

Serial 5
Territory Coordinator Bill 2020
Mrs Finocchiaro

A Bill for an Act to establish the Office of the Territory Coordinator, to facilitate the undertaking of projects of significance to the Territory and other works and for related purposes

NORTHERN TERRITORY OF AUSTRALIA

TERRITORY COORDINATOR ACT 2020

Act No. [] of 2020

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2020

An Act to establish the Office of the Territory Coordinator, to facilitate the undertaking of projects of significance to the Territory and other works and for related purposes

[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 *Territory Coordinator Act 2020*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 17 October 2022, it commences on that day.

3 Definitions

In this Act:

applicant, for Part 5, see section 17.

approved program of works means a program of works specified in a plan approved by the Minister under section 14.

decision maker, for Part 5, see section 17.

executive officer, of a body corporate, means a director or other person who is concerned with, or takes part in, the management of the body corporate.

notice to decide, for Part 5, see section 23(1).

prescribed decision, for Part 5, see section 18.

prescribed process, for Part 5, see section 17.

progression notice, for Part 5, see section 22(1).

public body means any of the following:

- (a) an Agency;
- (b) a local government council;
- (c) a Government owned corporation as defined in section 3 of the *Government Owned Corporations Act 2001*;
- (d) any other body, whether incorporated or not, performing a public function on behalf of the Territory or a body mentioned in paragraph (a), (b) or (c).

relevant entity, see section 10(1).

relevant law, for Part 5, see section 17.

significant project means a project in relation to which a designation under section 16 is in effect.

step in notice, for Part 5, see section 24(1).

Territory Coordinator means the person holding or occupying the office of Territory Coordinator established by section 6(2).

4 Act binds Crown

This Act binds the Crown in the right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

5 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 5

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 2 Office of the Territory Coordinator

6 Establishment of Office of the Territory Coordinator

- (1) The Office of the Territory Coordinator is established.
- (2) The Office of the Territory Coordinator consists of the Territory Coordinator and the Territory Coordinator's staff.

7 Functions

The Territory Coordinator has the following functions:

- (a) to plan and implement programs of works in the Territory in accordance with Part 3;
- (b) to identify projects of significance, particularly economically, to the Territory;
- (c) to monitor and facilitate the undertaking of significant projects by ensuring timely decision-making;
- (d) to assist and facilitate compliance by proponents of significant projects with Territory environmental, planning and industry specific legislation;
- (e) to make recommendations to the Minister in relation to any matter that arises out of, or is connected with, the performance by the Territory Coordinator of the Territory Coordinator's functions or that may assist in the proper administration of this Act;
- (f) any other functions conferred on the Territory Coordinator by this or any other Act.

8 Powers

- (1) The Territory Coordinator has the powers necessary to perform the Coordinator's functions.

- (2) Without limiting subsection (1), the Territory Coordinator may do any of the following:
 - (a) request information from an Agency in relation to an approved program of works or significant project;
 - (b) direct an Agency to coordinate actions or share information in relation to an approved program of works or significant project;
 - (c) undertake public consultation regarding an approved program of works or significant project.

9 Impartiality and independence

- (1) The Territory Coordinator and the Territory Coordinator's staff must perform their functions and exercise their powers impartially and independently.
- (2) Subject to sections 11(1) and 12(1), the Territory Coordinator is not subject to direction by any person about the way in which the Territory Coordinator performs the functions or exercises the powers of office.
- (3) In performing functions or exercising powers under this Act, a member of the Territory Coordinator's staff is subject only to the direction of:
 - (a) the Territory Coordinator; or
 - (b) another member of the Territory Coordinator's staff acting with the authority of the Territory Coordinator.

