

Serial 191  
Justice and Other Legislation Amendment Bill (No. 2) 2011  
Mr Knight

A Bill for an Act to amend various Acts administered by the Minister for Justice and Attorney-General, and to amend the *Police Administration Act*

NORTHERN TERRITORY OF AUSTRALIA

JUSTICE AND OTHER LEGISLATION AMENDMENT ACT (NO. 2) 2011

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Act No. [ ] of 2011

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# NORTHERN TERRITORY OF AUSTRALIA

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Act No. [ ] of 2011

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An Act to amend various Acts administered by the Minister for Justice and Attorney-General, and to amend the *Police Administration Act*

[Assented to [ ] 2011]  
[Second reading [ ] 2011]

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 (No. 2) 2011*.

### 2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

## Part 2 Amendment of Bail Act

### 3 Act amended

This Part amends the *Bail Act*.

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**4 Section 6 amended**

## (1) Section 6

*omit*

(so far as they relate to the offence of which the person is accused)

*insert*

and except in relation to paragraphs (f) and (g), so far as they relate to the offence of which the person is accused

## (2) Section 6(f) and (g)

*omit, insert*

(f) the period between the making of an application in relation to the accused person, or the arrest of the accused person, under section 15 or 43 of the *Sentencing Act* (who is referred to as an offender under those provisions) and the accused person's appearance before a court for the application or as a result of the arrest;

(g) the period between the committal of the accused person under section 15(3B) or 43(4C) of the *Sentencing Act* (who is referred to as an offender under those provisions) and the accused person's appearance before the Supreme Court for that committal;

(h) any other period prescribed by regulation.

**Part 3 Amendment of Companies (Trustees and Personal Representatives) Act****5 Act amended**

This Part amends the *Companies (Trustees and Personal Representatives) Act*.

**6 Section 53 amended**

## (1) Section 53, heading

*omit*

**compulsory**

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(2) Section 53(1)(a)(i)

*omit*

(3) Section 53(1)(a)(ii)

*omit*

the transferring company

*insert*

a trustee company (the *transferring company*)

## **7 Section 54 amended**

Section 54(2), definition *compulsory transfer provision*

*omit, insert*

*compulsory transfer provision* means either of the following apply following the making of a compulsory transfer determination under section 601WBA(1)(a) of the Corporations Act 2001:

- (a) section 53;
- (b) Part 5D.6, Division 2 of the Corporations Act 2001.

## **8 Sections 55 and 56 inserted**

After section 54, in Part 2

*insert*

### **55 Certificates evidencing transfer**

- (1) A person authorised under subsection (3) may, in writing signed by the person, certify that a specific asset or liability has become an asset or liability of the receiving company under section 53.
- (2) For all purposes and in all proceedings a certificate issued under subsection (1) is evidence of the matters certified.
- (3) ASIC may, in writing, authorise a person who is a member of ASIC or a member of its staff to issue certificates under this section.

### **56 Registration or record of transfer**

- (1) A registering authority must, on application, register or record in an appropriate manner:

- (a) anything:
- (i) that occurs by operation of a transfer provision; or
  - (ii) done:
    - (A) under a transfer provision; or
    - (B) to give effect to a transfer provision; or
    - (C) for a purpose connected with, or arising out of, giving effect to a transfer provision; or
- (b) a document relating to something mentioned in paragraph (a).
- (2) The application under subsection (1) must be accompanied by a certificate issued under section 55(1) in relation to the assets or liabilities to which the application relates.
- (3) In this section:

**registering authority** means the Registrar-General and any other person or body required under a law of the Territory to register or record transactions affecting assets or liabilities, or documents relating to such transactions.

**transfer provision** means:

- (a) section 53; or
- (b) Part 5D.6, Division 2 of the Corporations Act 2001.

## Part 4                      Amendment of Justices Act

### 9                      Act amended

This Part amends the *Justices Act*.

