



NORTHERN TERRITORY OF AUSTRALIA

No. 31 of 1990

AN ACT

to amend various Acts consequential on the passing
of the *Local Court Act 1989*

[Assented to 11 June 1990]

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 *Local Court (Consequential Amendments) Act 1990*.

2. COMMENCEMENT

(1) Section 5 shall come into operation on assent.

(2) The remaining provisions of this Act shall come into operation on the commencement of the *Local Court Act 1989*.

3. AMENDMENT OF ADULT GUARDIANSHIP ACT

The *Adult Guardianship Act* is amended by omitting section 16(1) and (2) and substituting the following:

"(1) The Court may, at the hearing of an application under this Act for a guardianship order -

- (a) if it is satisfied that the adult guardian is competent to manage the estate of the person who is the subject of the application, appoint the adult guardian to be the manager of the estate subject to such terms and conditions as it thinks fit; or

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- (b) if it is not satisfied that the adult guardian is competent to manage the estate of the person who is the subject of the application, order the Public Trustee or some other person to make an application under the *Aged and Infirm Persons' Property Act* for a protection order.

"(2) An adult guardian appointed under subsection (1)(a) to be the manager of the estate of the person who is the subject of the application has -

- (a) the powers of a manager of a protected estate under section 17 of the *Aged and Infirm Persons' Property Act*; and
- (b) subject to section 21(2) of the *Aged and Infirm Persons' Property Act*, the liability of a manager under section 21(1) of that Act.

"(2A) The Court may, at any time, vary or terminate an appointment under subsection (1)(a).".

4. AMENDMENT OF *LAW REFORM (MISCELLANEOUS PROVISIONS) ACT*

The *Law Reform (Miscellaneous Provisions) Act* is amended by adding at the end the following:

"PART IX - ABOLITION OF CERTAIN RULES OF TORT

"30. REPLEVIN AND DISTRESS FOR RENT

"The actions of replevin and distress for rent are abolished.".

5. AMENDMENT OF *LOCAL COURTS ACT*

The *Local Courts Act* is amended -

- (a) by inserting in section 24(1B)(b), before "for regulating", the words "subject to section 24A,"; and
- (b) by inserting after section 24 the following:

"24A. CHIEF MAGISTRATE MAY FIX FEES, &c.

"The Chief Magistrate may, as the Chief Magistrate considers necessary or convenient for the conduct of the business of Local Courts, prescribe the fees, costs and charges in respect of proceedings in Local Courts.".

6. AMENDMENT OF *TENANCY ACT*

The *Tenancy Act* is amended -

- (a) by omitting Part III and substituting the following:

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"PART III - PROCEEDINGS IN LOCAL COURT

"19. APPEAL TO LOCAL COURT

"(1) If the Commissioner has made a determination of a fair rent or of a fair and just price, has varied such a determination under Part V or has made a determination under section 39 in relation to a security deposit, a person directly affected by such a determination or variation may appeal to the Local Court against the determination or variation within 28 days after it is made.

"(2) An appeal shall be conducted in accordance with the Rules of the Court.

"20. HEARING OF APPEAL

"(1) An appeal under section 19 shall be by way of rehearing and, in its determination of the appeal, the Court is bound to observe all the considerations and duties as the Commissioner was, under this Act, bound to observe in making his or her determination or variation.

"(2) A decision by the Court on an appeal takes effect from the day determined by the Court, being not earlier than the day on which the Commissioner's determination or variation took effect.

"21. APPEALS BY INFANTS

"Proceedings may be instituted by an infant as if he or she were an adult.

"22. COURT NOT BOUND BY RULES OF EVIDENCE

"In an appeal, the Court is not bound by the rules of evidence and may inform itself in any manner it thinks fit.";

(b) by omitting section 39(9) and substituting the following:

"(9) Where the Commissioner makes an order under subsection (8) and no appeal from that order has been lodged within the time allowed by this Act, the order of the Commissioner may be enforced as if it were an order of the Court for the payment of money."; and

(c) by omitting sections 51 and 51A and substituting the following:

"51. PROCEEDINGS BY LESSOR FOR SUMMARY RECOVERY OF DWELLING-HOUSE

"(1) The lessor of a dwelling-house or agent authorized in writing may apply to the Court for an order terminating the lease -

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- (a) at the time of an application under section 48(1) for the order; or
- (b) at any time after the lessor gives to the lessee written notice of the lessor's intention to apply for the order.

