

NORTHERN TERRITORY OF AUSTRALIA

INTERPRETATION AMENDMENT ACT 2021

Act No. 28 of 2021

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 28 of 2021

An Act to amend the *Interpretation Act 1978* and for related purposes

[Assented to 15 December 2021]

[Introduced 27 October 2021]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Interpretation Amendment Act 2021*.

2 Commencement

This Act commences on 1 January 2022.

Part 2 Amendment of Interpretation Act 1978

3 Act amended

This Part amends the *Interpretation Act 1978*.

4 Sections 5 to 6A replaced

Sections 5 to 6A

repeal, insert

5 Date of commencement

(1) An Act commences on the day specified or provided for in the Act.

- (2) An Act may be specified to commence:
- (a) on a particular day or on a number of different days; or
 - (b) on a day to be fixed by *Gazette* notice; or
 - (c) on the happening of a particular event or events.

Example for subsection (2)(c)

On the commencement of another Act.

- (3) If an Act is specified to commence as specified in subsection (2)(b):
- (a) a single day or time may be fixed; or
 - (b) different days or times may be fixed for different provisions of the Act.
- (4) If an Act does not specify or provide for its commencement, or the commencement of any provision, the Act or the provision of the Act commences on the day after the day on which assent to the Act is declared.

6 Proposed laws reserved for Governor-General

A proposed law or part of a proposed law reserved for the signification of the pleasure of the Governor-General does not have effect before the day on which notification of the Governor-General's assent is published in the *Gazette*, despite anything to the contrary in section 5 or in the proposed law.

Note for section 6

See section 8 of the Northern Territory (Self-Government) Act 1978 (Cth).

6A Time of commencement

An Act or a provision of an Act commences at the beginning of the day on which it commences, unless otherwise provided in the Act.

5 Section 11 amended (Repeal does not revive previous Act)

Section 11

omit

63(10)

insert

63C(5)

6 Section 17 amended (Definitions)

- (1) Section 17, definitions ***Administrative Arrangements Order***, ***Federal Circuit Court*** and ***ministerial office***

omit

- (2) Section 17

insert

Administrative Arrangements Order means an Administrative Arrangements Order made under section 35 and notified under section 36.

Family Court means the Federal Circuit and Family Court of Australia (Division 1) under the *Federal Circuit and Family Court of Australia Act 2021* (Cth).

Federal Circuit Court means the Federal Circuit and Family Court of Australia (Division 2) under the *Federal Circuit and Family Court of Australia Act 2021* (Cth).

Federal Circuit Court and Family Court of Australia, see section 7(1) of the *Federal Circuit and Family Court of Australia Act 2021* (Cth).

legislation website means:

- (a) the website with the address legislation.nt.gov.au maintained by the Agency; or
- (b) an alternative website authorised in writing by the Chief Executive Officer of the Agency.

Ministerial office, see section 4(1) of the *Northern Territory (Self-Government) Act 1978* (Cth).

notified in the Gazette, in relation to an instrument, means that notification of the making of the instrument and the following information is published in the *Gazette*:

- (a) the title of the Act under which the instrument is published;
- (b) the provision of the Act under which the instrument is required to be published that provides the power for the making of the instrument;
- (c) the title of the instrument;
- (d) the date of making of the instrument.

- (3) Section 17, definition ***subordinate legislation***, paragraphs (a) and (b), after "63"

insert

or 63A

7 Section 18A amended (References relating to an Agency)

Section 18A(3) and (4)

omit

allotted

insert

allocated

8 Section 19 amended (Ministerial references)

- (1) Section 19(1)

omit

ministerial

insert

Ministerial

- (2) Section 19(3), (4) and (5)

omit

allotted

insert

allocated

9 Section 35 replaced

Section 35

repeal, insert

35 Administrative Arrangements Order

- (1) The Administrator may make an Administrative Arrangements Order.

- (2) An Administrative Arrangements Order may do any of the following:
- (a) nominate a department or other authority or body as an Agency;
 - (b) allocate to a specified minister or the minister holding a specified Ministerial office:
 - (i) the administration of an Act or a provision of an Act; or
 - (ii) the responsibility for an area or activity of government or a government authority or government entity; or
 - (iii) responsibility for an Agency nominated under paragraph (a);
 - (c) allocate to an Agency nominated under paragraph (a):
 - (i) the administration of an Act or a provision of an Act; or
 - (ii) the responsibility for an area or activity of government or a government authority or government entity.

