

PART IV

THE BILLS INTRODUCED

BILLS INTRODUCED

17 - 18 November 1976

<i>Serial No.</i>	<i>Title</i>	<i>Sponsor</i>
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153	Magistrates Bill 1976	Miss Andrew
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THE NORTHERN TERRITORY OF AUSTRALIA

Counter Disaster Ordinance

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THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To provide for the training of counter disaster
and civil defence personnel, the adoption of
counter disaster or civil defence measures
during natural or other disasters and for other
purposes

BE it ordained by the Legislative Assembly for the Northern Territory
of Australia as follows:

PART I - PRELIMINARY

1. This Ordinance may be cited as the Counter
Disaster Ordinance 1976.

Short
title

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

Commencement

3. In this Ordinance unless the contrary
intention appears -

Definitions

"Council" means the Northern Territory
Counter Disaster Council established by section
6;

"counter disaster" includes civil defence;

"counter disaster plan" means a plan
of action in relation to a locality, a region
or the Territory to be taken in the event of a
disaster in or affecting that locality or
region or the Territory;

"Director" means the Director of Emergency
Services appointed in pursuance of section 12;

"disaster" means -

- (a) a flood, earthquake, sea wave, cyclone,
storm, tornado, eruption of the earth or
other natural happening;

(b) an explosion, fire, oil spill or other happening however caused;

(c) an infestation, plague or epidemic; or

(d) an attack directed against Australia by any means, whether or not a state of war has been declared,

that causes or threatens to cause -

(e) loss of life or property;

(f) injury to persons or property; or

(g) distress to persons,

in the Territory or any part of the Territory;

"Emergency Service" means the Northern Territory Emergency Service established under section 14;

"Local Co-ordinator" means the person appointed under section 19 to be the Local Counter Disaster Co-ordinator for a particular town, community or locality;

"region" means a region of the Territory created under section 15;

"Regional Co-ordinator" means a person appointed under section 16 to be the Regional Counter Disaster Co-ordinator for a particular region;

"state of disaster" means a state of disaster declared by the Administrator in Council under section 21;

"Territory Co-ordinator" means the Commissioner within the meaning of the Police and Police Offences Ordinance.

Application

4. Nothing in this Ordinance shall authorize the taking of action, or the preparation for the taking of action, for or in connexion with -

(a) actual combat against an enemy of Australia;

(b) the putting down of a riot or civil disturbance; or

- (c) the prosecution or the bringing to an end of a strike or lock out.

5. This Ordinance binds the Crown.

Crown to
be bound

PART II - COUNTER DISASTER COUNCIL

6.(1) There is established by this Ordinance a body to be known as the Northern Territory Counter Disaster Council.

Counter
Disaster
Council

(2) Subject to sub-section (5), the Council shall consist of -

- (a) the Administrator, who shall be chairman of the Council;
- (b) the Director, who shall be the executive officer of the Council;
- (c) the permanent administrative head of the Commonwealth department for the time being having, in the opinion of the Administrator, the primary responsibility for the administration of the Commonwealth's activities in the Territory;
- (d) the Executive Member;
- (e) the Territory Co-ordinator;
- (f) the most senior resident officer for the time being of the Commonwealth department which, in the opinion of the Administrator, has the primary responsibility for the construction of Commonwealth buildings and works in the Territory;
- (g) the Chief Medical Officer;
- (h) the senior resident member of the Australian Defence Forces; and
- (i) such other members as the Administrator appoints pursuant to this section.

(3) The Administrator may appoint the mayor of a municipality, or chairman of a local authority, whose municipality or area, as the case may be, is affected by a disaster, to be a member of the Council for as long as, in the Administrator's opinion, that municipality or local area is so affected.

(4) The Administrator may appoint as members of the Council such senior officers of the Territory or Commonwealth government departments, instrumentalities or statutory authorities as he considers necessary.

(5) Where a member of the Council is a member by virtue of his position in a government department, instrumentality, authority or other body, or is appointed by the Administrator by virtue of that position, that member may authorize an officer or member of his government department, instrumentality, authority or other body, as the case may be, to attend a meeting of the Council in his stead, and while so attending, that person shall be a member of the Council.

