

NORTHERN TERRITORY OF AUSTRALIA

JUSTICE LEGISLATION AMENDMENT ACT (NO. 2) 2008

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Act No. 27 of 2008

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# NORTHERN TERRITORY OF AUSTRALIA

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Act No. 27 of 2008

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An Act to amend various legislation administered by the Minister for Justice  
and Attorney-General

[Assented to 17 October 2008]  
[Second reading 10 September 2008]

**The Legislative Assembly of the Northern Territory enacts as follows:**

## **Part 1                      Preliminary matters**

### **1                      Short title**

This Act may be cited as the *Justice Legislation Amendment Act (No. 2) 2008*.

### **2                      Commencement**

- (1) Part 2, Division 3 is taken to have commenced on 1 January 2006.
- (2) The remaining provisions of this Act commence on the day on which the Administrator's assent to this Act is declared.

## **Part 2                      Amendment of Acts**

### **Division 1              Consumer Affairs and Fair Trading Act**

#### **3                      Act amended**

This Division amends the *Consumer Affairs and Fair Trading Act*.

**4                      Amendment of long title**

Long title

*omit*

Commissioners

*substitute*

Commissioner

**5                      Amendment of section 4 (Interpretation)**

Section 4

*insert (in alphabetical order)*

***Deputy Commissioner*** means the person holding or occupying the office of Deputy Commissioner of Consumer Affairs mentioned in section 9A.

**6                      New section 9A**

After section 9

*insert*

**9A                    Deputy Commissioner**

- (1) The Minister may appoint a public sector employee to be the Deputy Commissioner of Consumer Affairs.
- (2) Subject to the direction and control of the Commissioner, the Deputy Commissioner may exercise the powers and perform the functions of the Commissioner.

**7                      Amendment of section 180 (Commissioner's certificate as evidence)**

Section 180(1) and (2), after "Commissioner"

*insert*

or Deputy Commissioner

**8                      Amendment of section 224 (Commissioner's certificate as evidence)**

Section 224(1) and (2), after "Commissioner"

*insert*

or Deputy Commissioner

**9                      Amendment of section 329 (Evidentiary provisions)**

(1)                      Section 329(b)(i)

*omit*

or the Commissioner's

*substitute*

, Deputy Commissioner or Commissioner's

(2)                      Section 329(c)

*omit, substitute*

(c)                      judicial notice must be taken, for this Part, of:

(i)                      the fact that a person is the Commissioner or Deputy Commissioner; and

(ii)                     the signature of the Commissioner, Deputy Commissioner or Commissioner's delegate on a certificate purporting to be issued under paragraph (b).

**10                     Amendment of section 336 (Protection of Commissioner, council members, officers, &c. (former S 236))**

(1)                      Section 336, heading

*omit, substitute*

**Protection from liability**

(2)                      Section 336

*omit*

the Chairman

*substitute*

Deputy Commissioner or Chairman

## **Division 2            Powers of Attorney Act**

### **11            Act amended**

This Division amends the *Powers of Attorney Act*.

### **12            Amendment of section 5 (Definitions)**

#### **(1)            Section 5**

*omit*

Act, unless the contrary intention appears –

*substitute*

Act:

#### **(2)            Section 5**

*insert (in alphabetical order)*

***approved form*** means a form approved by the Registrar-General under section 23.

### **13            Amendment of section 6 (Execution of instruments creating or revoking powers)**

Section 6(4)

*omit, substitute*

- (4) An instrument creating a power must be executed in the presence of and attested by:
- (a) if the instrument is signed by the donor – a person mentioned in Schedule 2; or
  - (b) if the instrument is signed by direction of, and in the presence of, the donor – a person mentioned in Schedule 2 and another person.

**14                      Repeal and substitution of section 14**

Section 14

*repeal, substitute*

**14                      Execution of instrument creating enduring power**

A person who witnesses an instrument creating an enduring power under section 6(4) must not be a party to the instrument or near relative of the donee of the power.

**15                      New sections 23 and 24**

After section 22

*insert*

**23                      Approved forms**

The Registrar-General may approve forms for use under this Act.

**24                      Registrar-General's directions**

- (1) The Registrar-General may, by *Gazette* notice, issue directions relating to the requirements for lodging, registering, witnessing or giving documents under this Act.
- (2) The notice must specify a place where the directions are available for inspection by the public, without charge, during normal business hours.
- (3) A person must comply with the directions unless the Registrar-General dispenses with compliance.
- (4) The Registrar-General must comply with a direction from the Minister concerning the directions.

