

Serial 1

Justice and Other Legislation Amendment Bill 2020

Ms Uibo

A Bill for an Act to amend the *Administration and Probate Act 1969*, the *Administration and Probate Regulations 1983*, the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006*, the *Coroners Act 1993*, the *Independent Commissioner Against Corruption Act 2017*, the *Local Court Act 2015*, the *Local Court (Criminal Procedure) Act 1928* and the *Supreme Court Act 1979*



# NORTHERN TERRITORY OF AUSTRALIA

## JUSTICE AND OTHER LEGISLATION AMENDMENT ACT 2020

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Act No. [ ] of 2020

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# NORTHERN TERRITORY OF AUSTRALIA

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Act No. [ ] of 2020

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An Act to amend the *Administration and Probate Act 1969*, the *Administration and Probate Regulations 1983*, the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006*, the *Coroners Act 1993*, the *Independent Commissioner Against Corruption Act 2017*, the *Local Court Act 2015*, the *Local Court (Criminal Procedure) Act 1928* and the *Supreme Court Act 1979*

[Assented to [ ] 2020]  
[Introduced [ ] 2020]

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 2020*.

### 2 Commencement

This Act commences on the day after the day on which the Administrator's assent to this Act is declared.

## **Part 2                      Amendment of Administration and Probate    legislation**

### **Division 1                Amendment of Administration and Probate    Act 1969**

#### **3                      Act amended**

This Division amends the *Administration and Probate Act 1969*.

#### **4                      Section 103 amended (Inquiries as to validity of claim)**

(1)                      Section 103(1)(a)

*omit*

he or she

*insert*

the representative

(2)                      Section 103(1)(b)

*omit, insert*

(b)    may, by a summons, require the claimant or any other person to appear and answer all the questions that may be put to the claimant or other person with reference to the claim before:

(i)    if the value of the claim does not exceed the small claims limit, as defined in section 5(1) of the *Small Claims Act 2016* on the date the claim is made – NTCAT; or

(ii)   otherwise – a Judge.

(3)                      Section 103(2)

*omit*

all words after "section"

*insert*

to appear before:

(a)    NTCAT – the same amount as the person would be entitled to if the person had been summonsed as a witness to NTCAT; or



- (b) a Judge – the same amount as the person would be entitled to if the person had been summonsed as a witness to the Court.
- (4) Section 103(3), before "the Judge" (*all references*)  
*insert*  
NTCAT or
- (5) Section 103(3)(b)  
*omit*  
him or her  
*insert*  
the claimant
- (6) After section 103(3)  
*insert*
- (4) For proceedings under this section, NTCAT must be constituted by one or more of the following:
  - (a) the President of NTCAT;
  - (b) a Deputy President of NTCAT;
  - (c) an ordinary member appointed with reference to section 16(2)(a) of the *Northern Territory Civil and Administrative Tribunal Act 2014*.

## **5 Section 104 amended (Rejection of small claim)**

- (1) Section 104(2)(a), after "court"  
*insert*  
or tribunal
- (2) After section 104(3)  
*insert*
- (4) For proceedings under this section, NTCAT must be constituted by one or more of the following:
  - (a) the President of NTCAT;

- (b) a Deputy President of NTCAT;
- (c) an ordinary member appointed with reference to section 16(2)(a) of the *Northern Territory Civil and Administrative Tribunal Act 2014*.

**6            Section 110D repealed (Fee chargeable for acting under this Division)**

Section 110D

*repeal*

**7            Part X inserted**

After section 153

*insert*

**Part X            Transitional matters for Justice and Other  
Legislation Amendment Act 2020**

**154          Application of section 103**

- (1) Section 103, as amended by the *Justice and Other Legislation Amendment Act 2020*, applies only in relation to a claim made after the commencement of section 4 of that Act (the **commencement**).
- (2) Section 103, as in force immediately before the commencement, continues to apply in relation to a claim made before the commencement.

**Division 2            Amendment of Administration and Probate  
Regulations 1983**

**8            Regulations amended**

This Division amends the *Administration and Probate Regulations 1983*.

**9                      Regulation 2AB inserted**

After regulation 2AA

*insert*

**2AB                  Small claim**

For section 104(1)(a) of the Act, the prescribed amount in relation to a claim is the amount that equals the small claims limit, as defined in section 5(1) of the *Small Claims Act 2016* on the date the claim is made.

**10                    Regulation 2C repealed (Maximum fee chargeable by professional personal representative)**

Regulation 2C

*repeal*

**11                    Part 4 inserted**

After regulation 4

*insert*

**Part 4                      Transitional matters for Justice and Other Legislation Amendment Act 2020**

**5                      Application of regulation 2AB**

Regulation 2AB applies only in relation to a claim made after the commencement of that regulation.

**Part 3                      Amendment of Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006**

**12                    Act amended**

This Part amends the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006*.

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**13 Section 23 amended (Assistance)**

- (1) Section 23, before "The"

*insert*

(1)

- (2) Section 23, at the end

*insert*

- (2) For subsection (1), the Minister may appoint:

- (a) a public sector employee by name; or
- (b) a public sector employee by reference to the office, position or designation held or occupied by the employee; or
- (c) a public sector employee from time to time holding or occupying a named office, position or designation.

**Part 4 Amendment of Coroners Act 1993****14 Act amended**

This Part amends the *Coroners Act 1993*.

**15 Section 4B inserted**

After section 4A

*insert*

**4B Acting Territory Coroner**

- (1) The Administrator may, in writing, appoint a Local Court Judge to act in the office of the Territory Coroner:
  - (a) during a vacancy in the office; or
  - (b) during any period, or all periods, when the person holding the office is absent from duty or unable to perform the duties of the office.
- (2) A person appointed under subsection (1) holds office until:
  - (a) the expiry of the period (not exceeding 12 months) specified in the appointment; or

- 
- (b) the person ceases to be a Local Court Judge.
- (3) An acting Territory Coroner has all the functions and powers of the Territory Coroner.