"(2) The Court may make a termination order if the Court is satisfied that -

- (a) the lessee has -
 - (i) intentionally or recklessly caused damage; or
 - (ii) permitted damage to be caused, to the dwelling-house;
- (b) the lessee has caused or is likely to cause injury to the lessor, to his or her agent or to a person in occupation of or permitted on adjacent premises;
- (c) the lessee has established a pattern of failure to pay rent under the lease or under any other lease of a dwelling-house; or
- (d) having regard to the circumstances, the notice under subsection (1)(b) is sufficient.

"(3) If the Court makes a termination order, it shall make an order for possession which shall have immediate effect.

"51A. TERMINATION BY LESSEE OF LEASE OF DWELLING-HOUSE

"(1) The lessee of a dwelling-house may apply to the Court for an order of termination of the lease.

"(2) The Court may make a termination order if the Court is satisfied that -

- (a) the lessor has failed to perform or observe a term or condition of the lease; and
- (b) having regard to the circumstances, the failure to perform or observe a term or condition of the lease is sufficient to justify the termination.

"(3) The Court shall, in an order, specify a day, being not more than 7 days after the day the order is made, as the day of the termination and the day on which the lessee must deliver up possession.

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"(4) If a lessee fails to deliver up possession on the specified day, the Court may, on the application of the lessor or the lessor's agent authorized in writing, issue a warrant of possession."

7. AMENDMENTS

The provisions of the Acts specified in the Schedule are amended as provided for in the Schedule.

SCHEDULE

Section 7

Provision	Amendment	
	omit	substitute
<i>Adult Guardianship Act</i>		
Section 3(1) - definition of "Court"	"a Local Court"	"the Local Court"
Section 8(1)	"a Court"	"the Court"
Section 8(2)	"magistrate or Judge"	"court"
Section 8(3)	the whole subsection	
Section 8(4)	"Clerk of a Local Court"	"Registrar of the Local Court"
Section 9(1)	"the Clerk"	"the Registrar"
Section 16(4)	"Section 25"	"Section 23"
<i>Business Names Act</i>		
Section 27(1)	the whole subsection	"(1) Proceedings may be taken in a court of competent jurisdiction against a person or persons in the business name under which the person is or the persons are carrying on business whether or not the business name is registered under

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SCHEDULE - continued

Provision	Amendment	
	omit	substitute
		this Act and the name shall, for the purpose of the proceedings, be a sufficient designation of the person or persons in all process and other legal documents and instruments and a judgment obtained or order made in such proceedings may be enforced against the person or persons or any of them."
Section 31(2)	"process"	", subject to subsection (2A), process"
Add new section 31(2A)		"(2A) If Rules of a court provide a procedure, service of process shall be in accordance with the Rules."
<i>Community Welfare Act</i>		
Section 26	"Clerk of the Local Court"	"Registrar of the Local Court"
Section 27	the whole section	
Section 32	"\$100 or imprisonment for 10 days"	"\$2000 or imprisonment for one month"
<i>Dangerous Goods Act</i>		
Section 38(3) and (5)	"to whom an appeal under subsection (1) has been made"	
<i>Dog Act</i>		
Section 66(1) and (2)	"A Court of Summary Jurisdiction"	"The Local Court"

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SCHEDULE - continued

Provision	Amendment	
	omit	substitute
<i>Electoral Act</i>		
Section 3		
- definition of "Court of Summary Jurisdiction"	the whole definition	
Section 37(1) and (2)	"30 days"	"28 days"
	"a Court of Summary Jurisdiction"	"the Local Court"
Section 39	the whole section	
Section 40(1)	"A Court of Summary Jurisdiction"	"The Local Court"
Section 41(1)	"The Clerk of the Court of Summary Jurisdiction which hears an application under this Division"	"The Registrar of the Local Court"
<i>Justices Act</i>		
Section 4		
- definition of "Clerk"	the whole definition	"'Clerk' means the Registrar referred to in section 42;"
Section 42	the whole section	"42. CLERK OF COURT A Registrar of the Local Court is a clerk of the Court of Summary Jurisdiction."
Section 160	"or by the clerk of the Local Court at Darwin,"	
	"every such clerk"	"the clerk"

