

NORTHERN TERRITORY OF AUSTRALIA  
CORPORATIONS (NORTHERN TERRITORY)  
AMENDMENT ACT 1991

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No. 81 of 1991

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# NORTHERN TERRITORY OF AUSTRALIA

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No. 81 of 1991

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## AN ACT

to amend the *Corporations (Northern Territory) Act*,  
to repeal the *National Companies and Securities  
Commission (Northern Territory Provisions) Act*  
and for other purposes

[Assented to 24 December 1991]

**B**E 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:

### PART 1 - PRELIMINARY

#### 1. SHORT TITLE

This Act may be cited as the *Corporations (Northern Territory) Amendment Act 1991*.

#### 2. COMMENCEMENT

(1) Part 1 and section 19 shall come into operation on assent.

(2) Sections 4(a), 6, 16 and 17 shall be deemed to have come into operation on 1 January 1991.

(3) The remaining provisions of this Act shall come into operation on such day or days as is or are fixed by the Administrator by notice in the *Gazette*.

#### 3. PRINCIPAL ACT

The *Corporations (Northern Territory) Act* is in this Act referred to as the Principal Act.

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PART 2 - AMENDMENT OF THE CORPORATIONS  
(NORTHERN TERRITORY) ACT

4. DEFINITIONS

Section 3(1) of the Principal Act is amended -

- (a) by omitting from paragraph (e) of the definition of "Commonwealth administrative laws" the words "of the Commonwealth;" and substituting the following:

"of the Commonwealth,

and the regulations in force from time to time under those Acts;"

- (b) by inserting after the definition of "corresponding law" the following:

"'Family Court' means the Family Court of Australia;

'Federal Court' means the Federal Court of Australia;" and

- (c) by inserting after the definition of "officer" the following:

"'State Family Court', in relation to a State, means a court of that State to which section 41 of the *Family Law Act 1975* of the Commonwealth applies because of a Proclamation made under section 41(2) of that Act;"

5. APPLICATION IN THE NORTHERN TERRITORY OF THE CORPORATIONS LAW

Section 7 of the Principal Act is amended by omitting "*Corporations Act*" and substituting "*Corporations Act*".

6. APPLICATION OF COMMONWEALTH LAWS IN RELATION TO OFFENCES AGAINST APPLICABLE PROVISIONS OF OTHER JURISDICTIONS

Section 30(1) of the Principal Act is amended by inserting after "of the Commonwealth" the words "and were not laws of that other jurisdiction".

7. INTERPRETATION

Section 41(2)(a) of the Principal Act is amended -

- (a) by omitting from subparagraph (vi) "this Act; and" and substituting "this Act;" and

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(b) by omitting subparagraph (vii) and substituting the following:

"(vii) rules of court made by the Supreme Court of the Northern Territory because of a provision of this Act;

(viii) rules of court applied by the Federal Court, or the Family Court, because of a provision of this Act; and

(ix) rules of court applied by the Supreme Court of a State, or of the Capital Territory, or a State Family Court, when exercising jurisdiction conferred by this Division (including jurisdiction conferred by virtue of any previous application or applications of this subparagraph); and".

8. JURISDICTION OF FEDERAL COURT AND STATE AND TERRITORY SUPREME COURTS

Section 42(3) of the Principal Act is amended by omitting "of Australia".

9. NEW SECTION

The Principal Act is amended by inserting after section 42 the following:

"42A. JURISDICTION OF FAMILY COURT AND STATE FAMILY COURTS

"(1) Jurisdiction is conferred on the Family Court with respect to civil matters arising under the Corporations Law of the Northern Territory.

"(2) Subject to section 9 of the *Administrative Decisions (Judicial Review) Act 1977* of the Commonwealth, as it applies as a law of the Northern Territory, jurisdiction is conferred on each State Family Court with respect to civil matters arising under the Corporations Law of the Northern Territory.

"(3) The jurisdiction conferred on a State Family Court by subsection (2) is not limited by any limits to which any other jurisdiction of the State Family Court may be subject."

10. REPEAL AND SUBSTITUTION

Section 43 of the Principal Act is repealed and the following substituted:

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"43. APPEALS

"(1) An appeal may not be instituted from a decision of a court of the Northern Territory to a court of a State or of the Capital Territory or to the Federal Court or to the Family Court.

