

Serial 3
Justice Legislation Amendment Bill 2008
Dr Burns

A Bill for an Act to amend various legislation administered by the Minister for
Justice and Attorney-General

NORTHERN TERRITORY OF AUSTRALIA
JUSTICE LEGISLATION AMENDMENT ACT 2008

Act No. [] of 2008

TABLE OF PROVISIONS

Part 1	Preliminary matters	
1	Short title	1
2	Commencement	1
Part 2	Amendment of Acts	
Division 1	Consumer Affairs and Fair Trading Act	
3	Act amended	1
4	Amendment of long title	2
5	Amendment of section 4 (Interpretation)	2
6	New section 9A.....	2
	9A Deputy Commissioner	
7	Amendment of section 180 (Commissioner's certificate as evidence)	2
8	Amendment of section 224 (Commissioner's certificate as evidence)	3
9	Amendment of section 329 (Evidentiary provisions).....	3
10	Amendment of section 336 (Protection of Commissioner, council members, officers, &c. (former S 236)).....	3
Division 2	Powers of Attorney Act	
11	Act amended	4
12	Amendment of section 5 (Definitions)	4
13	Amendment of section 6 (Execution of instruments creating or revoking powers)	4
14	Repeal and substitution of section 14.....	5
	14 Execution of instrument creating enduring power	
15	New sections 23 and 24	5
	23 Approved forms	
	24 Registrar-General's directions	
16	New Schedule 2	5
	Schedule 2 Witnesses to instruments	

Division 3	Professional Standards Act	
17	Act amended	6
18	Repeal and substitution of section 13.....	6
	13 Notification, tabling and disallowance of schemes	
19	Amendment of section 14 (Commencement of schemes)	7
20	Amendment of section 15 (Challenges to schemes)	7
21	Amendment of section 17 (Amendment and revocation of schemes)	8
22	Amendment of section 17A (Notification of revocation of schemes)	8
23	Amendment of section 17B (Termination of operation of interstate schemes in this jurisdiction)	8
24	Amendment of section 45 (Functions of Council)	9
Part 3	Amendment of subordinate legislation	
Division 1	Fines and Penalties (Recovery) Regulations	
25	Regulations amended.....	9
26	Amendment of regulation 4 (Amounts included in <i>fine</i> or <i>penalty</i>).....	9
Division 2	Powers of Attorney Regulations	
27	Regulations amended.....	10
28	Amendment of regulation 5 (Procedure for registration)	10
29	Amendment of regulation 5A (Recording and use of common form provisions)	11
30	Amendment of regulation 8 (Notice of death)	11
31	Repeal of Schedule 2	11



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2008

An Act to amend various legislation administered by the Minister for Justice and Attorney-General

[Assented to [] 2008]
[Second reading [] 2008]

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 Legislation Amendment Act 2008*.

2 Commencement

- (1) Part 2, Division 3 is taken to have commenced on 1 January 2006.
- (2) The remaining provisions of this Act commence on the day on which the Administrator's assent to this Act is declared.

Part 2 Amendment of Acts

Division 1 Consumer Affairs and Fair Trading Act

3 Act amended

This Division amends the *Consumer Affairs and Fair Trading Act*.

4 Amendment of long title

Long title

omit

Commissioners

substitute

Commissioner

5 Amendment of section 4 (Interpretation)

Section 4

insert (in alphabetical order)

Deputy Commissioner means the person holding or occupying the office of Deputy Commissioner of Consumer Affairs mentioned in section 9A.

6 New section 9A

After section 9

insert

9A Deputy Commissioner

- (1) The Minister may appoint a public sector employee to be the Deputy Commissioner of Consumer Affairs.
- (2) Subject to the direction and control of the Commissioner, the Deputy Commissioner may exercise the powers and perform the functions of the Commissioner.

7 Amendment of section 180 (Commissioner's certificate as evidence)

Section 180(1) and (2), after "Commissioner"

insert

or Deputy Commissioner

8 Amendment of section 224 (Commissioner's certificate as evidence)

Section 224(1) and (2), after "Commissioner"

insert

or Deputy Commissioner

9 Amendment of section 329 (Evidentiary provisions)

(1) Section 329(b)(i)

omit

or the Commissioner's

substitute

, Deputy Commissioner or Commissioner's delegate

(2) Section 329(c)

omit, substitute

(c) judicial notice must be taken, for this Part, of:

(i) the fact that a person is the Commissioner or Deputy Commissioner; and

(ii) the signature of the Commissioner, Deputy Commissioner or Commissioner's delegate on a certificate purporting to be issued under paragraph (b).

10 Amendment of section 336 (Protection of Commissioner, council members, officers, &c. (former S 236))

(1) Section 336, heading

omit, substitute

Protection from liability

(2) Section 336

omit

the Chairman

substitute

Deputy Commissioner or Chairman

Division 2 Powers of Attorney Act

11 Act amended

This Division amends the *Powers of Attorney Act*.

12 Amendment of section 5 (Definitions)

(1) Section 5

omit

Act, unless the contrary intention appears –

substitute

Act:

(2) Section 5

insert (in alphabetical order)

approved form means a form approved by the Registrar-General under section 23.

13 Amendment of section 6 (Execution of instruments creating or revoking powers)

Section 6(4)

omit, substitute

- (4) An instrument creating a power must be executed in the presence of and attested by:
- (a) if the instrument is signed by the donor – a person mentioned in Schedule 2; or
 - (b) if the instrument is signed by direction of, and in the presence of, the donor – a person mentioned in Schedule 2 and another person.