10 Cooperation with Territory Coordinator

- (1) It is the duty of each of the following persons (each a **relevant entity**) to cooperate with the Territory Coordinator in the performance of the Territory Coordinator's functions:
 - (a) a public body and, if it is a body corporate, each executive officer of the public body;
 - (b) the Chief Executive Officer of an Agency;
 - (c) a body corporate constituted for the purposes of any Act or that, being incorporated by the law of the Territory, is an instrumentality or agency of the Crown, and each executive officer of the body corporate;
 - (d) the holder of any office established by any Act;

- (e) a person who is:
 - (i) a public sector employee; or
 - (ii) employed by a public body, a body corporate mentioned in paragraph (c) or the holder of an office mentioned in paragraph (d) for the purposes of the Act that establishes the office.
- (2) Despite subsection (1), a person is not required to give information to the Territory Coordinator if doing so would constitute an offence against another Act.

Part 3 Reviews and program of works

11 Reviews

- (1) The Territory Coordinator may, on the Territory Coordinator's own initiative, and must, at the direction of the Minister, conduct a review into any matter that, in the opinion of the Territory Coordinator or Minister, is one with which the Territory Coordinator should be concerned in the proper performance of the Territory Coordinator's functions under any Act.
- (2) The Territory Coordinator must prepare a report on the outcome of a review under subsection (1) and give the report to the Minister.
- (3) The Minister must table a copy of the report in the Legislative Assembly within 3 sitting days after the Minister receives the report.

12 Planning of program of works

- (1) The Territory Coordinator may, on the Territory Coordinator's initiative, and must, at the direction of the Minister, plan in relation to a particular period:
 - (a) a program of works for the Territory or for any part of the Territory; and
 - (b) the carrying out during that period, or any portion or portions of that period, of the whole or any part of the works included in the program.

- (2) For the purpose of planning a program of works the Territory Coordinator may require any person who has a duty under section 10 to cooperate with the Territory Coordinator to give to the Territory Coordinator:
 - (a) particulars of all works proposed to be carried out by or under the authority or supervision of that person during the period in relation to which the program of works is being planned; and
 - (b) any other information the Territory Coordinator considers necessary to enable the Territory Coordinator to plan the program of works.

13 Selection of works for program of works and performance of those works

- (1) Works to be included in a program of works are at the discretion of the Territory Coordinator.
- (2) A program of works may include works that:
 - (a) have been submitted to the Territory Coordinator by the Minister, a public body or other person for inclusion in a program of works; or
 - (b) are included on the initiative of the Territory Coordinator in addition to or instead of works submitted under paragraph (a).
- (3) The Territory Coordinator may plan that works included in a program of works must be undertaken by any public body or person who is required or permitted by any Act to do so.

14 Approval of plan of program of works

- (1) The Territory Coordinator must submit a plan for a program of works to the Minister for approval.
- (2) If the Minister approves the plan, the Minister may give notice in the *Gazette* stating that the Minister:
 - (a) approves the plan for the program of works; and
 - (b) authorises its implementation by the Territory Coordinator.
- (3) On publication of the *Gazette* notice, the program of works is an approved program of works.
- (4) If the Minister does not approve of the plan submitted, the Minister must return the plan, together with the Minister's objections to and comments on the plan, to the Territory Coordinator.

- (5) The Territory Coordinator must consider the Minister's objections and comments, and may alter the plan in the way the Territory Coordinator considers appropriate in the circumstances and resubmit the plan to the Minister.

15 Implementation of approved program of works

The Territory Coordinator may, on the Territory Coordinator's initiative, or must, at the direction of the Minister, undertake and commission investigations, prepare plans, give directions and take any other actions, that the Territory Coordinator thinks necessary or desirable to secure the proper planning, preparation, coordination and control of an approved program of works.

Part 4 Designation of projects

16 Designation of project

- (1) Subject to subsection (2), the Minister may, in writing, designate a project to be a project of significance to the Territory.
- (2) The Minister must not designate a project under subsection (1) unless satisfied on reasonable grounds that the project:
- (a) will facilitate private sector investment, job creation or population growth in the Territory; and
 - (b) meets the requirements, if any, prescribed by regulation.
- (3) A designation under subsection (1) has effect for 2 years or any other period specified in the designation.

