVISION ACT (NO. 2) 1998

No. 92 of 1998

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NORTHERN TERRITORY OF AUSTRALIA

No. 92 of 1998

AN ACT

to revise and correct the law of the Territory
in minor respects

[Assented to 11 December 1998]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Statute Law Revision Act (No. 2) 1998*.

2. COMMENCEMENT

(1) Sections 3, 6, 7, 11 and 15 come into operation on the date or respective dates fixed by the Administrator by notice in the *Gazette*.

(2) Section 25 comes into operation on the commencement of the *Darwin Port Authority Amendment Act 1998*.

3. AMENDMENT OF ADMINISTRATION AND PROBATE ACT

(1) Section 6 of the *Administration and Probate Act* is amended —

- (a) by omitting from subsection (1) the definition of "Commonwealth country"; and

- (b) by inserting before the definition of "representation" in subsection (1) the following:

"'relevant country' means —

- (a) a State or another Territory of the Commonwealth of Australia;
- (b) a country that is prescribed; or
- (c) where a part of a country is prescribed — that part of the country;"

(2) Section 101 of the *Administration and Probate Act* is amended by omitting from subsection (1)(a) "in any portion of a Commonwealth country" and substituting "in a relevant country".

(3) Section 106 of the *Administration and Probate Act* is amended by omitting "\$15,000 (or, where another amount is for the time being prescribed, that other amount)" and substituting "the prescribed amount".

(4) Section 108 of the *Administration and Probate Act* is amended by omitting from subsection (1)(b) "\$15,000 (or, where another amount is for the time being prescribed, that other amount)" and substituting "the prescribed amount".

(5) Section 111 of the *Administration and Probate Act* is amended —

- (a) by omitting from subsection (1) "Commonwealth country" and substituting "relevant country"; and
- (b) by omitting from subsection (1)(c) "the country or a part of the country" and substituting "the relevant country".

(6) Schedule 5 to the *Administration and Probate Act* is repealed.

4. AMENDMENT OF *BAIL ACT*

Section 3 of the *Bail Act* is amended by omitting paragraph (c) of the definition of "court" in subsection (1) and substituting the following:

- "(c) the Juvenile Court established by section 14 of the *Juvenile Justice Act*,"

5. AMENDMENT OF CEMETERIES ACT

Section 34 of the *Cemeteries Act* is repealed and the following substituted:

"34. AUDIT

"(1) The Minister may —

- (a) by notice in writing to a Board, require the Board to ensure that its accounts are audited by a registered company auditor as defined in the *Corporations Law*; or
- (b) request the Auditor-General to audit the accounts of a Board.

"(2) An auditor auditing those accounts of a Board that the Minister requires to be audited —

- (a) has a right of access to all books, accounts, vouchers and documents of the Board; and
- (b) may require from a member or former member of the Board information and explanations necessary for the performance of the auditor's duties as auditor."

6. AMENDMENT OF CROWN LANDS ACT AND CROWN LANDS REGULATIONS

(1) Section 63 of the *Crown Lands Act* is amended —

- (a) by omitting "An easement in gross may be granted to the Territory, a local government council or a prescribed statutory public authority" and substituting "(1) An easement in gross may be granted to a person, or a member of a class of persons, who or that is prescribed by the Minister under subsection (2),"; and
- (b) by adding at the end the following:

"(2) The Minister may, by notice in the *Gazette*, prescribe a person or a class of persons for the purposes of subsection (1)."

(2) Section 65 of the *Crown Lands Act* is amended —

- (a) by inserting in subsection (1) "subsection (1A) and" after "subject to";
- (b) by inserting after subsection (1) the following:

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"(1A) Without limiting the power that he or she may have under any other law in force in the Territory but subject to sections 68 and 108(1), the proprietor of an easement or easement in gross of a type described immediately before the commencement of the *Statute Law Revision Act 1998* in a folio of the Register under the *Real Property Act* by a description in Schedule 1 has the use and benefit of the easement or the easement in gross for the purposes specified in relation to that description and, for those purposes, has for himself or herself and his or her agents, servants and workers, all the powers described in Schedule 1 as in force immediately before that commencement."; and

(c) by omitting subsection (2) and substituting the following:

"(2) A pipe, duct, wire, pole or other thing attached to or constructed on, under or above the surface of, land to which an easement or easement in gross referred to in subsection (1) or (1A) relates for or in relation to a relevant purpose described in Schedule 1 is to be taken not to be a fixture to the land for the purpose of giving the proprietor of the land a proprietary interest in it."