14 Repeal and substitution of section 14

Section 14

repeal, substitute

14 Execution of instrument creating enduring power

A person who witnesses an instrument creating an enduring power under section 6(4) must not be a party to the instrument or near relative of the donee of the power.

15 New sections 23 and 24

After section 22

insert

23 Approved forms

The Registrar-General may approve forms for use under this Act.

24 Registrar-General's directions

- (1) The Registrar-General may, by *Gazette* notice, issue directions relating to the requirements for lodging, registering, witnessing or giving documents under this Act.
- (2) The notice must specify a place where the directions are available for inspection by the public, without charge, during normal business hours.
- (3) A person must comply with the directions unless the Registrar-General dispenses with compliance.
- (4) The Registrar-General must comply with a direction from the Minister concerning the directions.

16 New Schedule 2

After Schedule 1

insert

Schedule 2 Witnesses to instruments

section 6(4)

Place of execution of instrument	Persons who can witness execution
The Territory	a Commissioner for Oaths a member of the Legislative Assembly a legal practitioner a person holding office under the <i>Supreme Court Act, Justices Act, Local Court Act</i> or <i>Registration Act</i> a police officer a person licensed as a conveyancing agent or real estate agent under the <i>Agents Licensing Act</i> a Notary Public any other person approved by the Registrar-General
A State or another Territory	any person approved by Registrar-General's directions
A place outside Australia	any person approved by Registrar-General's directions

Division 3 Professional Standards Act

17 Act amended

This Division amends the *Professional Standards Act*.

18 Repeal and substitution of section 13

Section 13

repeal, substitute

13 Notification, tabling and disallowance of schemes

- (1) The Minister may notify a scheme approved by the Council (or, if it is an interstate scheme, by the appropriate Council for the jurisdiction in which the scheme was prepared) in the *Gazette*.

- (2) Section 63 of the *Interpretation Act* applies to a scheme notified under subsection (1) as though:
- (a) the proposed scheme were a proposed rule; and
 - (b) the notification were notification under section 63(3)(a) of that Act.
- (3) Section 57 of the *Interpretation Act* does not apply to a scheme notified under subsection (1).
- (4) In this section:

interstate scheme includes an instrument amending an interstate scheme.

Note

This definition applies subsections (1) and (2) to instruments that amend an interstate scheme. Those subsections already apply, because of section 17(5), to instruments that amend a scheme that is not an interstate scheme.

19 Amendment of section 14 (Commencement of schemes)

Section 14(1)

omit, substitute

- (1) A scheme notified in the *Gazette* commences:
- (a) on the day (subsequent to the date of notification) specified in the scheme; or
 - (b) if no day is specified – 2 months after the date of notification.

20 Amendment of section 15 (Challenges to schemes)

Section 15(1)

omit

published as referred to in section 13

substitute

notified in the *Gazette*

21 Amendment of section 17 (Amendment and revocation of schemes)

Section 17, note

omit

published under section 13

substitute

notified under section 13

22 Amendment of section 17A (Notification of revocation of schemes)

Section 17A(1)

omit

publication

substitute

notification

23 Amendment of section 17B (Termination of operation of interstate schemes in this jurisdiction)

(1) Section 17B(5)

omit

published

substitute

notified

(2) Section 17B(5)(a) and (b)

omit

its publication

substitute

notification

24 Amendment of section 45 (Functions of Council)

Section 45(1)(a)(i)

omit, substitute

- (i) the notification in the *Gazette* of a scheme, or of an instrument amending or revoking a scheme;

Part 3 Amendment of subordinate legislation

Division 1 Fines and Penalties (Recovery) Regulations

25 Regulations amended

This Division amends the *Fines and Penalties (Recovery) Regulations*.

26 Amendment of regulation 4 (Amounts included in *fine* or *penalty*)

- (1) Regulation 4

omit

For

substitute

- (1) For

- (2) After regulation 4(1)

insert

- (2) For section 6(1)(e) of the Act, a fine includes:

- (a) an amount payable to the Territory under Part 5 of the *Victims of Crime Assistance Act*; and
- (b) an amount payable to the Territory under Part IV of the *Crimes (Victims Assistance) Act* (repealed) as continued in force by section 73 of the *Victims of Crime Assistance Act*.

Division 2 Powers of Attorney Regulations

27 Regulations amended

This Division amends the *Powers of Attorney Regulations*.

28 Amendment of regulation 5 (Procedure for registration)

(1) Regulation 5(1A)(a)

omit

Form 1 in Schedule 2

substitute

the approved form

(2) Regulation 5(1A)(b)(ii)

omit, substitute

(ii) both the original and duplicate or attested copy bear the signature of each party (excluding the signature of the donor of the power if the instrument is signed by direction of the donor) and each witness; and

(3) Regulation 5(1A)(b)(i), (iii) to (v), at the end

insert

and

(4) Regulation 5(1A)(b)(vi)

omit, substitute

(vi) the name and either the contact address or telephone number of each witness is written, typed or stamped below the witness's signature; and

(5) Regulation 5(3)

omit

Form 2 in Schedule 2

substitute

the approved form

29 Amendment of regulation 5A (Recording and use of common form provisions)

Regulation 5A(1)

omit

Form 3 in Schedule 2

substitute

the approved form

30 Amendment of regulation 8 (Notice of death)

Regulation 8(1)(c) and (2)(a)

omit

in accordance with Form 5;

substitute

of revocation of power by death in the approved form; and

31 Repeal of Schedule 2

Schedule 2

repeal