Part 5 Facilitation of significant projects

Division 1 General matters

17 Definitions

In this Part:

applicant, in relation to a prescribed decision or prescribed process, means the person seeking the decision or undertaking of the process under the relevant law for the decision or process.

decision maker means:

- (a) for a prescribed decision – the entity that may make the decision under the relevant law for the decision; or

- (b) for a prescribed process – the entity responsible for undertaking the process under the relevant law for the process.

notice to decide, see section 23(1).

prescribed decision, see section 18.

prescribed process means a process, in relation to a significant project, required to be undertaken under a law of the Territory.

progression notice, see section 22(1).

relevant law, for a prescribed decision or prescribed process, means the law, other than this Act, under which the decision may be made or the process undertaken.

step in notice, see section 24(1).

18 Meaning of *prescribed decision*

- (1) A **prescribed decision** is a decision, in relation to a significant project, required to be made under a law of the Territory.

Example for subsection (1)

A decision about the construction, undertaking, carrying out, establishment, maintenance or operation of a significant project.

- (2) However, a prescribed decision does not include a decision required to be made by the Administrator or a Minister.

19 Application of Part

This Part applies despite any other law of the Territory.

Division 2 Cooperation with Territory Coordinator

20 Particular entities to cooperate with Territory Coordinator

- (1) It is the duty of a relevant entity to give to the Territory Coordinator the information, documents or assistance the Territory Coordinator requires to assess matters relating to a significant project.
- (2) Without limiting subsection (1), the Territory Coordinator may require the relevant entity to give to the Territory Coordinator:
 - (a) an application for a prescribed decision or a document relating to the application or a prescribed process for the application;
or

- (b) information to help the Territory Coordinator evaluate a significant project; or
- (c) if a process of public consultation has happened for an aspect of a significant project – any submissions received by the entity under the process and any responses given by the entity to the submissions.

Example for subsection (2)(a)

Correspondence between the applicant and the decision maker for the prescribed decision or prescribed process.

- (3) Despite subsections (1) and (2), a person is not required to give information or documents to the Territory Coordinator if doing so would constitute an offence against another Act.
- (4) This section does not limit section 10.

21 Territory Coordinator may seek further information

- (1) The Territory Coordinator may ask a relevant person for a prescribed decision or prescribed process to give the Territory Coordinator information the Territory Coordinator reasonably requires:
 - (a) to decide whether to give a progression notice for the process or a notice to decide or step in notice for the decision; or
 - (b) to make an assessment and decision about the prescribed decision under this Part; or
 - (c) to undertake a prescribed process.
- (2) The relevant person must comply with a request under subsection (1).
- (3) In this section:

relevant person, for a prescribed decision or prescribed process, means the applicant for the decision or process or another entity the Territory Coordinator considers on reasonable grounds has information that may help the Territory Coordinator act on the matters mentioned in subsection (1).

Division 3 Notices in relation to significant projects

Subdivision 1 Initial notices

22 Progression notice

- (1) The Territory Coordinator may, by written notice (a ***progression notice***) given to the decision maker for a prescribed process, require the decision maker to undertake, within the period specified in the notice, administrative processes required to complete the process.
- (2) On receiving the progression notice, the decision maker must:
 - (a) undertake the prescribed process within the period specified in the notice; and
 - (b) inform the Territory Coordinator of the completion of the process within 5 business days after it is completed.
- (3) Before giving a progression notice for a prescribed process the Territory Coordinator must have regard to the requirements, if any, under the relevant law for the process for the undertaking of the process.
- (4) Subject to this section, the relevant law for the prescribed process continues to apply to the undertaking of the process.