Note for subsection (2)(a)

*See the definition of **Agency** in sections 3(1) of the Financial Management Act 1995 and 3(1) of the Public Sector Employment and Management Act 1993.*

- (3) For subsection (2)(b)(i):
- (a) different provisions of an Act may be administered by different ministers; and
 - (b) different ministers may administer an Act in different respects; and
 - (c) 2 or more ministers may jointly administer the same Act or the same provisions of an Act.
- (4) For subsection (3)(c), the joint administration of an Act or provisions of an Act does not require the ministerial function to be exercised jointly.
- (5) The administration of any Act not allocated to a minister or an Agency by an Administrative Arrangements Order is allocated to the minister who has, and the Agency that has, responsibility for the area or activity of government under the Administrative Arrangements Order to which the subject matter of the Act most closely relates.

36 Publication and commencement of Administrative Arrangements Order

- (1) Notice of the making of an Administrative Arrangements Order must be published in the *Gazette*.
- (2) The notice must specify where a copy of the Administrative Arrangements Order may be obtained.
- (3) An Administrative Arrangements Order takes effect:
 - (a) when notice of its making is published under subsection (1); or
 - (b) at a later time specified in the Administrative Arrangements Order.

10 Section 37 amended (References in agreements)

Section 37

omit

allotted

insert

allocated

11 Section 40 replaced

Section 40

repeal, insert

40 Continuing to act during vacancy in office

- (1) If a person is acting in an office (including a Ministerial office) during the absence or inability of the office-holder and, for any reason, the office-holder ceases to hold the office, the person acting may continue to act in the office until the earlier of the following:
 - (a) the lawful revocation of the person's authority to act;
 - (b) 1 year after the office-holder ceased to hold office.
- (2) In this section:

acting in an office includes performing the duties of the office.

office includes a position and a designation.

12 Section 43 replaced

Section 43

repeal, insert

43 Power to take action or make statutory instrument includes power to revoke, amend etc.

A power under an Act to take an action or to make, grant or issue a statutory instrument includes a power, exercisable in the same manner and subject to the same conditions, to repeal, rescind, revoke, amend or vary the action or instrument.

13 Section 45 repealed (Simultaneous actions)

Section 45

repeal

14 Section 62E inserted

After section 62D, in Part VII, Division 1

insert

62E Notes

- (1) A note at the foot of a provision:
 - (a) is not exhaustive; and
 - (b) does not limit or extend the meaning of the provision.
- (2) If a note at the foot of a provision is inconsistent with the provision, the provision prevails to the extent of the inconsistency.

15 Section 63 replaced

Section 63

repeal, insert

63 Procedure for making regulations

If an Act contains a power to make regulations, a regulation made under that power must:

- (a) as soon as practicable after it is made:
 - (i) be published on the legislation website; and

- (ii) be notified in the *Gazette*; and
- (b) within 6 sitting days after it is made, be tabled in the Legislative Assembly.

63A Procedure for making rules or by-laws

- (1) If an Act contains a power to make rules or by-laws, a rule or by-law made under that power must be:
 - (a) signed by:
 - (i) the person making it; or
 - (ii) if the person making it is a statutory corporation or a local government council – a person authorised by the corporation or council to sign it; and
 - (b) once signed, given to the minister administering the provision containing the power.
- (2) Subject to this section, if a signed rule or by-law is given to a minister under subsection (1), that minister must:
 - (a) as soon as practicable after it is made, cause it to be:
 - (i) published; and
 - (ii) notified in the *Gazette*; and
 - (b) within 6 sitting days after it is notified in the *Gazette*, cause it to be tabled in the Legislative Assembly.
- (3) If a rule or by-law is given to a minister under subsection (1)(b), the minister may, before it is notified in the *Gazette*, return it to the person who signed it with a request for any amendment the minister recommends.
- (4) If a minister returns a rule or by-law under subsection (3), the person making the rule or by-law must:
 - (a) consider the amendment; and
 - (b) give the rule or by-law, signed in accordance with subsection (1)(a), to the minister, with or without the amendment included.
- (5) Subsection (2) applies to a rule or by-law given to the minister under subsection (4)(b).