"(2) An appeal may not be instituted from a decision of the Federal Court to a court of the Northern Territory, a State or the Capital Territory or to the Family Court.

"(3) An appeal may not be instituted from a decision of the Family Court to a court of the Northern Territory, a State or the Capital Territory or to the Federal Court.

"(4) An appeal may not be instituted from a decision of the Supreme Court of a State to the Federal Court or to the Family Court or to a court of the Northern Territory, a State or the Capital Territory, except to the Full Court of that Supreme Court.

"(5) An appeal may not be instituted from a decision of a court of the Capital Territory to a court of the Northern Territory or a State or to the Family Court.

"(6) An appeal may not be instituted from a decision of a State Family Court to the Federal Court, to a court of the Northern Territory, a State or the Capital Territory or (except in accordance with the law of the State under which the State Family Court is constituted) to the Supreme Court of that State."

11. TRANSFER OF PROCEEDINGS BY THE FEDERAL COURT AND STATE AND TERRITORY SUPREME COURTS

Section 44 of the Principal Act is amended by omitting subsections (3), (4) and (5).

12. NEW SECTIONS

The Principal Act is amended by inserting after section 44 the following:

"44A. TRANSFER OF PROCEEDINGS BY FAMILY COURT AND STATE FAMILY COURTS

"(1) This section applies to a proceeding with respect to a civil matter arising under the Corporations Law of the Northern Territory in a court (in this section called the 'first court') having jurisdiction under section 42A.

"(2) If it appears to the first court that -

(a) the proceeding arises out of, or is related to, another proceeding pending in the Federal Court, or in the Supreme Court of the Northern Territory, a State or the Capital Territory, and

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that the court in which the other proceeding is pending is the most appropriate court to determine the first-mentioned proceeding;

(b) having regard to -

(i) whether, in the first court's opinion, apart from this Division or a law of a State or the Capital Territory corresponding to this Division, the proceeding, or a substantial part of it, would have been incapable of being instituted in the first court;

(ii) the extent to which, in the first court's opinion, the matters for determination in the proceeding are matters not within the first court's jurisdiction apart from this Division or such a law; and

(iii) the interests of justice,

the Federal Court, or the Supreme Court of the Northern Territory, a State or of the Capital Territory, is the most appropriate court to determine the proceeding; or

(c) it is otherwise in the interests of justice that the Federal Court, or the Supreme Court of a State or of the Capital Territory, determine the proceeding -

the first court must transfer the proceeding to the Federal Court, or to that Supreme Court, as the case may be.

"(3) Subject to subsection (2), if it appears to the first court that -

(a) the proceeding arises out of, or is related to, another proceeding pending in another court having jurisdiction under section 42A in the matters for determination in the first-mentioned proceeding, and that the other court is the most appropriate court to determine the first-mentioned proceeding; or

(b) it is otherwise in the interests of justice that the proceeding be determined by another court having jurisdiction under section 42A in the matters for determination in the proceeding,

the first court must transfer the proceeding to the other court.

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"(4) If -

- (a) the first court transfers the proceeding to another court; and
- (b) it appears to the first court that -
  - (i) there is another proceeding pending in the first court that arises out of, or is related to, the first-mentioned proceeding; and
  - (ii) it is in the interests of justice that the other court also determine the other proceeding,

the first court must also transfer the other proceeding to the other court.

"44B. FURTHER MATTERS FOR A COURT TO CONSIDER WHEN DECIDING WHETHER TO TRANSFER A PROCEEDING

"In deciding whether to transfer under section 44 or 44A a proceeding or application, a court must have regard to -

- (a) the principal place of business of any body corporate concerned in the proceeding or application; and
- (b) the place or places where the events that are the subject of the proceeding or application took place.

"44C. TRANSFER MAY BE MADE AT ANY STAGE

"A court may transfer under section 44 or 44A a proceeding or application -

- (a) on the application of a party made at any stage; or
- (b) of the court's own motion.

"44D. TRANSFER OF DOCUMENTS

"Where, under section 44 or 44A, a court transfers a proceeding, or an application in a proceeding, to another court -

- (a) the Registrar or other proper officer of the first-mentioned court must transmit to the Registrar or other proper officer of the other court all documents filed in the first-mentioned court in respect of the proceeding or application, as the case may be; and



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- (b) the other court must proceed as if -
  - (i) the proceeding had been originally instituted in the other court;
  - (ii) the same proceedings had been taken in the other court as were taken in the first-mentioned court; and
  - (iii) in a case where an application is transferred, the application had been made in the other court."