23 Notice to decide

- (1) The Territory Coordinator may, by written notice (a ***notice to decide***) given to the decision maker for a prescribed decision, require the decision maker to make the decision within the period specified in the notice.
- (2) The specified period must be at least:
 - (a) 20 business days after the notice is given; or
 - (b) if, under the relevant law for the prescribed decision, the decision maker would, other than for this section, be required to make the decision within a period that is less than 20 business days after the notice is given – the lesser period.
- (3) On receiving the notice to decide, the decision maker must:
 - (a) make the prescribed decision within the period specified in the notice; and

- (b) inform the Territory Coordinator of the decision within 5 business days after it is made.
- (4) Before giving a notice to decide for a prescribed decision the Territory Coordinator must have regard to the requirements, if any, under the relevant law for the decision about public notification of information or other matters in relation to the decision.
- (5) Subject to this section, the relevant law for the prescribed decision continues to apply to the making of the decision.

Subdivision 2 Step in notices

24 Step in notice

- (1) The Territory Coordinator may give to the decision maker and applicant for a prescribed decision or prescribed process a written notice (a ***step in notice***) advising the decision maker and applicant that the Territory Coordinator is to make an assessment and a decision about the prescribed decision or prescribed process under this Part.
- (2) The step in notice must state that the Territory Coordinator is the decision maker for the prescribed decision or prescribed process from the time the notice is given until the Territory Coordinator makes a decision, under section 28, about the prescribed decision or prescribed process.

25 When step in notice may be given

- (1) The Territory Coordinator may give a step in notice for a prescribed decision or prescribed process only if:
 - (a) a notice to decide or progression notice has been given for the decision or process; or
 - (b) the Territory Coordinator is satisfied that a step in notice is required to ensure timely decision-making for the decision or process.
- (2) If a notice to decide or progression notice has been given for a prescribed decision or prescribed process, the step in notice may be given:
 - (a) at any time after the Territory Coordinator is satisfied the decision maker has not complied with the notice to decide or progression notice, but before the decision maker has made the decision or undertaken the process; or

- (b) if the decision maker has complied with the notice to decide or progression notice – only if the applicant, by written notice given to the Territory Coordinator within 10 business days after the applicant is notified of the decision, asks the Territory Coordinator to give a step in notice for the decision.
- (3) If the step in notice is given for a prescribed decision that has been made, the notice must be given before the day that is 10 business days after the later of the following:
 - (a) the day any appeal against the decision is started under the relevant law for the prescribed decision;
 - (b) the day the period, under the relevant law, for starting an appeal against the prescribed decision expires.
- (4) If the Territory Coordinator receives a request under subsection (2)(b) for a prescribed process, the step in notice must be given to the decision maker within a reasonable period after the Territory Coordinator receives the request.
- (5) In this section:

appeal includes review.

26 Providing assistance or recommendations

- (1) The decision maker for the prescribed decision or prescribed process must give the Territory Coordinator all reasonable assistance and materials the Territory Coordinator requires to act under this Part, including:
 - (a) all material about the prescribed decision or prescribed process the decision maker had before the step in notice was given; and
 - (b) all material received about the prescribed decision or prescribed process by the decision maker after the step in notice was given.
- (2) Without limiting subsection (1), the Territory Coordinator may, by written notice, require the decision maker to give the Territory Coordinator within the reasonable period specified in the notice a written report containing:
 - (a) an assessment of matters, specified in the notice, relevant to the prescribed decision or prescribed process; or

- (b) recommendations about the assessment mentioned in paragraph (a).

Example for subsection (2)(b)

Recommendations about proposed conditions relevant to the prescribed decision or prescribed process.

