

Serial 88
Justice Legislation Amendment Bill 2007
Mr Stirling

**A BILL
for
AN ACT**

to amend various Acts administered by the Minister for Justice and
Attorney-General, and for related purposes

NORTHERN TERRITORY OF AUSTRALIA
JUSTICE LEGISLATION AMENDMENT ACT 2007

Act No. [] of 2007

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2007

AN ACT

to amend various Acts administered by the Minister for Justice and Attorney-General, and for related purposes

[Assented to [] 2007]
[Second reading [] 2007]

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 2007*.

PART 2 – AMENDMENT OF AGENTS LICENSING ACT

2. Act amended

This Part amends the *Agents Licensing Act*.

3. Amendment of section 29 (Grant or refusal of licences)

(1) Section 29(2)

omit

all words from ", whether" to "lodged,"

- (2) After section 29(2)

insert

(2A) For deciding whether an applicant is eligible for the grant of a licence under section 22(1)(c)(iv), the Board may require an assessment of the applicant's competency based on the applicant's qualifications and experience by a registered training organisation as defined in the *Northern Territory Employment and Training Act*.

(2B) The applicant must pay for the cost of the assessment.

(2C) Subsections (2) and (2A) apply regardless of whether an objection to the grant of the application is lodged.

PART 3 – AMENDMENT OF *ANTI-DISCRIMINATION ACT*

4. Act amended

This Part amends the *Anti-Discrimination Act*.

5. Amendment of section 41 (Discrimination in goods, services and facilities area)

Section 41(2)

omit

all words from "a person" to "behalf of"

PART 4 – AMENDMENT OF *BUSINESS TENANCIES (FAIR DEALINGS) ACT 2003*

6. Act amended

This Part amends the *Business Tenancies (Fair Dealings) Act 2003*.

7. Amendment of section 6 (Certain retail shops excluded from operation of Act)

- (1) Section 6(d)(ii), at the end

insert

or

- (2) After section 6(d)(ii)

insert

- (iii) a body corporate whose securities are listed on a financial market outside Australia and the external territories that is a member of the World Federation of Exchanges; or
- (iv) a subsidiary (within the meaning of section 9 of the Corporations Act 2001) of a body corporate mentioned in subparagraph (iii);

PART 5 – AMENDMENT OF CRIMINAL CODE

8. Act amended

This Part amends the Criminal Code.

9. Repeal and substitution of section 363

Section 363

repeal, substitute

363. Speeches and their order

(1) The following rules govern the order in which the parties address the jury:

- (a) counsel for the Crown must make an opening address, outlining the case for the prosecution, before calling evidence for the prosecution;
- (b) if the accused person proposes to call witnesses to give evidence for the defence, the accused person may, at the close of the case for the prosecution, make an opening address, outlining the case for the defence, before giving or calling evidence;
- (c) at the conclusion of the evidence, counsel for the Crown may address the jury to sum up the case for the prosecution;
- (d) at the conclusion of that address, the accused person may address the jury to sum up the case for the defence.

(2) If, in the opinion of the presiding Judge, the accused person (or counsel for the accused person) made assertions in the course of summing up the case for the defence that are unsupported by the evidence, the Judge may allow counsel for the Crown a further opportunity to address the jury to reply to those assertions.

(3) If there are 2 or more accused persons, the order in which they are to exercise the right to address the jury is to be:

- (a) as mutually agreed between them; or
- (b) in default of agreement – the reverse of the order in which their names appear on the indictment.

(4) If an accused person is represented by counsel, the right to address the jury is to be exercised on the accused person's behalf by counsel.

(5) The presiding Judge may, if of the opinion that there should be a departure from these rules in the circumstances of a particular case, allow a departure from these rules.

Example

If a particular witness would not otherwise be available to the defence, the presiding Judge might authorise the defence to interpose the witness before the close of the case for the prosecution.

10. Amendment of section 365 (Jury not to separate)

Section 365(2)

omit, substitute

(2) The court may, if the court considers it appropriate to do so, permit the jury to separate for any specified period during an adjournment of the court.

(2A) The court may give any direction for the conduct of the jury in relation to the separation.

11. Amendment of section 366 (Confinement of jury)

(1) Section 366

omit

all the words from "While" to "verdict in"

substitute

(1) Until the jury have given their verdict they must be kept during any adjournment of the court in

(2) After subsection 366(1)

insert

(2) Subsection (1) does not affect the operation of section 365(2) and (2A).