(3) Section 93 of the *Crown Lands Act* is amended by omitting from subsection (1) "to the Commonwealth, a local government council or a statutory public authority of the Commonwealth or the Territory" and substituting "to a person".

(4) Schedule 1 to the *Crown Lands Act* is amended by omitting paragraph (b) from the item relating to electricity supply easements and substituting the following:

"(b) to construct and lay under, on or above the surface of the land —

(i) ducts, pipes, poles, conductors, cables, wires and other works; and

(ii) incidental or ancillary works for the transmission of electricity (including, but not limited to, manholes and cable markers);".

(5) Regulation 55 of the *Crown Lands Regulations* is repealed.

7. AMENDMENT OF *DEBITS TAX ACT*

Schedule 2 to the *Debits Tax Act* is amended by omitting "definitions of 'non-bank financial institution' and 'payment order'" and substituting "definition of 'non-bank financial institution'".

8. AMENDMENT OF *DIRECTOR OF PUBLIC PROSECUTIONS ACT*

(1) Section 4 of the *Director of Public Prosecutions Act* is amended by omitting from subsection (7) "Consolidated Fund" and substituting "Consolidated Revenue Account".

(2) Section 9 of the *Director of Public Prosecutions Act* is amended by omitting from subsection (2)(a) "Director;" and substituting "Director; and".

(3) Section 10 of the *Director of Public Prosecutions Act* is amended by omitting from subsection (1) "under section 31".

9. AMENDMENT OF *DOMESTIC VIOLENCE ACT*

Section 3 of the *Domestic Violence Act* is amended by omitting from subsection (2)(c) "another relative" and substituting "a relative".

10. AMENDMENT OF *ENERGY PIPELINES ACT*

Section 42 of the *Energy Pipelines Act* is amended by inserting after subsection (1) the following:

"(1A) Subsection (1) does not apply in relation to a pipeline, or a part of a pipeline, that is a Covered Pipeline within the meaning of the Gas Pipelines Access (Northern Territory) Law as defined in the *Gas Pipelines Access (Northern Territory) Act*."

11. AMENDMENT OF *FINANCIAL INSTITUTIONS DUTY ACT*

(1) Section 3 of the *Financial Institutions Duty Act* is amended by omitting from subsection (1) the definition of "cheque" and substituting the following:

"'cheque' has the meaning it has from time to time in the *Cheques Act 1986* of the Commonwealth;"

(2) Section 8 of the *Financial Institutions Duty Act* is amended by omitting from subsection (1)(a) "bank" and substituting "financial institution".

12. AMENDMENT OF *INTERPRETATION ACT*

(1) Section 36 of the *Interpretation Act* is amended by omitting from subsection (1)(b) "department" and substituting "Agency".

(2) Section 63 of the *Interpretation Act* is amended by omitting from subsection (2)(a) "municipal authority" and substituting "council as defined in the *Local Government Act*".

13. AMENDMENT OF *PARKS AND WILDLIFE COMMISSION ACT*

Section 29 of the *Parks and Wildlife Commission Act* is amended —

(a) by omitting from subsection (1) "or the *Financial Administration and Audit Act*"; and

(b) by adding at the end the following:

"(3) The Corporation is not, and is not capable of being, an Agency within the meaning and for the purposes of the *Financial Management Act*."

14. AMENDMENT OF *PETROLEUM (SUBMERGED LANDS) ACT*

Section 73 of the *Petroleum (Submerged Lands) Act* is amended —

(a) by omitting "The Minister" and substituting "(1) The Minister"; and

(b) by adding at the end the following:

"(2) Subsection (1) does not apply in relation to a pipeline, or a part of a pipeline, that is a Covered Pipeline within the meaning of the *Gas Pipelines Access (Northern Territory) Law* as defined in the *Gas Pipelines Access (Northern Territory) Act*."

15. AMENDMENT OF *PLANNING ACT*

(1) Section 65 of the *Planning Act* is amended —

(a) by inserting after subsection (5) the following:

"(5A) Where —

(a) a plan of survey referred to in subsection (1) that was registered before the commencement of the *Statute Law Revision Act 1998* indicates an intended easement in favour of a specified

service authority and describes it by a description in Schedule 1; and

(b) the easement is in force,

the service authority, despite subsection (5), has, for itself and its agents, servants and workers only the powers specified in Schedule 1 as in force immediately before that commencement.";

(b) by inserting in subsection (7) ", under or above the surface of," after "constructed on"; and

(c) by adding at the end the following:

"(9) For the purposes of this section, 'service authority' includes a person declared to be a service authority under subsection (10).

