

NORTHERN TERRITORY OF AUSTRALIA

JUSTICE AND OTHER LEGISLATION AMENDMENT ACT 2021

Act No. 7 of 2021

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 7 of 2021

An Act to amend the *Administration and Probate Act 1969*, the *Administration and Probate Regulations 1983*, the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006*, the *Coroners Act 1993*, the *Local Court Act 2015*, the *Local Court (Criminal Procedure) Act 1928* and the *Supreme Court Act 1979*

[Assented to 13 April 2021]
[Introduced 22 October 2020]

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 and Other Legislation Amendment Act 2021*.

2 Commencement

This Act commences on the day after the day on which the Administrator's assent to this Act is declared.

Part 2 Amendment of Administration and Probate legislation

Division 1 Amendment of Administration and Probate Act 1969

3 Act amended

This Division amends the *Administration and Probate Act 1969*.

4 Section 103 amended (Inquiries as to validity of claim)

(1) Section 103(1)(a)

omit

he or she

insert

the representative

(2) Section 103(1)(b)

omit, insert

(b) may, by a summons, require the claimant or any other person to appear and answer all the questions that may be put to the claimant or other person with reference to the claim before:

(i) if the value of the claim does not exceed the small claims limit, as defined in section 5(1) of the *Small Claims Act 2016* on the date the claim is made – NTCAT; or

(ii) otherwise – a Judge.

(3) Section 103(2)

omit

all words after "section"

insert

to appear before:

(a) NTCAT – the same amount as the person would be entitled to if the person had been summonsed as a witness to NTCAT; or

(b) a Judge – the same amount as the person would be entitled to if the person had been summonsed as a witness to the Court.

(4) Section 103(3), before "the Judge" (*all references*)

insert

NTCAT or

- (5) Section 103(3)(b)
omit
him or her
insert
the claimant
- (6) After section 103(3)
insert
- (4) For proceedings under this section, NTCAT must be constituted by one or more of the following:
- (a) the President of NTCAT;
 - (b) a Deputy President of NTCAT;
 - (c) an ordinary member appointed with reference to section 16(2)(a) of the *Northern Territory Civil and Administrative Tribunal Act 2014*.

5 Section 104 amended (Rejection of small claim)

- (1) Section 104(2)(a), after "court"
insert
or tribunal
- (2) After section 104(3)
insert
- (4) For proceedings under this section, NTCAT must be constituted by one or more of the following:
- (a) the President of NTCAT;
 - (b) a Deputy President of NTCAT;
 - (c) an ordinary member appointed with reference to section 16(2)(a) of the *Northern Territory Civil and Administrative Tribunal Act 2014*.

6 Section 110D repealed (Fee chargeable for acting under this Division)

Section 110D

repeal

7 Part X inserted

After section 153

insert

**Part X Transitional matters for Justice and Other
Legislation Amendment Act 2021**

154 Application of section 103

- (1) Section 103, as amended by the *Justice and Other Legislation Amendment Act 2021*, applies only in relation to a claim made after the commencement of section 4 of that Act (the **commencement**).
- (2) Section 103, as in force immediately before the commencement, continues to apply in relation to a claim made before the commencement.

**Division 2 Amendment of Administration and Probate
Regulations 1983**

8 Regulations amended

This Division amends the *Administration and Probate Regulations 1983*.

9 Regulation 2AB inserted

After regulation 2AA

insert

2AB Small claim

For section 104(1)(a) of the Act, the prescribed amount in relation to a claim is the amount that equals the small claims limit, as defined in section 5(1) of the *Small Claims Act 2016* on the date the claim is made.

10 Regulation 2C repealed (Maximum fee chargeable by professional personal representative)

Regulation 2C

repeal

11 Part 4 inserted

After regulation 4

insert

Part 4 Transitional matters for Justice and Other Legislation Amendment Act 2021

5 Application of regulation 2AB

Regulation 2AB applies only in relation to a claim made after the commencement of that regulation.

Part 3 Amendment of Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006

12 Act amended

This Part amends the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006*.

13 Section 23 amended (Assistance)

(1) Section 23, before "The"

insert

(1)

(2) Section 23, at the end

insert

(2) For subsection (1), the Minister may appoint:

(a) a public sector employee by name; or

(b) a public sector employee by reference to the office, position or designation held or occupied by the employee; or

- (c) a public sector employee from time to time holding or occupying a named office, position or designation.

Part 4 Amendment of Coroners Act 1993

14 Act amended

This Part amends the *Coroners Act 1993*.