### 10                     Section 63A amended

- (1)                    Section 63A(1) and (2)

*omit, insert*

- (1AA) This section applies if a Court (the **relevant Court**) has:

- (a) proceeded ex parte, under section 62(b) or 62A(b), to hear and adjudicate on a complaint and has found the defendant guilty of the offence or made an order against the defendant to which the complaint relates; or

- (b) proceeded ex parte, under section 191, to hear and adjudicate on an offence specified in a notice to appear and has found the defendant guilty of the offence or made an order against the defendant to which the notice to appear relates; or
  - (c) dismissed a complaint under section 63(1) or the proceedings for the notice to appear under section 190(4) (each of which is a *dismissal*).
- (1) The defendant in relation to a finding of guilt or order may, not later than 1 month after the finding of guilt or order comes to the defendant's notice, give the clerk of the relevant Court, a written application to the relevant Court to set aside that finding or order.
  - (1A) The complainant in relation to a dismissal may, not later than 1 month after the dismissal comes to the complainant's notice, give the clerk of the relevant Court a written application to the relevant Court to set aside the dismissal.
  - (1B) An application mentioned in subsection (1) or (1A) must state the grounds of the application.
  - (2) If a clerk of a relevant Court is given an application under subsection (1) or (1A), the clerk must:
    - (a) appoint a time and place for the hearing by the relevant Court of the application; and
    - (b) give written notice to the person who made the application of the time and place so appointed.
- (2) Section 63A(4)  
*omit*  
all words from "order referred to" to "shall, upon"  
*insert*  
order mentioned in subsection (1AA)(a) or (b), the keeper of the gaol where the defendant is being held, or a person authorised in writing by the keeper for that purpose, must, at
- (3) Section 63A(5), (6), (7) and (9)  
*omit (all references)*  
shall



*insert*

must

- (4) Section 63A(5)

*omit*

he

*insert*

the defendant

- (5) Section 63A(7), after "subsection (1)"

*insert*

or (1A)

- (6) Section 63A(7)

*omit*

his

*insert*

the defendant's

- (7) Section 63A(7)(b)(ii)

*omit*

he

*insert*

the other party

- (8) After section 63A(9)

*insert*

- (10) In this section:

***complainant***, in circumstances relating to a notice to appear, includes a complainant as defined in section 189.

***defendant***, in circumstances relating to a notice to appear, includes a person who fails to appear as required by the notice to appear.

*notice to appear*, see section 189.

## 11 Section 191 amended

- (1) Section 191, heading

*omit*

**Warrant to apprehend on**

*insert*

**Procedure if**

- (2) Section 191(2)

*omit*

- (2) A

*insert*

- (5) A

- (3) Section 191(1)

*omit, insert*

- (1) This section applies if a person fails to appear as required by a notice to appear and the Court is satisfied:

(a) the substance of the offence specified in the notice to appear (the ***specified offence***) is substantiated on oath made before the Court; and

(b) the notice to appear was served in accordance with section 133B(2) of the *Police Administration Act*.

- (2) The Court may do either of the following:

(a) adjourn the hearing of the specified offence and issue a warrant for the apprehension of the person;

(b) proceed *ex parte* to a hearing of the specified offence (the ***ex parte proceedings***) and, subject to this section, adjudicate in relation to that offence as fully and effectually, to all intents and purposes, as if the person had personally appeared as required by the notice to appear.

*Note for subsection (2)*

*See section 63A for the process for setting aside a decision under this section.*

- (3) For the *ex parte* proceedings, the Court may have regard to either or both of the following as evidence of the commission by the person of the specified offence:
- (a) the statement in the notice to appear about the substance of the specified offence;
  - (b) any oral evidence.
- (4) If the result of the *ex parte* proceedings is that the Court finds the person committed the specified offence, the prosecutor may recite to the Court a relevant matter alleged against the person about the specified offence as if the person had personally appeared and pleaded guilty.