## **Part 5                      Amendment of Independent Commissioner Against Corruption Act 2017**

### **16                      Act amended**

This Part amends the *Independent Commissioner Against Corruption Act 2017*.

### **17                      Section 71 amended (Powers of authorised officers while on or about premises)**

- (1) Section 71(1)(d)(iii)

*omit, insert*

- (iii) if it is relevant to an investigation or possible future investigation – for the investigation and the preparation of a brief of evidence to be provided under section 51;

- (2) After section 71(5)

*insert*

- (6) The ICAC may give anything seized under this section to a law enforcement agency, public body or public officer as part of a brief of evidence for a purpose mentioned in section 51.

### **18                      Part 10 inserted**

After section 169

*insert*

## **Part 10                      Transitional matters for Justice and Other Legislation Amendment Act 2020**

### **170                      Retention of evidence**

Section 71, as amended by the *Justice and Other Legislation Amendment Act 2020*, applies in relation to anything seized under section 71 that is in the ICAC's possession on the commencement of section 17 of that Act.

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## Part 6                      Amendment of Local Court Act 2015

### 19                      Act amended

This Part amends the *Local Court Act 2015*.

### 20                      Section 59A inserted

After section 59, in Part 5, Division 1

*insert*

#### 59A                      Acting Deputy Chief Judge

- (1) The Administrator or Minister may, in writing, appoint a Judge to act in the office of Deputy Chief Judge if:
  - (a) there is a vacancy in the office; or
  - (b) a Deputy Chief Judge is unable, because of illness, absence or other cause, to perform the functions of the office.
- (2) A Judge may be appointed under subsection (1) for a term, specified in the appointment, not exceeding:
  - (a) if the appointment is made by the Administrator – 12 months; or
  - (b) if the appointment is made by the Minister – 3 months.
- (3) An acting Deputy Chief Judge may be reappointed.
- (4) An acting Deputy Chief Judge has all the functions and powers of a Deputy Chief Judge.

### 21                      Section 70A inserted

After section 70, in Part 6, Division 1

*insert*

#### 70A                      Review of decision of judicial registrar

- (1) This section applies if a judicial registrar makes a decision in proceedings in the exercise of the jurisdiction of the Court.
- (2) A party to the proceedings may appeal against the decision to the Court constituted by a Judge.
- (3) The appeal must be commenced within 14 days after the judicial registrar's decision was made.

- 
- (4) The Court may extend the period mentioned in subsection (3), and may do so even if that period has expired.
  - (5) Unless the Court orders otherwise, an appeal does not operate as a stay of the judicial registrar's decision.
  - (6) The appeal is to be by way of a new hearing of the issue that was before the judicial registrar.

**22 Part 10 inserted**

After section 95

*insert*

**Part 10 Transitional matters for Justice and Other Legislation Amendment Act 2020****96 Appeal of registrar's decisions**

Section 70A applies only in relation to a decision made after the commencement of that section.

**Part 7 Amendment of Local Court (Criminal Procedure) Act 1928****23 Act amended**

This Part amends the *Local Court (Criminal Procedure) Act 1928*.

**24 Section 77 amended (Power to award costs to defendant)****(1) Section 77(1)**

*omit, insert*

- (1) Subject to subsection (2) and section 77A, the Court may order a complainant to pay to a defendant the costs it thinks fit if:
  - (a) the Court dismisses the charge of any offence on the complaint; or
  - (b) the complaint is withdrawn.

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(2) Section 77(2)(c)

*omit*

an acquittal

*insert*

a dismissal

**25 Section 163 amended (Right of appeal to Supreme Court)**

After section 163(6)

*insert*

- (7) Despite anything to the contrary in this section, a decision made under Part V, Division 1 or 3 may not be appealed to the Supreme Court.

**26 Part VIII, Division 7 inserted**

After section 214

*insert*

**Division 7 Transitional matters for Justice and Other  
Legislation Amendment Act 2020**

**215 Definitions**

In this Division:

***amending Act*** means the *Justice and Other Legislation Amendment Act 2020*.

***commencement*** means the commencement of Part 7 of the amending Act.

**216 Awarding costs**

- (1) Section 77, as amended by the amending Act, applies in relation to a complaint made before the commencement only if the complaint has not been determined before the commencement.
- (2) Section 77, as in force immediately before the commencement, continues to apply in relation to a complaint determined before the commencement.



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**217 Right of appeal**

Section 163, as amended by the amending Act, applies in relation to decisions made in relation to all proceedings, including decisions made prior to the commencement.

**Part 8 Amendment of Supreme Court Act 1979****27 Act amended**

This Part amends the *Supreme Court Act 1979*.

**28 Section 41D amended (Retirement)**

Section 41D

*omit*

shall cease

*insert*

, other than an acting Associate Judge, ceases

**29 Section 41H replaced**

Section 41H

*repeal, insert*

**41H Authorisation to act in office of Associate Judge**

- (1) The Chief Justice may, in writing, authorise a lawyer (including a public sector employee) to act in the office of Associate Judge subject to the limitations or restrictions, if any, specified in the authorisation if:
  - (a) there is a vacancy in the office of Associate Judge; or
  - (b) an Associate Judge is absent from duty or from the Territory or is unable, for any reason, to carry out the duties of the office.
- (2) A person authorised under subsection (1) may not act in the office of Associate Judge for a continuous period longer than 12 months.

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**Part 9 Repeal of Act**

**30 Repeal of Act**

This Act is repealed on the day after it commences.