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SCHEDULE - continued

Provision	Amendment	
	omit	substitute
<i>Motor Vehicles Act</i>		
Section 26G(1)	"and the clerk of a Local Court"	
<i>Notifiable Diseases Act</i>		
Section 21(2)	"a magistrate"	"the Local Court"
Section 21(3)	"a magistrate"	"the Local Court"
	"the magistrate"	"the Court"
	"he thinks fit"	"it thinks fit"
<i>Nursing Act</i>		
Section 26(4)	"the magistrate"	"the Local Court"
<i>Partnership Act, 1891</i>		
Section 1(2)	the whole subsection	<p>"(2) But the relationship between members of a body corporate or association that is -</p> <p>(a) incorporated as a company under an Act of the Territory or of the Commonwealth for the time being in force, relating to the incorporation of companies; or</p> <p>(b) formed or incorporated by or pursuant to any other Act, or letters patent or Royal Charter,</p>

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SCHEDULE - continued

Provision	Amendment	
	omit	substitute
		is not a partnership within the meaning of this Act."
Section 23(1)	"After the commencement of this Act a writ"	"A warrant"
Section 23(2)	"The Supreme Court, or a Judge thereof, or a Local Court of Full Jurisdiction, may, on the application by summons"	"The Supreme Court or the Local Court may, on application"
Section 35(a)	the whole paragraph	"(a) When a partner is shown to the satisfaction of the Court to be incapable of performing his or her part of the partnership contract, the application may be made by the partner's litigation guardian or by any other partner;"
Section 35(b)	the whole paragraph	
Section 45	"The expression 'Court' means the Supreme Court of the province, or any Judge thereof."	"'Court' means Supreme Court;"
<i>Public Hospitals and Nursing Homes Act</i>		
Section 29(2)(a)	"a magistrate"	"the Local Court"

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SCHEDULE - continued

Provision	Amendment	
	omit	substitute
<i>Small Claims Act</i>		
Section 13	the whole section	
Sections 22, 24(1) and 29(2)	" <i>Local Courts Act</i> "	" <i>Local Court Act</i> "
Section 29(1)	"Subject to this Act"	"Except in respect of an application for re-hearing"
Sections 32 and 33	the whole sections	
Section 45	the whole section	"45. COURT FEES "No fee is payable to the Registrar in respect of a step taken in proceedings except - (a) fees for filing; and (b) the same fees for - (i) the enforcement of a judgment; or (ii) the personal service of a document under this Act; as payable under the <i>Local Court Act</i> in respect of those proceedings in the Local Court."
<i>Taxation (Administration) Act</i>		
Section 83F(2)(c)(i)	the whole subpara- graph	"(i) before the Court of Summary Jurisdiction; or"

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SCHEDULE - continued

Provision	Amendment	
	omit	substitute
<i>Tenancy Act</i>		
Section 3	the whole section	
Section 4		
- definition of "Tribunal"	the whole definition	
Section 17	"\$1,000"	"\$2,000"
Section 37	"\$1,000"	"\$2,000"
Section 39	"\$1,000" (twice occurring)	"\$2,000"
Section 42	"the Tribunal or"	
Section 42	"\$1,000"	"\$2,000"
Section 48(1)	"the Tribunal for a warrant authorizing the ejectment of the lessee"	"the Local Court for a warrant of pos- session"
Section 48(2) to (8) inclusive	the whole subsections	"(2) The Court shall specify the day on which an order for the issue of a warrant of possession takes effect."
Section 49	the whole section	
Section 50	"The Tribunal"	"The Court"
Section 53	the whole section	
Section 58	"\$200"	"\$2,000"
Section 59	"\$200"	"\$2,000"
Sections 62 and 63	the whole sections	
Section 66	"\$1,000"	"\$2,000"

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SCHEDULE - continued

Provision	Amendment	
	omit	substitute
Section 67	"\$500"	"\$2,000"
Schedules 1, 2 and 3	the whole Schedules	
<i>Trading Stamp Act</i>		
Sections 8 and 9	the whole sections	