- (6) Subsection (1)(b) does not apply to a by-law made under the *Unit Title Schemes Act 2009* or the *Unit Titles Act 1975*.

63B Commencement of subordinate legislation

- (1) Subordinate legislation commences on the day specified or provided for in the subordinate legislation.
- (2) Subordinate legislation may be specified to commence:
- (a) subject to subsection (3), on a particular day or on a number of different days; or
 - (b) on the happening of a particular event or events.

Examples for subsection (2)(b)

- 1 *On the commencement of a section of an Act.*
 - 2 *On the day after the day on which it is notified in the Gazette under section 63(a)(ii) or 63A(2)(a)(ii).*
- (3) Subordinate legislation must not be specified to commence or to take effect on a day that is before the day it is made, unless the Act under which it is made expressly provides for commencement or taking effect on a day before it is made.
- (4) A provision of subordinate legislation made in contravention of subsection (3) is of no effect.
- (5) If subordinate legislation does not specify or provide for its commencement, or the commencement of any provision, the subordinate legislation or the provision of the subordinate legislation commences on the day after the day on which it is made.
- (6) Despite subsection (5), a rule or by-law that does not specify or provide for its commencement and that is not published or to be published on the legislation website commences on the day on which it is notified in the *Gazette*.

63C Tabling and disallowance requirements

- (1) A failure to table subordinate legislation in the Legislative Assembly does not affect the validity of the subordinate legislation, but may be the subject of a referral by the Assembly to the committee responsible for the examination of instruments of a legislative character or another committee of the Assembly.
- (2) The Legislative Assembly may pass a resolution disallowing subordinate legislation, or specified provisions of it, that is required to be tabled under this Division, whether or not it has been tabled.

- (3) Notice of a resolution referred to in subsection (2) must be given within:
- (a) in the case of subordinate legislation that is tabled in accordance with section 63(b) or 63A(2)(b) – 12 sitting days after the subordinate legislation is tabled; or
 - (b) in the case of subordinate legislation that has not been tabled in accordance with section 63(b) or 63A(2)(b) – 12 sitting days after the last sitting day the subordinate legislation was required to be tabled.
- (4) Subject to subsection (5), disallowance under this section has the same effect as a repeal of the subordinate legislation or specified provisions of it.
- (5) If a provision of disallowed subordinate legislation (the **disallowed provision**) amended or repealed a provision of other subordinate legislation, the disallowance revives the other provision from the date of the disallowance as if the disallowed provision had not been made.

16 Section 64 amended (Subordinate legislation not to be made in terms of disallowed subordinate legislation)

Section 64(1)

omit

63

insert

63C

17 Section 65F inserted

After section 65E

insert

65F Simultaneous actions

- (1) If the effect of a statutory instrument is to substitute an action (**action A**) for another action (**action B**) that is being revoked at the same time, action A is taken to have occurred after the revocation of action B and is therefore not ineffective by reason of the revocation not having commenced before the substitution.

- (2) If a series of actions has effect simultaneously, the actions are taken to have effect in the sequence that is indicated or as the nature of the case requires.

Example for section 65F

A statutory instrument that revokes the appointment of a person and appoints another person to the same position is taken to have effect in sequence.

18 Section 66A inserted

Before section 67, in Part VIII, Division 3

insert

66A Gazette publication requirements

- (1) If an Act requires a statutory instrument to be published in the *Gazette*, it is sufficient compliance with the requirement if:
- (a) the instrument is notified in the *Gazette*; and
 - (b) the notification under paragraph (a) states the place where copies of the instrument may be purchased or obtained.
- (2) The place under subsection (1)(b) may be a website or another publicly accessible electronic format.

19 Part VIII, Division 3 inserted

After section 76

insert

Division 3 Interpretation Amendment Act 2021

77 Administrative Arrangements Orders

An Administrative Arrangements Order in force immediately before the commencement of section 9 of the *Interpretation Amendment Act 2021* is taken to have been made under section 35 as in force after the commencement.

78 Tabling requirements for subordinate legislation

Section 63 as in force before the commencement of section 15 of the *Interpretation Amendment Act 2021* continues to apply to the following until the expiry of the 12 sitting days mentioned in section 63(9) as in force immediately before its repeal:

- (a) regulations made before the commencement;

- (b) rules or by-laws signed under section 63(2)(a) before the commencement.