"(10) The Minister may, by notice in the *Gazette*, declare a person to be a service authority for the purposes of this section."

(2) Schedule 1 to the *Planning Act* is amended by omitting paragraph (b) from the item relating to electricity supply easements and substituting the following:

"(b) to construct and lay under, on or above the surface of the land —

(i) ducts, pipes, poles, conductors, cables, wires and other works; and

(ii) incidental or ancillary works for the transmission of electricity (including, but not limited to, manholes and cable markers);".

16. AMENDMENT OF *POLICE ADMINISTRATION ACT*

Section 166 of the *Police Administration Act* is amended by omitting from subsection (1) "*Classification of Publications Act*" and substituting "*Classification of Publications, Films and Computer Games Act*".

17. AMENDMENT OF *PRISONS (CORRECTIONAL SERVICES) ACT*

Section 94F of the *Prisons (Correctional Services) Act* is amended —

(a) by omitting from subsection (1) all words after "officer";

- (b) by adding at the end of subsection (2) "under this or any other Act"; and
- (c) by omitting from subsection (3) "a supervising officer" and substituting "the supervising officer".

18. AMENDMENT OF *PUBLIC TRUSTEE ACT*

(1) Section 35 of the *Public Trustee Act* is amended by omitting "\$15,000 (or where another amount is for the time being prescribed, that other amount)" from subsection (1)(a) and substituting "the prescribed amount".

(2) Section 53 of the *Public Trustee Act* is amended —

- (a) by omitting "\$45,000 (or where another amount is for the time being prescribed, that other amount)" from subsection (1) and substituting "the prescribed amount"; and
- (b) by omitting "\$50,000 (or where another amount is for the time being prescribed, that other amount)" from subsection (5) and substituting "the prescribed amount".

(3) Section 54 of the *Public Trustee Act* is amended —

- (a) by omitting "the sum of \$45,000 (or, where another amount is for the time being prescribed, that other amount)" from subsection (1) and substituting "the prescribed amount"; and
- (b) by omitting "\$50,000 (or, where another amount is for the time being prescribed, that other amount)" from subsection (3) and substituting "the prescribed amount".

19. AMENDMENT OF REAL PROPERTY REGULATIONS

(1) Regulation 5 of the Real Property Regulations is amended by omitting paragraph (f) and substituting the following:

"(f) an agent as defined in the *Agents Licensing Act*";

(2) Regulation 5 of the Real Property Regulations as amended by subsection (1) may be repealed or amended by a regulation made under the *Real Property Act* as if the amendment effected by subsection (1) had been made by a regulation under that Act.

20. REPEAL OF *SHIRE OF LITCHFIELD (VALIDATION OF RATES) ACT*

The *Shire of Litchfield (Validation of Rates) Act* (Act No. 54 of 1987) is repealed.

21. AMENDMENT OF *SUMMARY OFFENCES ACT*

(1) Section 53 of the *Summary Offences Act* is amended by omitting from subsections (7) and (8) "*Licensing Ordinance*" and substituting "*Liquor Act*".

(2) Section 57 of the *Summary Offences Act* is amended —

(a) by omitting from subsection (1)(d) "any of Her Majesty's subjects" and substituting "a person";

(b) by omitting from subsection (2) "His Majesty" and substituting "the Territory"; and

(c) by omitting from subsection (4) "Her Majesty" and substituting "the Territory".

(3) Section 66 of the *Summary Offences Act* is amended by omitting subsection (2) and substituting the following:

"(2) The holder of a licence under the *Liquor Act* who has been found guilty of an offence against subsection (1) in respect of certain conduct may be prosecuted for an offence against the *Liquor Act* in respect of the same conduct."

(4) Section 68A of the *Summary Offences Act* is amended by omitting from subsection (3) "Fund" and substituting "Account".

22. AMENDMENT OF *TENANCY ACT*

(1) Section 4 of the *Tenancy Act* is amended —

(a) by omitting the definition of "land agent" in subsection (1); and

(b) by inserting after the definition of "premises" in subsection (1) the following:

"'real estate agent' means a person licensed as a real estate agent within the meaning of the *Agents Licensing Act*";".

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(2) Section 15 of the *Tenancy Act* is amended by omitting from subsection (2) "Tribunal" and substituting "Local Court".

(3) Section 19 of the *Tenancy Act* is amended by omitting subsection (1) and substituting the following:

"(1) A person directly affected by —

- (a) a determination of the Commissioner of a fair rent or a fair and just price under Part II;
- (b) an order of the Commissioner under section 15(2);
- (c) a variation under Part V of a determination made by the Commissioner; or
- (d) an order of the Commissioner under section 39,

may, within 28 days after the date of the determination, order or variation, appeal to the Local Court against the determination, order or variation."

