



Serial 249  
Limitation  
Amendment  
Mr Manzie

## NORTHERN TERRITORY OF AUSTRALIA

# A BILL for AN ACT

to amend the *Limitation Act*

**B**E 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 *Limitation Amendment Act 1993*.

### 2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

### 3. APPLICATION OF PART III

Section 10 of the *Limitation Act* is amended by inserting after "section 20(6)" the words "or section 35D".

### 4. NEW DIVISION

The *Limitation Act* is amended by inserting after section 35 the following:

"Division 5 - Mistake

### "35A. APPLICATION

"This Division applies notwithstanding any other law to the contrary, whether made or in force before or after the commencement of the *Limitation Amendment Act 1993*.

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"35B. DEFINITION

"In this Division, 'mistake of law' includes a mistake as to the validity of a law.

"35C. ACTION FOR RECOVERY OF CERTAIN MONEY PAID UNDER MISTAKE BEFORE *LIMITATION AMENDMENT ACT 1993*

"(1) Where, before the commencement of the *Limitation Amendment Act 1993*, money was paid, either voluntarily or under compulsion, by way of a tax, fee, charge or other statutory impost (or a purported such tax, fee, charge or other impost), an action for the recovery of the money is not maintainable on the grounds that the money was paid under a mistake of law or fact, or on restitutionary grounds, if brought after -

- (a) the expiration of the limitation period which would have applied if the *Limitation Amendment Act 1993* had not been enacted; or
- (b) the expiration of a limitation period of 6 months from the commencement of the *Limitation Amendment Act 1993*,

whichever is the earlier.

"(2) Subsection (1) does not apply to an action for the recovery of an amount that would have been, if the tax, fee, charge or other statutory impost (or a purported such tax, fee, charge or other impost) in respect of which the amount was paid had been valid, recoverable as an overpayment.

"35D. ACTION FOR RECOVERY OF CERTAIN MONEY PAID UNDER MISTAKE AFTER *LIMITATION AMENDMENT ACT 1993*

"(1) Where, after the commencement of the *Limitation Amendment Act 1993*, money is paid, either voluntarily or under compulsion, by way of a tax, fee, charge or other statutory impost (or a purported such tax, fee, charge or other impost), an action for the recovery of the money is not maintainable on the grounds that the money was paid under a mistake of law or fact, or on restitutionary grounds, if brought after the expiration of a limitation period of 6 months from the date on which the money was paid.

"(2) Subsection (1) does not apply to an action for the recovery of an amount that would have been, if the tax, fee, charge or other statutory impost (or a purported such tax, fee, charge or other impost) in respect of which the amount was paid had been valid, recoverable as an overpayment.

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"(3) Subsection (1) is part of the substantive law of the Territory.

"(4) Where an action is not brought within the limitation period specified in subsection (1), the right to recover the money is extinguished.

"(5) The provisions of Part III do not apply to a cause of action to which this section applies.

"35E. LIMITATION PERIOD NOT TO BE EXTENDED

"Notwithstanding section 36 or 44, the limitation period prescribed by section 35D is not, and cannot be, extended."

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