

Serial 206
Associations
Incorporation
Amendment
Mr Burke

NORTHERN TERRITORY OF AUSTRALIA
ASSOCIATIONS INCORPORATION AMENDMENT BILL 1996

TABLE OF PROVISIONS

Clause

1. Short title
2. Commencement
3. Principal Act
4. Interpretation
5. Vacation of office of public officer
6. Filing of rules and trusts
7. Alteration of rules, &c.
8. Appointment of public officer
9. Filing of rules and trusts
10. Alteration of rules, &c.
11. *Local Government Act* applies to incorporated associations performing local government functions
12. Repeal and substitution:

"26A. PRESCRIBED PROPERTY"
13. Savings and transitional





NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the *Associations Incorporation Act*

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 *Associations Incorporation Amendment Act 1996*.

2. COMMENCEMENT

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Associations Incorporation Act* is in this Act referred to as the Principal Act.

4. INTERPRETATION

Section 4(1) of the Principal Act is amended by omitting from paragraph (d) of the definition of "prescribed property" the words "not more than \$2,000" and substituting "not more than \$25,000".

Associations Incorporation Amendment

5. VACATION OF OFFICE OF PUBLIC OFFICER

Section 13 of the Principal Act is amended by inserting after subsection (1) the following:

"(1A) Where under the rules of an incorporated association the public officer of the association is required to be an employee of the association or to hold another office specified in the rules, the office of public officer of the association becomes vacant if the public officer ceases to be an employee of the association or to hold the other office specified in the rules, as the case may be."

6. FILING OF RULES AND TRUSTS

Section 15 of the Principal Act is amended -

(a) by inserting at the end of subsection (1)(b) "on the day on which the association is incorporated";

(b) by inserting after subsection (1) the following:

"(1A) Where, after the incorporation of an association under this Part, a trust relating to the association is created, the association must, within one month after the trust's creation, file with the Registrar particulars of, and a copy of all instruments evidencing, the trust.

Penalty: \$1,000."; and

(c) by omitting from subsection (2) "subsection (1)" and substituting "subsection (1) or (1A)".

7. ALTERATION OF RULES, &c.

Section 16 of the Principal Act is amended by omitting subsection (3) and substituting the following:

"(3) An alteration of the objects and purposes of an incorporated association is of no effect until the alteration is approved by the Registrar.

"(4) An alteration of the objects, purposes or rules of an incorporated association, or an alteration of a trust relating to an incorporated association, is of no effect until -

(a) the notice of the alteration;

(b) the copy of any instrument evidencing the alteration; and

Associations Incorporation Amendment

(c) the statutory declaration,

are filed with the Registrar, and, in a case to which subsection (2) applies, until notice of the alteration is given in a newspaper circulating in the Territory."

8. APPOINTMENT OF PUBLIC OFFICER

Section 25R of the Principal Act is amended by inserting after subsection (3) the following:

"(3A) Where under the rules of an incorporated trading association the public officer of the association is required to be an employee of the association or to hold another office specified in the rules, the office of public officer of the association becomes vacant if the public officer ceases to be an employee of the association or to hold the other office specified in the rules, as the case may be."

9. FILING OF RULES AND TRUSTS

Section 25U of the Principal Act is amended -

(a) by inserting at the end of subsection (1)(b) "on the day on which the association is incorporated";

(b) by inserting after subsection (1) the following:

"(1A) Where, after the incorporation of a trading association under this Part, a trust relating to the association is created, the association must, within one month after the trust's creation, file with the Registrar particulars of, and a copy of all instruments evidencing, the trust.

Penalty: \$1,000."; and

(c) by omitting from subsection (2) "subsection (1)" and substituting "subsection (1) or (1A)".

10. ALTERATION OF RULES, &c.

Section 25V of the Principal Act is amended by omitting subsection (4) and substituting the following:

"(4) An alteration of the objects and purposes of an incorporated trading association is of no effect until the alteration is approved by the Registrar.

Associations Incorporation Amendment

"(5) An alteration of the objects, purposes or rules of an incorporated trading association, or an alteration of a trust relating to an incorporated trading association, is of no effect until -

- (a) the notice, required under subsection (1), of the alteration;
- (b) the copy, required under subsection (2), of any instrument evidencing the alteration; and
- (c) the statutory declaration required under subsection (2),

are filed with the Registrar, and, in a case to which subsection (3) applies, until notice of the alteration is given in a newspaper circulating in the Territory."

11. *LOCAL GOVERNMENT ACT APPLIES TO INCORPORATED ASSOCIATIONS PERFORMING LOCAL GOVERNMENT FUNCTIONS*

Section 25AZF(1) of the Principal Act is amended by omitting all words after "community government" and substituting the following:

"council -

- (a) section 181A of the *Local Government Act*, and a provision of or under that Act that is prescribed, apply to the incorporated association; and
- (b) a power under section 181A of the *Local Government Act*, or a power or function under a provision of or under that Act, which provision is prescribed under paragraph (a), that may be exercised or performed in relation to a community government council may be exercised or performed in relation to the association,

as if the association were a community government council.