**16                      New Schedule 2**

After Schedule 1

*insert*

## Schedule 2      Witnesses to instruments

section 6(4)

Place of execution of instrument	Persons who can witness execution
The Territory	<p>a Commissioner for Oaths</p> <p>a member of the Legislative Assembly</p> <p>a legal practitioner</p> <p>a person holding office under the <i>Supreme Court Act</i>, <i>Justices Act</i>, <i>Local Court Act</i> or <i>Registration Act</i></p> <p>a police officer</p> <p>a person licensed as a conveyancing agent or real estate agent under the <i>Agents Licensing Act</i></p> <p>a Notary Public</p> <p>any other person approved by the Registrar-General</p>
A State or another Territory	any person approved by Registrar-General's directions
A place outside Australia	any person approved by Registrar-General's directions

## Division 3      Professional Standards Act

### 17      Act amended

This Division amends the *Professional Standards Act*.

### 18      Repeal and substitution of section 13

Section 13

*repeal, substitute*

### 13      Notification, tabling and disallowance of schemes

- (1) The Minister may notify a scheme approved by the Council (or, if it is an interstate scheme, by the appropriate Council for the jurisdiction in which the scheme was prepared) in the *Gazette*.



- (2) Section 63 of the *Interpretation Act* applies to a scheme notified under subsection (1) as though:
  - (a) the proposed scheme were a proposed rule; and
  - (b) the notification were notification under section 63(3)(a) of that Act.
- (3) Section 57 of the *Interpretation Act* does not apply to a scheme notified under subsection (1).
- (4) In this section:

***interstate scheme*** includes an instrument amending an interstate scheme.

*Note*

*This definition applies subsections (1) and (2) to instruments that amend an interstate scheme. Those subsections already apply, because of section 17(5), to instruments that amend a scheme that is not an interstate scheme.*

## **19       Amendment of section 14 (Commencement of schemes)**

Section 14(1)

*omit, substitute*

- (1) A scheme notified in the *Gazette* commences:
  - (a) on the day (subsequent to the date of notification) specified in the scheme; or
  - (b) if no day is specified – 2 months after the date of notification.

## **20       Amendment of section 15 (Challenges to schemes)**

Section 15(1)

*omit*

published as referred to in section 13

*substitute*

notified in the *Gazette*

**21            Amendment of section 17 (Amendment and revocation of schemes)**

Section 17, note

*omit*

*published under section 13*

*substitute*

*notified under section 13*

**22            Amendment of section 17A (Notification of revocation of schemes)**

Section 17A(1)

*omit*

publication

*substitute*

notification

**23            Amendment of section 17B (Termination of operation of interstate schemes in this jurisdiction)**

(1)        Section 17B(5)

*omit*

published

*substitute*

notified

(2)        Section 17B(5)(a) and (b)

*omit*

its publication

*substitute*

notification

**24            Amendment of section 45 (Functions of Council)**

Section 45(1)(a)(i)

*omit, substitute*

- (i) the notification in the *Gazette* of a scheme, or of an instrument amending or revoking a scheme;

**Part 3            Amendment of subordinate legislation**

**Division 1       Fines and Penalties (Recovery) Regulations**

**25            Regulations amended**

This Division amends the *Fines and Penalties (Recovery) Regulations*.

**26            Amendment of regulation 4 (Amounts included in *fine* or *penalty*)**

- (1) Regulation 4

*omit*

For

*substitute*

- (1) For

- (2) After regulation 4(1)

*insert*

- (2) For section 6(1)(e) of the Act, a fine includes:

- (a) an amount payable to the Territory under Part 5 of the *Victims of Crime Assistance Act*; and
- (b) an amount payable to the Territory under Part IV of the *Crimes (Victims Assistance) Act* (repealed) as continued in force by section 73 of the *Victims of Crime Assistance Act*.

**Division 2       Powers of Attorney Regulations**

**27            Regulations amended**

This Division amends the *Powers of Attorney Regulations*.

**28            Amendment of regulation 5 (Procedure for registration)**

(1)           Regulation 5(1A)(a)

*omit*

Form 1 in Schedule 2

*substitute*

the approved form

(2)           Regulation 5(1A)(b)(ii)

*omit, substitute*

- (ii) both the original and duplicate or attested copy bear the signature of each party (excluding the signature of the donor of the power if the instrument is signed by direction of the donor) and each witness; and

(3)           Regulation 5(1A)(b)(i), (iii) to (v), at the end

*insert*

and

(4)           Regulation 5(1A)(b)(vi)

*omit, substitute*

- (vi) the name and either the contact address or telephone number of each witness is written, typed or stamped below the witness's signature; and

(5)           Regulation 5(3)

*omit*

Form 2 in Schedule 2

*substitute*

the approved form

**29            Amendment of regulation 5A (Recording and use of common form provisions)**

Regulation 5A(1)

*omit*

Form 3 in Schedule 2

*substitute*

the approved form

**30            Amendment of regulation 8 (Notice of death)**

Regulation 8(1)(c) and (2)(a)

*omit*

in accordance with Form 5;

*substitute*

of revocation of power by death in the approved form; and

**31            Repeal of Schedule 2**

Schedule 2

*repeal*