

NORTHERN TERRITORY OF AUSTRALIA

STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 2011

Act No. 44 of 2011

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 44 of 2011

An Act to amend miscellaneous provisions in legislation of the Territory

[Assented to 21 December 2011]
[Second reading 25 October 2011]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Statute Law (Miscellaneous Provisions) Act 2011*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

3 Use of explanatory notes

A note at the foot of a provision that is identified as an explanatory note is not part of this Act.

Note for section 3

Explanatory notes are used in this Act to explain amendments. The explanatory notes may be compared to notes to a provision that are part of an Act or Regulations, such as this note. Therefore if the explanatory note explains an amendment, it will not appear in the reprint.

Part 2 **Amendment of legislation administered by Chief Minister**

4 Act amended

This Part amends the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act*.

5 Section 9 amended

After section 9(4)

insert

Note for subsection (4)

See section 10A.

6 Section 10 amended

Section 10(1)

omit

must

insert

may

7 Section 10A inserted

After section 10

insert

10A Decision under section 10 to continue in some circumstances

- (1) The purpose of this section is to provide for what happens in relation to a statutory body if:
 - (a) a classification determination (***applying determination***) has effect in relation to the body as mentioned in section 9(4) because a decision, that applies to the body, has taken effect under section 10 (***applying decision***); and
 - (b) after the applying determination has effect in relation to the body, it is amended by a further classification determination or replaced by another classification determination (the result of either the amendment or the replacement being a ***new determination***).

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- (2) Subject to subsection (3), after the new determination is made but until it takes effect in relation to the statutory body as mentioned in section 9(4), both the applying determination and applying decision continue to have effect in relation to the body.
- (3) If the new determination increases the amount of the entitlement as mentioned in section 9(2)(a) for the class of statutory bodies to which the statutory body belongs under the applying decision, the change of the amount (as specified in the new determination) takes effect in relation to the body on the starting date for the new determination despite section 9(4).
- (4) For subsection (3), the **starting date**, for a new determination, is:
- (a) the date specified in the new determination as the date the new determination is to start operating in relation to statutory bodies that are already the subject of an applying decision; or
- (b) if no date is specified under paragraph (a) – the date the new determination is made.
- (5) Subsections (2) and (3) apply even if the new determination also changes other matters in the applying determination.

Explanatory note for section 7

Sections 9 and 10 of the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act* has resulted in Ministers remaking decisions on each occasion the Administrator makes a new classification determination even if the new classification determination does not impact on a statutory body.

The insertion of section 10A allows an existing Ministerial classification decision to continue to apply to a statutory body even though a new classification determination is made. The existing Ministerial classification decision continues to have effect until the responsible Minister makes a further Ministerial classification decision relevant to the statutory body.

8 Section 20 amended

- (1) Section 20

omit

A

insert

- (1) A

(2) After section 20(1)

insert

- (2) A determination by the Tribunal under this Act may provide for:
- (a) the following to be decided by a person specified in the determination:
 - (i) an administrative matter;
 - (ii) an alternative to an entitlement because of special circumstances, to avoid hardship or for another reason specified in the determination; or
 - (b) an entitlement to be subject to approval by, or notice to, a specified person (however the approval or notice is described in the determination).

Explanatory note for section 8

The Remuneration Tribunal determines entitlements and sometimes leaves some matters to be decided, endorsed or approved by another. The amendment expressly provides for a certain level of detail to be determined by a specified person to ensure sufficiently flexible arrangements.

**Part 3 Amendment of legislation administered by
 Minister for Justice and Attorney-General**

Division 1 Amendment of Absconding Debtors Act

9 Act amended

This Division amends the *Absconding Debtors Act*.

10 Part 1 heading inserted

Before section 1

insert

Part 1 Preliminary matters

Explanatory note for section 10

When the *Absconding Debtors Act* was enacted in 1978, it included a Part I heading but the Part heading did not appear in reprint of the Act. Subsequent amendment Acts have been checked and the heading was not omitted so its absence appears to be an editorial oversight. Accordingly, insertion by amendment is considered the best way to normalise the situation.