13. CONDUCT OF PROCEEDINGS

Section 45 of the Principal Act is amended -

- (a) by omitting from subsection (1) "and 52" and substituting ", 52 and 52A";
- (b) by omitting from subsection (3)(a) "of Australia" and substituting "or the Family Court";
- (c) by omitting from subsection (3)(b) -
  - (i) "of Australia" and substituting "or the Family Court"; and
  - (ii) "Federal Court" (second occurring) and substituting "Federal Court or the Family Court, as the case may be,"; and
- (d) by inserting in subsection (3)(d) after "Capital Territory" the words ", or a State Family Court,".

14. ENFORCEMENT OF JUDGMENTS, &c.

Section 50 of the Principal Act is amended -

- (a) by inserting in subsection (1) after "Federal Court" the words ", the Family Court";
- (b) by omitting from subsection (2)(a) "or the Supreme Court of the Northern Territory or of a State or of the Capital Territory" and substituting ", the Family Court, the Supreme Court of the Northern Territory or of a State or of the Capital Territory or a State Family Court"; and
- (c) by omitting from subsection (2) "or the Supreme Court of the Northern Territory or of the State or Territory" and substituting ", the Family Court, the Supreme Court of the Northern Territory or of the State or Territory or that State Family Court".

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15. NEW SECTION

The Principal Act is amended by inserting after section 52 the following:

"52A. RULES OF THE FAMILY COURT OR STATE FAMILY COURT

"(1) When the Family Court is exercising jurisdiction with respect to matters arising under the Corporations Law of the Northern Territory, being jurisdiction conferred by this Division, that Court must apply the rules of court made because of section 61A of the Corporations Act, with such alterations as are necessary.

"(2) When a State Family Court is exercising jurisdiction with respect to matters arising under the Corporations Law of the Northern Territory, being jurisdiction conferred by this Division, that Court must apply the rules of court made under the law of the State corresponding in section 61A(1) of the Corporations Act, with such alterations as are necessary.

"(3) In this section, 'Corporations Law of the Northern Territory' does not include rules of court."

16. APPLICATION OF COMMONWEALTH *CRIMES ACT*

Section 74 of the Principal Act is amended by omitting subsection (3) and substituting the following:

"(3) For the purposes of a national scheme law of the Northern Territory -

- (a) an offence under Part III of the *Crimes Act 1914* of the Commonwealth as applying because of subsection (1) in relation to an examination or hearing, is taken to be an offence against Part 3 of the ASC Law of the Northern Territory; and
- (b) an offence under Part III of the *Crimes Act 1914* of the Commonwealth as applying, in relation to an examination or hearing held under the ASC Law of another jurisdiction, as a law of that jurisdiction is taken to be an offence against Part 3 of the ASC Law of that jurisdiction."

17. REFERENCE TO CO-OPERATIVE SCHEME LAWS AND REGULATIONS

Section 89(1) of the Principal Act is amended by omitting the definition of "instrument" and substituting the following:

"'instrument' has the same meaning as in section 13, but does not include -

- (a) a co-operative scheme law;

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- (b) regulations under an Act that is such a law, or under this Act;
- (c) Code regulations; or
- (d) a national scheme law of this jurisdiction, or the Corporations Regulations, or ASC Regulations, of the Northern Territory."

PART 3 - ABOLITION OF NATIONAL  
COMPANIES AND SECURITIES COMMISSION

18. REPEAL

The *National Companies and Securities Commission (Northern Territory Provisions) Act* is repealed.

19. REPORTS AND FINANCIAL STATEMENTS

The Minister must cause -

- (a) a copy of each report of the operations of the National Companies and Securities Commission and the financial statements of the National Companies and Securities Commission prepared by the Australian Securities Commission in accordance with section 15(1), (7) or (8) of the *Corporations Legislation Amendment Act 1991* of the Commonwealth; and
- (b) a copy of the report of the Auditor-General for the Commonwealth on those financial statements,

being reports and financial statements copies of which have been submitted to the Minister by the Australian Securities Commission under section 15(3) of that Act, to be laid before the Legislative Assembly within 15 sitting days of the Legislative Assembly after its receipt by the Minister.