12. Repeal and substitution of section 372

Section 372

repeal, substitute

372. Incapacity of judge

(1) This section applies if the presiding judge becomes incapable of continuing with a trial.

(2) The Chief Justice or acting Chief Justice may, after hearing submissions from the parties, decide:

(a) to take over, or assign another judge to take over, the conduct of the trial; or

(b) to terminate the trial.

(3) For the purpose of hearing submissions and making the decision, the Chief Justice or acting Chief Justice may make the orders the Chief Justice or acting Chief Justice considers appropriate.

(4) If a judge (the "new presiding judge") takes over the conduct of the trial:

(a) rulings of the former presiding judge about the conduct of the trial continue to have effect; and

(b) the rulings may be re-examined only if the new presiding judge is satisfied the re-examination is justified because of fresh evidence or material brought before the court.

(5) However, if the Chief Justice or acting Chief Justice decides to terminate the trial, the Chief Justice or acting Chief Justice must:

(a) discharge the jury; and

(b) remand the accused in custody, or release the accused on bail, to await a further trial.

(6) If, because of the circumstances of the incapacity of the presiding judge it is impracticable for the Chief Justice or acting Chief Justice to make a decision under subsection (2) in a reasonable time:

(a) a proper officer of the court must discharge the jury; and

(b) if in custody, the accused must remain in custody to await a further trial but has the same rights relating to bail as applied on the original committal for trial.

13. Repeal of Schedule 4

Schedule 4

repeal

PART 6 – AMENDMENT OF *DOMESTIC VIOLENCE ACT*

14. Act amended

This Part amends the *Domestic Violence Act*.

15. Amendment of section 10 (Breach of order)

Section 10(1), at the end

insert

Maximum penalty: For a first offence – \$2 000 or imprisonment for 6 months.

PART 7 – AMENDMENT OF *INTERPRETATION ACT*

16. Act amended

This Part amends the *Interpretation Act*.

17. Amendment of section 17 (Definitions)

Section 17

insert (in alphabetical order)

"external territory" means a Territory, other than the Australian Capital Territory, the Jervis Bay Territory or the Northern Territory, for the government of which as a Territory provision is made by a Commonwealth Act;

PART 8 – AMENDMENT OF *JURIES ACT*

18. Act amended

This Part amends the *Juries Act*.

19. Amendment of section 49A (Confidentiality of jury deliberations)

(1) Section 49A(5)(a) to (c), at the end

insert

or

- (2) Section 49A(5)(e)

omit

service.

insert

service; or

- (3) After section 49A(5)(e)

insert

(f) to a health practitioner in the course of the treatment of a person in relation to issues arising out of the person's prior service as a juror.

- (4) After section 49A(5)

insert

(5A) A health practitioner to whom protected information is disclosed must not disclose the information to anyone else unless it is necessary for the health or welfare of the former juror.

Maximum penalty: \$10 000 or imprisonment for 2 years.

- (5) Section 49A(10)

insert (in alphabetical order)

"health practitioner" means a medical practitioner or psychologist who has a right of practice under the *Health Practitioners Act*;

20. Amendment of section 49B (Anonymity of jurors)

- (1) Section 49B(5)(a) to (d), at the end

insert

or

- (2) Section 49B(5)(f)

omit

or (e).

insert

or (e); or

- (3) After section 49B(5)(f)

insert

- (g) to a health practitioner in the course of the treatment of a person in relation to issues arising out of the person's prior service as a juror.

- (4) After section 49B(5)

insert

(5A) A health practitioner to whom protected information is disclosed must not disclose the information to anyone else unless it is necessary for the health or welfare of the former juror.

Maximum penalty: \$10 000 or imprisonment for 2 years.

- (5) Section 49B(9)

insert (in alphabetical order)

"health practitioner" means a medical practitioner or psychologist who has a right of practice under the *Health Practitioners Act*;

PART 9 – AMENDMENT OF VEXATIOUS PROCEEDINGS ACT 2006

21. Act amended

This Part amends the *Vexatious Proceedings Act 2006*.

22. Amendment of section 9 (Notification and register of orders)

After section 9(2)

insert

(3) If a Registrar of the Court becomes aware that a person who is subject to the order has died, the Registrar must remove the copy of the order from the register.