Division 2 Amendment of Associations Act

11 Act amended

This Division amends the *Associations Act*.

12 Section 4 amended

Section 4, definition ***accountants body***

omit

National Institute of Accountants

insert

Institute of Public Accountants

Explanatory note for section 12

The amendment provides for a name change for the Institute.

13 Section 110 amended

- (1) Section 110(6)(c) and (d) and (8)(d)

omit

all words from "an Aboriginal corporation" to "Commonwealth"

insert

an Aboriginal or Torres Strait Islander corporation

- (2) Section 110(6)(d) and (8)(c)

omit

the Aboriginal corporation

insert

the Aboriginal or Torres Strait Islander corporation

- (3) Section 110(7)

omit

all words from "An Aboriginal corporation" to "Commonwealth,"

insert

An Aboriginal or Torres Strait Islander corporation

- (4) Section 110(8)(c)

omit

all words from ", or an Aboriginal corporation" to "Commonwealth"

insert

or an Aboriginal or Torres Strait Islander corporation

- (5) After section 110(13)

insert

- (14) In this section:

Aboriginal or Torres Strait Islander corporation, see section 16-5 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth).

Explanatory note for section 13

The *Aboriginal Councils and Associations Act 1976* (Cth) was repealed by the *Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Act 2006* (Cth). The *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), generally speaking, replaced the repealed Act and used the term "Aboriginal and Torres Strait Islander corporation". Section 13 make changes to reflect the current Commonwealth legislation. Other minor amendments of this section are included in the Schedule.

Division 3 Amendment of Interpretation Act

14 Act amended

This Division amends the *Interpretation Act*.

15 Section 17 amended

Section 17

insert (in alphabetical order)

insert, in relation to a provision, includes substitute.

Explanatory note for section 15

This amendment supports a change to current legislative drafting practice that is designed to simplify the form of amending legislation.

16 Section 23A inserted

After section 23

insert

23A Defined words in Acts and references in other legislation

- (1) This section applies to a word or term defined in a particular way in an Act if the spelling of the word, or a word in the term, is no longer consistent with current legislative drafting practice.
- (2) In subordinate legislation made under that Act or in other Acts or subordinate legislation, the word may be spelt in accordance with current legislative drafting practice and, if it is so spelt, the idea expressed must not be taken to be different merely because of the spelling.

Note for section 23A

If an Act uses or defines the term "authorized officer" or "authorized person", then in subordinate legislation made under the Act "authorized" may be spelt as "authorised" without changing the idea relating to the word's usage.

Explanatory note for section 16

This amendment supports the change from the previous drafting practice at or about the time of self-government when words such as "authorized" and "jeopardized" used a "z". The form of spelling is inconsistent with the current legislative drafting practice and is being directly amended.

However some references exist as defined terms and impact on subordinate legislation. This amendment will allow the subordinate legislation to be made using spelling in accordance with current legislative drafting practice without affecting the meaning of the word or term.

Division 4 Amendment of Summary Offences Act

17 Act amended

This Division amends the *Summary Offences Act*.

18 Section 47AB amended

Section 47AB

omit

all words from "who" to "an offence."

insert

is guilty of an offence if the person, with intent to intimidate or

annoy another person, threatens to damage a dwelling-house.

Explanatory note for section 18

Section 47AB of the *Summary Offences Act* was inserted by Act No. 65 of 1983 and included 2 paragraphs, specifically paragraphs (a) and (b). By amendment Act No. 7 of 1996, the section was amended "by omitting paragraph (b)" so the remainder of the section only included a single paragraph. This amendment normalises the wording of the section but does not change the policy of the section.

**Part 4 Amendment of legislation administered by
Minister for Health**

Division 1 Amendment of Food Act

19 Act amended

This Division amends the *Food Act*.

20 Section 74 amended

Section 74(a)

omit, insert

- (a) until the date specified in the written notice under section 72(2) for the food business as the date on which the registration ends or, if no date is so specified, until 1 July immediately after the date the Chief Health Officer registers the food business or renews the registration of the food business; or

Explanatory note for section 20

Currently, section 74 of the *Food Act* provides that registration of a food business (including renewed registration) remains in force until 1 July immediately after the date the Chief Health Officer registers the food business (or renews registration of the food business) or until it is cancelled under section 79 of the *Food Act*.