Part 3 Consequential amendments and repeal

20 Other laws amended

The Schedule amends the laws mentioned in it.

21 Repeal of Act

This Act is repealed on the day after it commences.

Schedule Other laws amended

section 20

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<i>AustralAsia Railway (Third Party Access) Act 1999</i>		
section 6	and	to
<i>Batchelor Institute of Indigenous Tertiary Education Act 1999</i>		
section 56(2)	Section 63 does	Sections 63A to 63C do
<i>Charles Darwin University Act 2003</i>		
section 47(5)	Section 63 does	Sections 63A to 63C do
<i>Construction Industry Long Service Leave and Benefits Act 2005</i>		
section 57(3)(b)	section 63 applies	sections 63A to 63C apply
<i>Co-operatives (National Uniform Legislation) Act 2015</i>		
section 7	Section 63(1)(c) and (8) to (10)	Sections 63(b) and 63C
<i>Education and Care Services (National Uniform Legislation) Act 2011</i>		
section 6(2) and (3)	63(9) and (10)	63C
section 6(4)	63(9)	63C(2) to (4)
section 6(6)	3 sitting	6 sitting
<i>Fisheries Act 1988</i>		
section 49	and 63	, 63, 63B and 63C
<i>Government Owned Corporations Act 2001</i>		
sections 7A(3)(a) and 10(3)(a)	ministerial	Ministerial

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<i>Jurisdiction of Courts (Cross-Vesting) Act 1987</i>		
section 3(1), definition <i>Family Court</i>	whole definition	
<i>Legal Profession Act 2006</i>		
section 693(2)	63(9)	63C
<i>Legal Profession Regulations 2007</i>		
regulation 17(2)(a)(viii) and (ix)	ministerial	Ministerial
<i>Local Government Act 2019</i>		
section 278, note 1	Section 63 <i>is</i>	Sections 63A to 63C <i>are</i>
section 278, note 2	63(2)	63A(1)(a)(ii)
section 278, note 3	63(3) 3 sitting 63(9)	63A(2) 6 sitting 63C
<i>Menzies School of Health Research Act 1985</i>		
section 42(2)	Section 63 does	Sections 63A to 63C do
<i>National Health Funding Pool and Administration (National Uniform Legislation) Act 2012</i>		
section 24(3), definition <i>subordinate legislation,</i> paragraphs (a) and (b)	section 63 applies	sections 63 to 63C apply
<i>Power Generation Corporation Act 2014</i>		
section 12(5)	63(9) and (10) apply	63C applies

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<i>Power Retail Corporation Act 2014</i>		
section 12(5)	63(9) and (10) apply	63C applies
<i>Professional Standards Act 2004</i>		
section 13(2)	Section 63 applies	Sections 63A to 63C apply
section 13(2)(b)	63(3)(a)	63A(2)(a)(ii)
section 14(3)	63(3)(b)	63B
section 33(1A)(e) and (1B)(d)	63	63B
<i>Public Sector Employment and Management Act 1993</i>		
section 16(3), after "and 63"		to 63C
<i>Superannuation Act 1986</i>		
section 37(4)	Section 63 applies	Sections 63A to 63C apply
<i>Territory Parks and Wildlife Conservation Act 1976</i>		
section 25AQ(5)	63(2)(a)	63A(1)(a)
<i>Traffic Act 1987</i>		
section 11(7)	Section 63(1)(c), (8), (9) and (10)	Sections 63(b) and 63C
<i>Unit Titles Act 1975</i>		
after section 122(5)		(6) Any failure to forward a by-law made under this Act to the Minister in accordance with section 63A(1)(b) of the

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
		<i>Interpretation Act 1978</i> before the commencement does not affect the validity or operation of the by-law or any action taken under it.
<i>Unit Title Schemes Act 2009</i>		
after section 119(5)		(6) Any failure to forward a by-law made under this Act to the Minister in accordance with section 63A(1)(b) of the <i>Interpretation Act 1978</i> before the commencement does not affect the validity or operation of the by-law or any action taken under it.
<i>Wills Act 2000</i>		
section 15(2)(b)	of Australia	