PART 10 – AMENDMENT OF VICTIMS OF CRIME ASSISTANCE ACT 2006

23. Act amended

This Part amends the *Victims of Crime Assistance Act 2006*.

24. Amendment of long title

Long title

omit

for financial loss and compensable injuries

25. Amendment of section 4 (Definitions)

- (1) Section 4, definitions "compensable injury" and "standard amount"

omit

- (2) Section 4

insert (in alphabetical order)

"compensable injury", see section 7(2);

"compensable violent act", see section 7(1);

"standard amount", for a compensable violent act or compensable injury,
means the amount prescribed by regulation under section 7(3);

- (3) Section 4, definition "financial assistance", paragraph (c)

omit, substitute

(c) an award for a compensable violent act or compensable injury;

- (4) Section 4, definition "medical expenses", after paragraph (d)

insert

(e) a medical report relating to an injury;

26. Amendment of section 5 (Violent act)

Section 5(1)

omit, substitute

(1) A violent act is:

(a) a criminal act prescribed by regulation, or a series of such related criminal acts, whether committed by one or more persons, that occurs in the Territory; or

(b) a criminal act, or a series of related criminal acts, whether committed by one or more persons, that:

- (i) occurs in the Territory; and
- (ii) directly results in the injury or death of one or more persons regardless of where the injury or death occurs.

27. Repeal and substitution of section 7

Section 7

repeal, substitute

7. Compensable violent acts and injuries and standard amounts

- (1) A compensable violent act is a violent act under section 5(1)(a).
- (2) A compensable injury is an injury prescribed by regulation.
- (3) The Regulations must prescribe a standard amount of financial assistance as the award for a compensable violent act and a compensable injury.
- (4) The standard amount may be a specified amount or an amount within a specified range.

28. Amendment of section 9 (Primary victim)

Section 9(1)

omit, substitute

- (1) A primary victim of a violent act is:
 - (a) if the violent act is a compensable violent act – a person against whom the violent act has been committed regardless of whether the person suffers an injury or dies as a direct result of the violent act; or
 - (b) otherwise – a person against whom the violent act has been committed and who suffers an injury or dies as a direct result of the violent act.

29. Amendment of section 10 (Primary victim's eligibility to apply for assistance)

Section 10(4)

omit, substitute

- (4) A primary victim of a violent act is eligible to apply for an award for:

- (a) if the violent act is a compensable violent act:
 - (i) the mere commission of the violent act; or
 - (ii) one or more compensable injuries suffered as a direct result of the violent act; or
- (b) otherwise – one or more compensable injuries suffered as a direct result of the violent act.

30. Amendment of section 26 (Application to Director for immediate payment)

- (1) Section 26(2)(a)

omit, substitute

- (a) if the eligible victim has not applied for an award of financial assistance:
 - (i) for an application relating to a compensable violent act – within 2 years after the occurrence of the violent act; or
 - (ii) for another application – within 2 years after the occurrence of the injury or death to which the application relates; or

- (2) Section 26(3)(h)

omit, substitute

- (h) if the applicant is a primary victim who is applying for financial assistance for a compensable injury or a secondary victim – a description of the injury resulting from the violent act;

- (3) Section 26, at the end

insert

(4) If the applicant is a primary victim of a compensable violent act who is not applying for financial assistance for a compensable injury, the application may include a description of injuries resulting from the violent act.

31. Amendment of section 31 (Time limit for lodging application)

Section 31(1)

omit, substitute

- (1) An application for an award must be made:

- (a) for an application relating to a compensable violent act – within 2 years after the occurrence of the violent act; or
- (b) for another application – within 2 years after the occurrence of the injury or death to which the application relates.

32. Amendment of section 32 (Form of application)

- (1) Section 32(1)(e)

omit, substitute

- (e) if the applicant is a primary victim who is applying for financial assistance for a compensable injury or a secondary victim – a description of the injury resulting from the violent act;

- (2) Section 32(1)(j)

omit, substitute

- (j) whether a civil or criminal proceeding has been commenced in relation to the violent act or the applicant's injury, death or financial loss and, if so, the nature and outcome of the proceeding;

- (3) Section 32(2)

renumber as section 32(3)

- (4) After section 32(1)

insert

(2) If the applicant is a primary victim of a compensable violent act who is not applying for financial assistance for a compensable injury, the application may include a description of injuries resulting from the violent act.