The Department of Health advises the current provision creates a heavy workload around 1 July each year, and that this has caused difficulties from an operational perspective. The change will allow different dates for the end of registration of different food businesses.

21 Section 83 replaced

Section 83

repeal, insert

83 Chief Health Officer to be notified of sale or disposal of food business

- (1) If the proprietor of a registered food business sells or otherwise disposes of the food business or other property used in relation to carrying on the operations of the food business, the proprietor must, in an approved form, notify the Chief Health Officer of the sale or disposal not later than 14 days after the date of the sale or disposal.

Maximum penalty: If the offender is an individual – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

- (2) The approved form for a notice for subsection (1) must require details of the following:
- (a) the food business or other property sold or otherwise disposed of;
 - (b) the name and address of the purchaser.

Explanatory note for section 21

The current section 83 is replaced to clarify that the penalty relates to a failure to give notice as required by subsection (1). As part of normalising the provision, use of an approved form has been included.

Division 2 Amendment of Poisons and Dangerous Drugs Act

22 Act amended

This Division amends the *Poisons and Dangerous Drugs Act*.

23 Section 6 amended

Section 6(1), definition **SUSDP**

omit, insert

SUSMP means the document, as in force from time to time, made under section 52D(2) of the *Therapeutic Goods Act* (Cth).

Explanatory note for section 23

This amendment updates a definition to the document made under the relevant provision of Commonwealth legislation as that document is in force from time to time.

24 Section 6A amended

- (1) Section 6A, heading

omit

SUSDP

insert

SUSMP

- (2) Section 6A(1) to (4)

omit (all references)

SUSDP

insert

SUSMP

Explanatory note for section 23

These amendments update section 6A so it uses the newly defined acronym SUSMP. Similar amendments of the Regulations are included in the Schedule.

**Part 5 Amendment of legislation administered by
Minister for Natural Resources, Environment
and Heritage**

25 Act amended

This Part amends the *Environment Protection (Beverage Containers and Plastic Bags) Act*.

26 Section 4 amended

- (1) Section 4, definition ***corresponding law***

omit, insert

corresponding law means a law of a State or another Territory that:

- (a) establishes a scheme:

- (i) regulating the supply of beverage containers; and

-
- (ii) providing for the payment of refunds on the return of empty beverage containers to collection depots; and
- (b) is declared by regulation to be a corresponding law.
- (2) Section 4, definition **regulated container**, note

omit

excluded by regulation from the application of the CDS. Under section 42 of the Interpretation Act, a regulation may exclude

insert

exempted by regulation from the application of the CDS. Under section 42 of the Interpretation Act, a regulation may exempt

Explanatory note for section 26

Section 25(1) corrects a minor structural defect in the *definition corresponding law* by replacing the definition.

Because the heading to section 9 of the *Environment Protection (Beverage Containers and Plastic Bags) Act* provides for exemption, not exclusion, of containers from the application of the Act, section 25(2) makes a minor amendment to the note for consistency with section 9.

Part 6 Miscellaneous matters

27 Other laws amended

The Schedule amends the laws mentioned in it.

Explanatory note for section 27

The Schedule amends Acts (some of which are also amended in other Parts) and Regulations in minor ways including to correct references.

28 Expiry of Act

This Act expires on the day after it commences.

Schedule Other laws amended

section 27

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<i>Absconding Debtors Act</i>		
section 4(1)	, unless the contrary intention appears	
section 4(1), definitions <i>member</i> and <i>Police Force</i>	whole definition	
section 4(3)	the purposes of he	the person
section 4(3)(a) and (b), at the end		and
Part II, heading	Part II	Part 2
sections 5(2), 6(2) and (3) and 7	shall	must
sections 6(3)(a) and (b)(i) and 7(a)(i) and (b)(i), at the end		and
section 7(a)(iii) and (b)(iii)	warrant,	warrant;
Part III, heading	Part III	Part 3
section 8	Part II	Part 2
section 8(b)	member of the Police Force,	police officer;
section 8A, heading	member of Police Force his	police officer officer's