(4) Section 20 of the *Tenancy Act* is amended by omitting from subsections (1) and (2) "determination or" and substituting "determination, order or".

(5) Section 39 of the *Tenancy Act* is amended —

- (a) by omitting from subsection (1)(b) "land agent" and substituting "real estate agent authorised under the *Agents Licensing Act* to receive rent and";
- (b) by omitting from subsection (2) "land agent" and substituting "real estate agent";
- (c) by omitting from subsection (3) "land agent" and substituting "real estate agent";
- (d) by omitting from subsection (5)(b) "land agent" (twice occurring) and substituting "real estate agent";
- (e) by omitting from subsection (6) "land agent" and substituting "real estate agent"; and
- (f) by omitting from subsection (7) "*Land and Business Agents Act*" and substituting "*Agents Licensing Act*".

(6) Section 40 of the *Tenancy Act* is amended by omitting "land agent" and substituting "real estate agent".

23. AMENDMENT OF *TERRITORY INSURANCE OFFICE ACT*

(1) Section 25A of the *Territory Insurance Office Act* is amended by omitting from subsection (2) "Consolidated Fund of the Territory" and substituting "Consolidated Revenue Account".

(2) Section 30 of the *Territory Insurance Office Act* is amended by omitting from subsection (1) "Consolidated Fund of the Territory" and substituting "Consolidated Revenue Account".

24. AMENDMENT OF *TRUSTEE ACT*

(1) Section 10C of the *Trustee Act* is amended by omitting from subsection (1)(b) "by a prescribed body carrying on the business of insurance" and substituting ", by a body prescribed by the Minister by notice in the *Gazette* that is carrying on the business of insurance,".

(2) Section 82 of the *Trustee Act* is amended by omitting "the Curator of Estates of Deceased Persons appointed under the *Administration and Probate Act* in cases where the Supreme Court shall have authorized him to administer the estate of a deceased person" and substituting "the Public Trustee, where he or she is administering the estate of a deceased person under section 35 of the *Public Trustee Act*".

(3) The *Trustee Act* is amended by omitting the Second Schedule.

25. FURTHER REVISIONS CONSEQUENTIAL TO *DARWIN PORT AUTHORITY AMENDMENT ACT 1998*

(1) The Acts specified in Schedule 1 are amended as specified in that Schedule.

(2) The By-laws specified in Schedule 2 are amended as specified in that Schedule.

(3) A by-law as amended under subsection (2) in accordance with Schedule 2 may be repealed or amended by a by-law made under the *Darwin Port Corporation Act* as if the amendment effected by subsection (2) had been made by a by-law under that Act.

SCHEDULE 1

Section 25(1)

Provision	Amendment	
	omit	substitute
<i>Litter Act</i>		
Section 3		
— paragraph (b)(ii) of the definition of "officer"	"Darwin Port Authority"	"Darwin Port Corporation"
Section 9A(8)(b)	"Darwin Port Authority"	"Darwin Port Corporation"
<i>Marine Act</i>		
Section 161(1)	"Darwin Port Authority"	"Darwin Port Corporation"

SCHEDULE 2

Section 25(2)

Provision	Amendment	
	omit	substitute
Port By-laws		
By-law 4B(b), 4C, 4D(a), 4E, 4F, 4G(c), 4H(b), 4J, 4K, 7A(2), 8(1), (2), (8) and (11),	"Authority"	"Corporation"

9(3), 16(b),
20A(2) and (3),
30(3) and (4), 34
(wherever
occurring), 35,
36A(1), 36B(1),
36C(1), (2),
(2)(b) and (3),
36D(2), 36E, 38(1)
(twice occurring),
40(1), (2)(a) and
(2)(b), 41, 49A
(3)(f), (4) (twice
occurring), (5)
(twice occurring),
(6) and (8),
50(1)(a) and
(1)(b), 50(1B),
50A(1), 54 (twice
occurring), 55,
62(5), 69(1)(d),
72, 77, 80, 83
(twice occurring),
84(1) and (2), 87,
Form 1 in Schedule
1, Form 2 in
Schedule 1, item
1A and 3 in
Schedule 2 and
item 12 in
Schedule 3.

Port (Handling of
Dangerous Goods
and Oils) By-laws

By-law 1(1) and
(2) and by-law 2

"Authority"

"Corporation"