27 Effects of step in notice

If the Territory Coordinator gives a step in notice for a prescribed decision or prescribed process:

- (a) the Territory Coordinator is the decision maker under the relevant law for the prescribed decision or prescribed process from the time the step in notice is given until the Territory Coordinator makes a decision, under section 28, about the prescribed decision or prescribed process; and
- (b) for making the decision, the Territory Coordinator has all the powers of the decision maker under the relevant law for the prescribed decision or prescribed process; and
- (c) for making the decision, the Territory Coordinator must consider the following:
 - (i) the criteria, if any, for making the prescribed decision under the relevant law for the decision or process;
 - (ii) the matters relevant to the undertaking of a significant project and prescribed by regulation;
 - (iii) another matter relevant to the prescribed decision or prescribed process, or the significant project to which the decision or process relates, and prescribed by regulation; and
- (d) if an appeal was made or a review was started in relation to the prescribed decision or prescribed process under the relevant law for the decision or process – the appeal or review is of no further effect; and
- (e) despite paragraph (a), the Territory Coordinator's decision about the prescribed decision or prescribed process is taken to be the exercise of a power or performance of a function of the Territory Coordinator under this Act.

28 Territory Coordinator's decision

- (1) After making an assessment about the prescribed decision or prescribed process, the Territory Coordinator may:
 - (a) if the decision had not been made or the process had not been undertaken by the decision maker:
 - (i) make the decision or undertake the process; or
 - (ii) send back the decision or process, with or without conditions, to the decision maker under the relevant law for the decision or process; or
 - (iii) decide aspects of the decision and send back undecided aspects of the decision, with or without conditions, to the decision maker under the relevant law for the decision; or
 - (b) otherwise:
 - (i) confirm or amend the decision; or
 - (ii) cancel the decision and substitute a new decision.
- (2) In acting under subsection (1), the Territory Coordinator may, in relation to the prescribed decision, impose conditions the Territory Coordinator considers necessary or desirable having regard to:
 - (a) the nature of the significant project to which the decision relates; and
 - (b) the matters mentioned in section 27(c) that the Territory Coordinator considered for the decision.
- (3) Subject to this Part, the relevant law for the prescribed decision or prescribed process applies to the making of the Territory Coordinator's decision under this section.

29 Effects of decision

- (1) The Territory Coordinator's decision under section 28 about the prescribed decision or prescribed process, including a decision to impose a condition:
 - (a) is taken to be a decision of the decision maker (the ***original decision maker***) under the relevant law for the prescribed decision or prescribed process but a person may not appeal against the Territory Coordinator's decision under this Act or the relevant law; and

- (b) takes effect when the applicant for the prescribed decision or prescribed process and the original decision maker are given notice, under section 30(1), of the Territory Coordinator's decision.
- (2) A condition imposed by the original decision maker in relation to the prescribed decision is of no effect to the extent it is inconsistent with a condition imposed by the Territory Coordinator.
- (3) If the original decision maker makes another prescribed decision for the significant project to which the step in notice relates, the other prescribed decision must not be inconsistent with the Territory Coordinator's decision.
- (4) Subsection (1)(a) does not affect a person's right to seek judicial review of the Territory Coordinator's decision.

30 Notice of decision

- (1) The Territory Coordinator must give written notice of the Territory Coordinator's decision under section 28 about the prescribed decision or prescribed process to the applicant and decision maker for the prescribed decision or prescribed process.
- (2) The notice must include:
 - (a) the reasons for the Territory Coordinator's decision; and
 - (b) the conditions, if any, imposed under section 28(2) in relation to the decision.

Subdivision 3 Reporting

31 Reports about progression notices and notices to decide

- (1) Within 5 business days after giving a progression notice or notice to decide under this Part, the Territory Coordinator must give the Minister a report about the notice.
- (2) The report must include:
 - (a) a copy of the notice; and
 - (b) a summary of the reasons for giving the notice.
- (3) If a progression notice or notice to decide is not complied with, the Territory Coordinator must give the Minister a report about the non-compliance within 5 business days after the period specified in the notice expires.

32 Reports about step in notices

- (1) Within 5 business days after giving a step in notice under this Part, the Territory Coordinator must give the Minister a report about the notice.
- (2) A report under subsection (1) must include:
 - (a) a copy of the notice; and
 - (b) a summary of the reasons for giving the notice.
- (3) In addition, the Territory Coordinator must give the Minister a report about the Territory Coordinator's decision under section 28 within 5 business days after giving notice of the decision under section 30(1).
- (4) A report under subsection (3) must include a copy of the notice of the Territory Coordinator's decision given under section 30(1).
- (5) The Minister must table a copy of a report given to the Minister under subsection (3) in the Legislative Assembly within 6 sitting days after receiving the notice.