section 8A(1)	Part II member of the Police Force he may, if he notwithstanding that he his	Part 2 police officer the officer may, if he or she even though the officer his or her
section 8A(2)	all words from "member" to "he shall"	police officer executes, pursuant to subsection (1), a warrant issued under Part 2, the officer must
section 8A(3)	member of the Police Force Part II all words from "shall" to "after he"	police officer Part 2 must, as soon as practicable after he or she
sections 9 and 10	Part II shall	Part 2 must
section 10(a)	member of the Police Force	police officer
section 10(b)	in any other case – upon	otherwise – on
section 11(1)	Part II shall	Part 2 must
section 11(2)	officer shall	police officer must
section 12	member shall	police officer must
section 12(a)(ii), at the end		or
Part IV, heading	Part IV	Part 4
sections 13(1A) and (2) and 14(2)	shall	must

section 14(2)(a), (b) and (c)(ii), at the end		and
section 15(2)(b) and (3)(b)	to,	to;
section 15(3)	shall he were a party thereto	must he or she were a party to the proceedings
Part V, heading	Part V	Part 5
section 16(a) to (e), at the end		and
section 16(b)	he	he or she
section 16(e)	finalization	finalisation
section 16(f)(i), at the end		or
section 16(f)(iii)	conditions,	conditions;
section 17	shall	must
section 18(1)	member of the Police Force who that member his	police officer whom the officer the debtor's
section 18(2)	member of the Police Force shall thereafter	police officer must after
section 18(4)	who he	that it
section 19(2)	shall	must
Part VI, heading	Part VI	Part 6
section 20(1)(a)	him be set aside;	the debtor be set aside; or
section 20(1)(b)	he	the debtor

section 20(2)	shall	must
section 20(2)(a), at the end		and
section 20(3)(a), at the end		or
section 22(b)	quashed,	quashed;
section 22	shall	must
	Part II	Part 2
	Part IV	Part 4
	his	his or her
section 23	shall	do
Part VII, heading	whole heading	Part 7 Miscellaneous matters
section 24(1)	he	the person
section 24(2)	member of the Police Force	police officer
	Part II	Part 2
section 25	shall	must
section 26(a), at the end		or
section 26(c)	Court,	Court;
section 26(d) and (e)	shall	
section 29(a), at the end		and
section 29(c)	paid,	paid;
Associations Act		
section 4	, unless the contrary intention appears	

section 4, definition accounts , paragraph (b)(ii)	sheet,	sheet;
section 4, definition association , paragraph (a)(i) to (iii), at the end		or
section 4, definition association , paragraph (a)(v)	centre,	centre;
section 4, definition association , paragraph (a)	Territory;	Territory; or
section 4, definitions financial year , paragraph (a)(i) and gross receipts , paragraph (a), at the end		or
section 4, definition officer , paragraph (a)(ii)	association,	association;
section 4, definition officer , paragraph (a)	position;	position; or
section 6(1)(a) and (b) and (3)(a), (b) and (c)(i) to (vii) and (ix), at the end		or
sections 8(3)(a) to (c), 10(1)(a) and (b)(ii) and 11(a), at the end		and
section 19(b)	proceedings,	proceedings;
section 23(2)(a), at the end		and
section 25(b)	proceedings,	proceedings;

sections 27(4)(a) to (d) and 30(2)(a) to (c), at the end		or
section 30(2)(e)	offence,	offence;
section 30(6), definition <i>insolvent under administration</i>	of the Commonwealth (<i>all references</i>)	(Cth)
section 30(6), definition <i>insolvent under administration</i> , paragraph (b)	bankrupt,	bankrupt;
section 31(2)(a), at the end		or
section 34(1)(a), at the end		and
section 34(2)(a), at the end		or
section 38(3)(a), at the end		and
Part 4, Division 3, heading, at the end		matters
section 40(1)(a), at the end		or
sections 41(a), 42(2)(a) to (c) and (d)(i) and 43(1)(c)(i), at the end		and
sections 44(b)(i) and (ii), 46(1)(a), 47(1)(a) and (b) and (2)(a) and 48(1)(a) and (b) and (2)(a), at the end		or
section 48(4)(a) and (7)(a), at the end		and
section 48(10)(b)	association,	association;

