



NORTHERN TERRITORY OF AUSTRALIA

No. 21 of 1988

AN ACT

to amend the *Commission of Inquiry
(Deaths in Custody) Act*

[Assented to 15 June 1988]

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 *Commission of Inquiry (Deaths in Custody) Amendment Act 1988*.

2. PRINCIPAL ACT

The *Commission of Inquiry (Deaths in Custody) Act* is in this Act referred to as the Principal Act.

3. PREAMBLE

The preamble to the Principal Act is amended -

(a) by inserting in clause 2, after "The Letters Patent", the words "and those Letters Patent as subsequently varied,"; and

(b) by inserting after clause 3 the following:

"3A. By Letters Patent issued in the name of the Queen by the Governor-General on 5 May 1988 the Letters Patent referred to in clause 1 were further varied as described in the Schedule to this Act."

4. APPOINTMENT OF COMMISSIONER

Section 5 of the Principal Act is amended -

*Commission of Inquiry
(Deaths in Custody) Amendment*

- (a) by inserting in subsection (1), after "clause 1 of the preamble to this Act,", the words "as varied as described in the Schedule,";
- (b) by inserting in subsection (2), after "subsection (1) shall be made", the words ", and a copy of any report or recommendation of any relevant Commissioner that has been forwarded to the Commissioner shall be forwarded to the Administrator,"; and
- (c) by omitting from subsection (2) "clause 1" and substituting "clause 3A".

5. ADDITIONAL COMMISSIONER

Section 6 of the Principal Act is amended -

- (a) by inserting after "clause 1 of the preamble to this Act," the words "as varied as described in the Schedule,"; and
- (b) by omitting ", and this Act has effect as if the additional Commissioner were named in section 4(1)".

6. SCHEDULE

The Principal Act is amended by adding at the end the following:

"SCHEDULE

Preamble clause 3A

COMMONWEALTH OF AUSTRALIA

ELIZABETH THE SECOND, by the Grace of God, Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO:

THE HONOURABLE JAMES HENRY MUIRHEAD, QC.

GREETING:

WHEREAS by Letters Patent issued in Our name by Our Administrator of the Government of the Commonwealth of Australia on 16 October 1987 We appointed you to be a Commissioner to inquire into and report upon the deaths in Australia since 1 January 1980 of Aboriginals and Torres Strait Islanders whilst in police custody, in prison or in any other place of detention and into certain matters relating thereto:

AND WHEREAS those Letters Patent were varied by Letters Patent issued by Our Governor-General of the Commonwealth of Australia on 21 December 1987:

*Commission of Inquiry
(Deaths in Custody) Amendment*

AND WHEREAS it is desirable that those Letters Patent be further varied:

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and pursuant to the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, declare that the Letters Patent issued on 16 October 1987 (as varied by the Letters Patent issued on 21 December 1987) shall have effect as if:

(a) for subparagraph (a) in the initial paragraph there were substituted the following subparagraph:

'(a) the deaths in Australia since 1 January 1980 of Aboriginals and Torres Strait Islanders (including any such death that may occur after the date of these Our Letters Patent) whilst in police custody, in prison or in any other place of detention, but not including such a death occurring in a hospital, mental institution, infirmary or medical treatment centre unless injuries suffered while in police custody, in prison or in any place of detention caused or contributed to that death;' and

(b) for the concluding paragraph there were substituted the following paragraphs:

'AND We further declare that, for the purpose of reporting on any underlying issues associated with such deaths, you are authorised to take account of social, cultural and legal factors which, in your judgment, appear to have a bearing on those deaths:

AND We further declare that for the purpose of expediting your inquiry and the inquiries of relevant Commissioners, you are authorised:

(c) to refer to a relevant Commissioner for inquiry by that Commissioner in accordance with his or her Commission of inquiry, as you may determine, any particular death; and

(d) to request a relevant Commissioner not to undertake inquiry, or further inquiry, into any particular death;

being a death to which these Our Letters Patent relate:

AND We direct you to consult generally with each relevant Commissioner with regard to the methods and procedures to be followed in relation to your and

*Commission of Inquiry
(Deaths in Custody) Amendment*

their inquiries in order to establish a uniform approach to those inquiries and authorise you, following such consultation, to issue guidelines or make recommendations, or both, to each of these Commissioners in relation to those methods and procedures:

AND We further direct you to have regard to the reports and recommendations (if any) of each relevant Commissioner, and to consult with each of those Commissioners, in relation to the preparation of your report or reports and your recommendations:

AND We further declare that in these Our Letters Patent, the expression "relevant Commissioner" means a person other than yourself to whom a Commission of inquiry relating to the deaths of Aboriginals and Torres Strait Islanders has been or is issued by Our Governor-General of the Commonwealth of Australia, or a person administering the Government of the Commonwealth of Australia, by Our Letters Patent:

AND We require you as expeditiously as practicable to make your inquiry and, not later than 31 December 1989 or such later date as We may be pleased to fix, to furnish to Our Governor-General of the Commonwealth of Australia:

- (e) a report or reports of the findings of your inquiry; and
- (f) the reports and any recommendations of relevant Commissioners that have been forwarded to you;

and to make such recommendations as you consider appropriate.'

WITNESS His Excellency the Right Honourable Sir Ninian Martin Stephen, a member of Her Majesty's Most Honourable Privy Council, Knight of the Order of Australia, Knight Grand Cross of the The Most Distinguished Order of Saint Michael and Saint George, Knight Grand Cross of The Royal Victorian Order, Knight Commander of The Most Excellent Order of the British Empire and Governor-General of the Commonwealth of Australia.

Dated this 6th day of May 1988

(sgd.) N.M. STEPHEN
Governor-General".