Part 6 Administrative matters**33 Appointment of Territory Coordinator**

- (1) The Administrator may, by *Gazette* notice, appoint a person to be the Territory Coordinator.
- (2) To be appointed as the Territory Coordinator, a person must be eligible under section 34.
- (3) If the Office of the Territory Coordinator is an Agency, the Territory Coordinator is the Chief Executive Officer of the Office of the Territory Coordinator for the *Public Sector Employment and Management Act 1993*.

34 Eligibility for appointment

- (1) A person is eligible for appointment as the Territory Coordinator if:
 - (a) the person has suitable qualifications or experience relating to the Territory Coordinator's functions; and
 - (b) the person is not any of the following:
 - (i) a judicial officer;

- (ii) a member of an Australian parliament;
 - (iii) a member of a local government council or of an equivalent body in a State or another Territory;
 - (iv) a member of a political party;
 - (v) an officer of a Territory controlled entity; and
 - (c) the person does not have a recent political affiliation.
- (2) For subsection (1)(c), a person has a recent political affiliation if, at any time during the previous 5 years, the person:
- (a) was a member of the Legislative Assembly or a local government council; or
 - (b) was an office holder or elected representative of a political party in the Territory or elsewhere in Australia; or
 - (c) was a member of staff of a minister; or
 - (d) made a reportable donation to a political party, or an associated entity of a political party, in the Territory or elsewhere in Australia.
- (3) For subsection (2)(d), a person made a reportable donation if it was made by the person or by a body corporate of which the person was an office holder or majority shareholder at the time the donation was made.

- (4) In this section:

associated entity, see section 176 of the *Electoral Act 2004*.

political party, see section 3 of the *Electoral Act 2004*.

reportable donation means a gift or loan that is required to be disclosed or reported under Part 10 of the *Electoral Act 2004* or under a similar law in force in the Commonwealth or in a State or another Territory.

Territory controlled entity, see section 3(1) of the *Audit Act 1995*.

35 Term of appointment

- (1) The appointment of a person as the Territory Coordinator is for a period of 5 years.
- (2) A person who is the Territory Coordinator may be reappointed if the person is still eligible for appointment under section 34.

36 Conditions of appointment

- (1) The Territory Coordinator holds office on the conditions, including conditions about remuneration, expenses and allowances, determined by the Administrator.
- (2) The Territory Coordinator's conditions of office:
 - (a) cannot provide any conditions that are contingent on the Territory Coordinator's performance in office; and
 - (b) cannot be varied during the Territory Coordinator's term in office.

37 Vacancy in office

- (1) The office of Territory Coordinator becomes vacant if the person appointed to the office:
 - (a) engages in remunerative employment outside the duties of the office; or
 - (b) engages in any trade or business, other than as a member of a body corporate that consists of more than 20 persons; or
 - (c) is found guilty of an indictable offence, whether in the Territory or elsewhere, for which the maximum penalty is imprisonment for a term of at least 12 months, with or without a fine; or
 - (d) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
 - (e) is absent from duty for 14 consecutive business days or for a total of 28 days in any calendar year unless due to illness or in accordance with leave approved by the Minister under section 38; or
 - (f) is concerned in any agreement made for the purposes of this Act except in the person's capacity as Territory Coordinator; or
 - (g) participates in or claims to be entitled to participate in the profits arising from an agreement made for the purposes of this Act, except in the person's capacity as Territory Coordinator; or
 - (h) resigns by giving written notice to the Administrator.