section 51(1)(a), at the end		or
section 54(2)(b)(i), at the end		and
section 54(6)(a) and (b), at the end		or
section 54(6)(d)	Part,	Part;
sections 57(1)(a) and 62(2)(a) to (c), at the end		and
section 62(3)(a), at the end		or
section 65(4)(b)	subsection (2),	subsection (2);
section 65(4)(d)	association,	association;
section 65(7)	notice in the <i>Gazette</i>	<i>Gazette</i> notice
section 66(1)(b)	behalf,	behalf;
section 67(1)(a), at the end		or
section 67(1)(c)	dissolved,	dissolved:
section 68(3)(a), at the end		and
section 68(5)(b) and (8)(b)	section,	section;
sections 70(a) and 72(a)(i), at the end		and
section 72(b)	of the Commonwealth	(Cth)
section 77(1)(a), at the end		or
section 77(6)(b)	refused,	refused;
section 78(1)(a) to (c), at the end		or

sections 78(2)(a) and 79(1)(a) and (b), at the end		and
section 80(6)(a), at the end		or
section 81(2)(a) and (b)	all words from "an employee" to "Act,"	a public sector employee,
section 83(1)(a), at the end		and
sections 86(2), definitions appropriate officer , paragraphs (a) to (c) and relevant day , paragraphs (a)(ii), (b) and (c) and 87(a) to (d), at the end		or
section 88(1)(a)(ii), (b)(ii), (c)(v) and (d) to (f), at the end		and
section 88(1)(c)(i) to (iii), at the end		or
section 89(1)(b)	applies,	applies;
section 90(1)(a), at the end		and
section 90(1)(c) and (3)(b)	applies,	applies;
section 90(4)(b)	certificate,	certificate;
sections 92(1)(a) and 94(a), at the end		or
section 95(1)(a)(i) and (ii), at the end		and
section 99(1)(b) and (2)(b)	practitioner,	practitioner;
section 100(2)(b)	duty,	duty;

sections 100(3)(a) and (b), 104(1)(a), 107(2)(a) and 109(1)(a) and (b), at the end		or
section 110(1)(b)	less,	less;
section 110(2)(b)	administering that Act,	administering that Act;
section 110(6)(a) and (b), at the end		or
section 110(6)(d)(ii)	services,	services;
section 110(8)(a) and (b), at the end		or
section 110(8)(d)(ii)	services,	services;
section 113(1)(a) and (b), at the end		and

Care and Protection of Children Act

section 13, definition holder	whole definition	holder means the person to whom a licence is granted.
section 60(6)(a)	certificate	notice
section 278(1)(b)	section 261(1)(f)	section 260(1)(f)

Darwin Port Corporation Act

section 16(2)(a)(vi)	a pilotage service
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Liquor Act

section 56(1)(a)	be
section 106BD(1)(a)(ii)	so. so; and

Marine Act

section 84	taken to be to be	taken to be
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Mineral Titles Act

section 8, definition <i>converted mineral title</i>	whole definition	
section 8, definition <i>existing proposed title area</i>	section 65(3)	section 65(4)
section 49	specified	prescribed
section 94(3)(d)(iii)	section 4	section 9

Poisons and Dangerous Drugs Regulations

regulation 3, definition <i>Scheduled substance</i>	SUSDP	SUSMP
regulation 7, heading	SUSDP	SUSMP
regulation 7(1) to (3)	SUSDP	SUSMP
regulation 12, heading	SUSDP	SUSMP
regulation 12(1) to (3)	SUSDP (<i>all references</i>)	SUSMP

Unit Title Schemes (Management Modules) Regulations

Schedule 1, clause 56(1)(c) and Schedule 2, clause 56(1)(c)	National Institute of Accountants	Institute of Public Accountants
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Unit Titles (Management Modules) Regulations

Schedule 1, clause 47(1)(c)	National Institute of Accountants	Institute of Public Accountants
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