15 Section 4B inserted

After section 4A

insert

4B Acting Territory Coroner

- (1) The Administrator may, in writing, appoint a Local Court Judge to act in the office of the Territory Coroner:
- (a) during a vacancy in the office; or
 - (b) during any period, or all periods, when the person holding the office is absent from duty or unable to perform the duties of the office.
- (2) A person appointed under subsection (1) holds office until:
- (a) the expiry of the period (not exceeding 12 months) specified in the appointment; or
 - (b) the person ceases to be a Local Court Judge.
- (3) An acting Territory Coroner has all the functions and powers of the Territory Coroner.

Part 5 Amendment of Local Court Act 2015

16 Act amended

This Part amends the *Local Court Act 2015*.

17 Section 59A inserted

After section 59, in Part 5, Division 1

insert

59A Acting Deputy Chief Judge

- (1) The Administrator or Minister may, in writing, appoint a Judge to act in the office of Deputy Chief Judge if:
 - (a) there is a vacancy in the office; or
 - (b) a Deputy Chief Judge is unable, because of illness, absence or other cause, to perform the functions of the office.
- (2) A Judge may be appointed under subsection (1) for a term, specified in the appointment, not exceeding:
 - (a) if the appointment is made by the Administrator – 12 months; or
 - (b) if the appointment is made by the Minister – 3 months.
- (3) An acting Deputy Chief Judge may be reappointed.
- (4) An acting Deputy Chief Judge has all the functions and powers of a Deputy Chief Judge.

18 Section 70A inserted

After section 70, in Part 6, Division 1

insert

70A Review of decision of judicial registrar

- (1) This section applies if a judicial registrar makes a decision in proceedings in the exercise of the jurisdiction of the Court.
- (2) A party to the proceedings may appeal against the decision to the Court constituted by a Judge.
- (3) The appeal must be commenced within 14 days after the judicial registrar's decision was made.
- (4) The Court may extend the period mentioned in subsection (3), and may do so even if that period has expired.
- (5) Unless the Court orders otherwise, an appeal does not operate as a stay of the judicial registrar's decision.

- (6) The appeal is to be by way of a new hearing of the issue that was before the judicial registrar.

19 Part 10 inserted

After section 95

insert

**Part 10 Transitional matters for Justice and Other
Legislation Amendment Act 2021**

96 Appeal of registrar's decisions

Section 70A applies only in relation to a decision made after the commencement of that section.

**Part 6 Amendment of Local Court (Criminal
Procedure) Act 1928**

20 Act amended

This Part amends the *Local Court (Criminal Procedure) Act 1928*.

21 Section 77 amended (Power to award costs to defendant)

- (1) Section 77(1)

omit, insert

- (1) Subject to subsection (2) and section 77A, the Court may order a complainant to pay to a defendant the costs it thinks fit if:

- (a) the Court dismisses the charge of any offence on the complaint; or
- (b) the complaint is withdrawn.

- (2) Section 77(2)(c)

omit

an acquittal

insert

a dismissal

22 Section 163 amended (Right of appeal to Supreme Court)

After section 163(6)

insert

- (7) Despite anything to the contrary in this section, a decision made under Part V, Division 1 or 3 may not be appealed to the Supreme Court.

23 Part VIII, Division 7 inserted

After section 214

insert

Division 7 Transitional matters for Justice and Other Legislation Amendment Act 2021**215 Definitions**

In this Division:

amending Act means the *Justice and Other Legislation Amendment Act 2021*.

commencement means the commencement of Part 7 of the amending Act.

216 Awarding costs

- (1) Section 77, as amended by the amending Act, applies in relation to a complaint made before the commencement only if the complaint has not been determined before the commencement.
- (2) Section 77, as in force immediately before the commencement, continues to apply in relation to a complaint determined before the commencement.

217 Right of appeal

Section 163, as amended by the amending Act, applies in relation to decisions made in relation to all proceedings, including decisions made prior to the commencement.

Part 7 Amendment of Supreme Court Act 1979

24 Act amended

This Part amends the *Supreme Court Act 1979*.

25 Section 41D amended (Retirement)

Section 41D

omit

shall cease

insert

, other than an acting Associate Judge, ceases

26 Section 41H replaced

Section 41H

repeal, insert

41H Authorisation to act in office of Associate Judge

- (1) The Chief Justice may, in writing, authorise a lawyer (including a public sector employee) to act in the office of Associate Judge subject to the limitations or restrictions, if any, specified in the authorisation if:
 - (a) there is a vacancy in the office of Associate Judge; or
 - (b) an Associate Judge is absent from duty or from the Territory or is unable, for any reason, to carry out the duties of the office.
- (2) A person authorised under subsection (1) may not act in the office of Associate Judge for a continuous period longer than 12 months.

Part 8 Repeal of Act

27 Repeal of Act

This Act is repealed on the day after it commences.