"(1A) The requirements of subsection (1) are in addition to the requirement to comply with the provisions of or under this Act."

12. *REPEAL AND SUBSTITUTION*

Section 26A of the Principal Act is repealed and the following substituted:

"26A. *PRESCRIBED PROPERTY*

"(1) An incorporated association or incorporated trading association must not dispose of, charge or otherwise deal with prescribed property (other than

Associations Incorporation Amendment

prescribed property that is a lease under the *Special Purposes Leases Act*), other than by way of -

- (a) a disposal to, or a charge as security for a loan or other benefit by, the Territory; or
- (b) a lease, including a sublease, for a term of 12 months or less,

except with the consent in writing of the Minister and in accordance with the conditions, if any, that the Minister imposes on the consent.

"(2) Where prescribed property is a lease under the *Special Purposes Leases Act*, an incorporated association or incorporated trading association must not dispose of, charge or otherwise deal with the property, except with the consent required under section 6 of that Act and in accordance with the conditions, if any, that the relevant minister under that Act imposes on the consent.

"(3) It is a condition of every consent given under subsection (1) that, except as otherwise authorised in writing by the Minister -

- (a) property exchanged for prescribed property; or
- (b) property acquired wholly or partly from funds realised on the sale or other disposal of prescribed property,

is prescribed property.

"(4) Subject to subsections (11) and (12), except as provided in sections 22A and 25AQ, a dealing with prescribed property in contravention of subsection (1) or (2) is void and of no effect.

"(5) Where prescribed property is land granted for the purposes of an Aboriginal community living area in pursuance of Part IV of the *Crown Lands Act* (as in force before the commencement of the *Pastoral Land Act*) or Part 8 of the *Pastoral Land Act*, the Minister cannot consent under subsection (1) to a disposal, charge or dealing with all or a part of the land unless the purpose is -

- (a) to register an easement or easement in gross under the *Real Property Act* that, except for this subsection, would otherwise be able to be registered; or
- (b) to give effect to a recommendation made pursuant to section 114 of the *Pastoral Land Act* in relation to an abandoned Aboriginal community living area.

Associations Incorporation Amendment

"(6) An Aboriginal corporation, within the meaning of the *Aboriginal Councils and Associations Act 1976* of the Commonwealth, must not dispose of, charge or otherwise deal with prescribed property that is land granted for the purposes of an Aboriginal community living area in pursuance of Part IV of the *Crown Lands Act* (as in force before the commencement of the *Pastoral Lands Act*) or Part 8 of the *Pastoral Land Act* except with the consent of the Minister and in accordance with the conditions, if any, that the Minister imposes on the consent.

"(7) The Minister cannot consent under subsection (6) unless the dealing is -

- (a) to register an easement or easement in gross under the *Real Property Act* that, except for this subsection, would otherwise be able to be registered; or
- (b) to give effect to a recommendation under section 114 of the *Pastoral Land Act* in relation to an abandoned Aboriginal community living area.

"(8) A dealing with prescribed property in contravention of subsection (6) is void and of no effect.

"(9) Where prescribed property was acquired wholly or partly from or using funds obtained under a grant from the Commonwealth, the Minister cannot give his or her consent under subsection (1), (5) or (6) until he or she -

- (a) has given the Commonwealth reasonable notice of his or her intention to give consent; and
- (b) has considered any submissions made by the Commonwealth within the time specified in that notice.

"(10) An incorporated association and incorporated trading association must keep and maintain a register of prescribed property.

"(11) The Minister may under subsection (1) consent to a disposal of, charge on or dealing with prescribed property after the disposal, charge or dealing purported to take place, but only where he or she is of the opinion that to fail to consent would, in all the circumstances, be unjust to all parties to the purported disposal, charge or dealing.

Associations Incorporation Amendment

"(12) Where consent is given under subsection (1) in accordance with subsection (11), the purported disposal, charge or dealing is deemed to have been, on and from the day on which it purported to take place, as valid and effectual as it would have been if the Minister's consent had been given on that day."

13. SAVINGS AND TRANSITIONAL

(1) Where, before the commencement of this Act, the Minister purported to consent under section 26A of the Principal Act as then in force to a disposal of, a charge on or a dealing with prescribed property after the disposal, charge or dealing purported to take place, the disposal, charge or dealing is deemed to be valid and of effect on and from the day on which the disposal, charge or dealing purported to take place.

(2) Where, before the commencement of this Act, a disposal of, a charge on or a dealing with prescribed property purported to take place without the consent of the Minister required under section 26A(1) of the Principal Act as then in force, the Minister may consent to the purported disposal, charge or dealing and, where he or she does so, the disposal, charge or dealing is deemed to be, on and from the day on which the disposal, charge or dealing purported to take place, valid and of effect.

(3) Where, before the commencement of this Act, a lease or sublease was made for a term of 12 months or less in relation to prescribed property, the lease or sublease is valid and of effect although the Minister had not consented to it under the Principal Act as then in force.