## Part 5                      Amendment of Liquor Act

### 12                      Act amended

This Part amends the *Liquor Act*.

### 13                      Section 106B amended

Section 106B(3)(a) and (b)

*omit, insert*

- (a) the person permitted to enter or remain on the licensee's premises was at least 16 years of age; and
- (b) the defendant was provided with a form of identification that may reasonably be accepted as a form of identification in relation to the person indicating he or she was an adult.

## Part 6                      Amendment of Local Court Act

### 14                      Act amended

This Part amends the *Local Court Act*.

### 15                      Section 19 amended

After section 19(3)

*insert*

- (4) The Supreme Court may extend the time for an appeal as mentioned in subsection (3) if the Supreme Court:

- (a) is of the opinion that the failure to institute the appeal within the period of 14 days was due to exceptional circumstances; and
- (b) is satisfied the case of any other party to the appeal would not be materially prejudiced because of the delay.

## **Part 7                    Amendment of Oaths, Affidavits and Declarations Act**

### **16            Act amended**

This Part amends the *Oaths, Affidavits and Declarations Act*.

### **17            Section 5 amended**

- (1) Section 5(1)(a) and (b), after "I"  
*insert*  
, ... [full name] ...,
- (2) After section 5(3)  
*insert*
- (4) The person taking the oath may insert into the words mentioned in subsection (1)(a) or (b), after his or her name, his or her address or other identifying information.

### **18            Section 8 amended**

- (1) Section 8(1)(a) and (b), after "Do you"  
*insert*  
, ... [full name] ...,
- (2) After section 8(4)  
*insert*
- (5) The person administering the oath may insert into the words mentioned in subsection (1)(a) or (b), after the name of the person taking the oath, that person's address or other identifying information.

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**19 Section 13 repealed**

Section 13

*repeal*

**20 Section 18 amended**

(1) Section 18(1)

*omit*

I solemnly

*insert*

I, ... [full name] ..., solemnly

(2) After section 18(3)

*insert*

(4) A person making a statutory declaration or unattested declaration may insert into the words mentioned in subsection (1), after his or her name, his or her address or other identifying information.

**21 Section 19 amended**

Section 19(1)

*omit*

**22 Section 20 amended**

Section 20(2)

*omit*

**23 Section 21 amended**

Section 21(1)

*omit*

**24 Section 24A inserted**

Before section 25, in Part 6

*insert*

**24A Minor non-compliance does not affect validity**

(1) Inadvertent non-compliance with a formal requirement that does not materially affect the nature of an oath, affidavit, statutory declaration or unattested declaration does not invalidate or otherwise affect the force and effect of the oath, affidavit or declaration.

(2) In this section:

*formal requirement* means a requirement imposed by this or any other Act about the form or content of an oath, affidavit or declaration or how it is to be administered or made.

**25 Schedule 1 amended**

(1) Schedule 1, item 4, after "to be given"

*insert*

by [*name of person for whom interpreter is to interpret*]

(2) Schedule 1, at the end

*insert*

*Note for Schedule 1*

*Schedule 1 sets out the content of an oath for when the oath is recited in the first person by the person taking the oath. If an oath is recited in the third person by the person administering it, any necessary changes may be made to the content of the oath.*

**Part 8 Amendment of Police Administration Act****26 Act amended**

This Part amends the *Police Administration Act*.

**27 Section 133C amended**

(1) Section 133C(1)(a) and (b), at the end

*insert*

and

(2) Section 133C(1)(d)

*omit, insert*

(d) state, if the person does not appear before the Court as

required by the notice, the consequences include that the Court may issue a warrant for the person's arrest or proceed ex parte to a hearing of the offence and adjudicate on the offence as fully and effectually, to all intents and purposes, as if the person had personally appeared as required by the notice; and

- (e) be signed by the member who issued the notice.

## **Part 9                    Expiry of Act**

### **28                    Expiry**

This Act expires on the day after it commences.