- (2) Subsection (1)(a) does not apply to a person if the person's remunerative employment is:
 - (a) under another office to which the person is appointed because of the person's appointment to the office of Territory Coordinator; or
 - (b) as the Chief Executive Officer.
- (3) The Administrator may terminate the appointment of a person as the Territory Coordinator for misbehaviour, physical or mental incapacity or being unfit, in the opinion of the Administrator, to hold the office.

38 Leave of absence

The Minister may grant the Territory Coordinator leave of absence on the conditions decided by the Minister.

39 Acting Territory Coordinator

- (1) The Administrator or the Minister may appoint a person to act in the office of the Territory Coordinator:
 - (a) during a vacancy, or all vacancies, in the office whether or not an appointment has previously been made to the office; or
 - (b) during any period, or all periods, when the Territory Coordinator is unable to perform the duties of the office.
- (2) However, the Minister must not appoint a person to act in the office for more than 3 months in any period of 12 months.
- (3) The conditions (including conditions about remuneration, expenses and allowances) of an appointment to act in the office of the Territory Coordinator must be decided by the person who makes the appointment.

40 Territory Coordinator's staff

- (1) The Territory Coordinator's staff consists of the following:
 - (a) public sector employees employed for the purposes of the Office of the Territory Coordinator;
 - (b) persons employed in an Agency made available by the Chief Executive Officer of the Agency under an arrangement with the Territory Coordinator.

- (2) The Territory Coordinator's staff must assist the Territory Coordinator to perform the Territory Coordinator's functions and exercise the Territory Coordinator's powers.

41 Delegation

- (1) Subject to subsection (2), the Territory Coordinator may delegate any of the Territory Coordinator's powers and functions under this Act to a member of the Territory Coordinator's staff.
- (2) The Territory Coordinator may not delegate a power or function under Part 5, Division 3, Subdivision 2.

Part 7 Miscellaneous matters

42 Misleading information

- (1) A person commits an offence if:
- (a) the person intentionally gives information to another person; and
 - (b) the other person is an OTC officer; and
 - (c) the information is misleading and the person has knowledge of that circumstance; and
 - (d) the OTC officer is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) A person commits an offence if:
- (a) the person intentionally gives a document to another person; and
 - (b) the other person is an OTC officer; and
 - (c) the document contains misleading information and the person has knowledge of that circumstance; and
 - (d) the OTC officer is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (3) Strict liability applies to subsections (1)(b) and (2)(b).

(4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant, when giving the information or document:

- (a) draws the misleading aspect of the information or document to the OTC officer's attention; and
- (b) to the extent to which the person can reasonably do so – gives the OTC officer the information necessary to remedy the misleading aspect of the information or document.

(5) In this section:

acting in an official capacity, in relation to an OTC officer, means the officer is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

OTC officer means the Territory Coordinator or a member of the Territory Coordinator's staff.

43 Offence to disclose certain information

(1) A person commits an offence if:

- (a) the person obtains information in the course of performing a function connected with the administration of this Act or exercising a power under this Act; and
- (b) the information is confidential and the person is reckless in relation to that circumstance; and
- (c) the person intentionally engages in conduct; and
- (d) the conduct results in the disclosure of the information and the disclosure is not:
 - (i) for a purpose connected with the administration of this Act, including a legal proceeding arising out of the operation of this Act; or
 - (ii) to a person who is otherwise entitled to the information; and
- (e) the person is reckless in relation to the result and circumstance referred to in paragraph (d).

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(a).

- (3) If the information referred to in subsection (1) relates to a person, it is a defence to a prosecution for an offence against that subsection if the person has consented to the disclosure of the information.

Note for subsection (3)

In addition to the circumstances mentioned in this section, a person who discloses information mentioned in this section will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

44 Protection from liability

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as:
- (a) the Territory Coordinator; or
 - (b) a member of the Territory Coordinator's staff.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) In this section:

exercise of a power includes the purported exercise of the power.

performance of a function includes the purported performance of the function.

45 Regulations

The Administrator may make regulations under this Act.

Note for section 45

See section 65 of the Interpretation Act 1978.