33. Amendment of section 35 (Examination of and report about applicant)

After section 35(4)

insert

(5) This section applies to an application for financial assistance for a compensable violent act only if it is made for a compensable injury directly resulting from the violent act.

34. Repeal and substitution of section 37

Section 37

repeal, substitute

37. Award to eligible victim

(1) The assessor may make an award for financial assistance only if satisfied the applicant is an eligible victim of a violent act.

(2) The assessor may be satisfied the applicant is an eligible victim even if:

(a) no person has been charged with or found guilty of the violent act;
or

(b) a person has been charged with or found guilty of a different violent act than the violent act described in the application.

35. Further amendments

Schedule 1 has effect.

PART 11 – MINOR AND CONSEQUENTIAL AMENDMENT OF LAWS

36. Amendment of laws

(1) This section amends the laws specified in Schedule 2.

(2) Schedule 2 has effect.

SCHEDULE 1

Section 35

**FURTHER AMENDMENTS OF VICTIMS OF CRIME
ASSISTANCE ACT 2006**

Provision	Amendment	
	omit	substitute
Section 3(a)	injuries	violent acts and compensable injuries
Section 5(3)(a)	acts	criminal acts
Section 10, note 2(c)	<i>injuries</i>	<i>violent acts and injuries</i>
Section 26(2)	within the following period	
Section 27(2)	satisfied:	satisfied it is reasonably likely:
Section 27(2)(a)	is reasonably likely to incur	will suffer or incur
Section 33(2)	must	may
Section 33(2)(a)	if practicable – each	an
Section 33(3)	of the	of a
Section 34(2)	after	but if the Director gave a notice under section 33(2), not before
Section 34(3)(b)	applicant's	violent act or the applicant's
Section 35(2)	report	written report
Section 38(1)	victim's compensable	compensable violent act or the victim's compensable
Section 42(1)	injury	compensable violent act, injury

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Section 42(2)(e)	an	payment under an
Section 44(2)(b)	awarded for	awarded, as applicable, for the compensable violent act,
Section 44(5)	and give	and may give
Section 44(5)(a)	if practicable – each	an
Section 46(1)	may, within the following period,	may
Sections 46(9) and 47(3)	and, if practicable, give a copy to each	and may give a copy to an
Section 54(4)	Division 4	Division 3
Section 61(5)	whole subsection	
Section 61(8)	or (c)	
Section 69(2)(e)	injuries	violent acts and compensable injuries
Section 69(2)(e)(i)	injury	violent act or compensable injury

SCHEDULE 2

Section 36

MINOR AND CONSEQUENTIAL AMENDMENT OF LAWS

Provision	Amendment	
	omit	substitute
<i>Charles Darwin University (Site and Traffic) By-Laws</i>		
By-law 11(3)(f)	<i>Crimes (Victims Assistance) Act</i>	<i>Victims of Crime Assistance Act</i>
Criminal Code		
Section 155A(2)	bodily harm	harm
Section 157, heading	, attempted murder	
Section 177(a)	serious harm or bodily harm	harm
<i>Fines and Penalties (Recovery) Act</i>		
Section 6(1)(b) and (2)(a)	Part IVA of the <i>Crimes (Victims Assistance) Act</i>	Part 6 of the <i>Victims of Crime Assistance Act</i>
Section 113(1)(g)	compensation levy payable under the <i>Crimes (Victims Assistance) Act</i>	levy payable under Part 6 of the <i>Victims of Crime Assistance Act</i>
<i>Legal Profession Act 2006</i>		
Section 658, definition "appointed member"	or (d)	, (d) or (e)
<i>Local Court Regulations</i>		
Schedule, item 1(k)	whole paragraph	

Local Court Rules

Rule 4.01(1) (1)

Rule 4.01(2) whole subrule

Personal Injuries (Civil Claims) Act 2003

Section 5(4)(g) whole paragraph

Personal Injuries (Liabilities and Damages) Act

Section 4(3)(d) whole paragraph

Section 10(3) whole subsection

Supreme Court Rules

Rule 81A.39(8)(g) whole paragraph (g) the amount of the levy payable by the accused under Part 6 of the *Victims of Crime Assistance Act*.