Functions of Council

7. The functions of the Council are -

- (a) to lay down general guidelines to be followed by the Director in counter disaster planning;
- (b) to examine and approve local, regional and Territory counter disaster plans prepared by the Director, and amend such plans where it considers this necessary;
- (c) to determine the Territory's needs (financial or otherwise) in the event of a disaster, or impending disaster and advise the Minister accordingly; and
- (d) generally to advise and, where necessary, direct the Territory Co-ordinator on counter disaster and civil defence activities during a state of disaster.

Meetings of Council

8.(1) The Council shall meet as often as it considers necessary for the performance of its functions, and at such other times as the Administrator may require.

(2) Meetings of the Council shall be held at such places as the Administrator may determine.

9. The Council shall determine its own meeting procedure.

Procedure
at meetings

PART III - TERRITORY CO-ORDINATOR

10. There shall be a Territory Co-ordinator of counter disaster activities in the Territory.

Territory
Co-ordinator

11. The functions of the Territory Co-ordinator are -

Functions of
Territory
Co-ordinator

(a) to co-ordinate counter disaster activities during a state of disaster; and

(b) to carry out such other functions as directed by the Council.

PART IV - DIRECTOR OF EMERGENCY SERVICES

12.(1) There shall be a Director of Emergency Services.

Director

(2) The Director shall be appointed and employed in accordance with and be subject to the provisions of the Public Service Ordinance.

13. The functions of the Director are -

Functions
of Director

(a) in consultation with the Territory Co-ordinator to prepare and, as necessary, revise counter disaster plans for the Territory for consideration and approval by the Council;

(b) to receive and consider suggested counter disaster plans for regions and localities prepared by the Regional Co-ordinators and Local Co-ordinators for incorporation in the Territory counter disaster plan;

(c) to advise the Council, Regional Co-ordinators and Local Co-ordinators on counter disaster planning generally;

- (d) to disseminate details of approved counter disaster plans;
- (e) to appoint, educate and train specialist persons or groups in counter disaster activities;
- (f) to raise and train units of, and appoint persons as voluntary members of, the Emergency Service;
- (g) to establish and maintain such counter disaster training facilities as he considers necessary or as directed by the Council;
- (h) to procure, maintain and distribute equipment and materials for use by counter disaster organizations in the Territory;
- (i) to advise and assist government departments, instrumentalities, statutory authorities, local government bodies, voluntary organizations and other bodies in counter disaster measures and procedures;
- (j) to inspect and review the operations and preparedness of units of the Emergency Service;
- (k) to seek the assistance of such other persons or bodies as he considers necessary for training and planning purposes;
- (l) to arrange and assist in conducting such exercises as he considers necessary, or as directed by the Council, to test counter disaster plans and the training and state of preparedness of organizations and individuals;
- (m) to co-ordinate within the Territory such programmes of governmental support for emergency services as may be available;
- (n) to prepare such reports on counter disaster activities in the Territory as may be required by the Administrator or the Council; and

- (o) to perform such other functions and duties as may be directed by the Council.

PART V - VOLUNTARY, REGIONAL AND LOCAL ORGANIZATION

14.(1) There shall be an organization to be known as the Northern Territory Emergency Service.

Northern
Territory
Emergency
Service

(2) The Emergency Service shall consist of -

(a) the persons appointed and employed in accordance with and subject to the provisions of the Public Service Ordinance in positions established under that Ordinance for that purpose; and

(b) such other voluntary members as are appointed by the Director.

(3) The Emergency Service shall be divided into such operational units as the Council, on the advice of the Director, considers necessary.

(4) Subject to sub-section (5), the Emergency Service shall be under the supervision and control of the Director.

(5) During a state of disaster the Emergency Service, or such units thereof as can be used for the purposes of counter disaster measures associated with that disaster, shall, for the duration of the state of disaster, be under the operational control of the Territory Co-ordinator.

15.(1) The Council may divide the Territory into regions for the purposes of this Ordinance.

Regional
organization

(2) Notice of the creation of regions shall be published in the Gazette.

Regional
Counter
Disaster Co-
ordinator

16. The Territory Co-ordinator shall appoint a member of the Police Force of the Northern Territory to be the Regional Counter Disaster Co-ordinator in respect of a particular region.

Responsibility of
Regional Co-ordinator

17. (1) During a time in which there is no state of disaster affecting a region, the Regional Co-ordinator of that region shall be responsible to the Director.

(2) During a state of disaster that affects a region, the Regional Co-ordinator shall be responsible to the Territory Co-ordinator for the carrying out of counter disaster measures in his region.

Functions of
Regional
Co-ordinator

18. The functions of the Regional Co-ordinator are-

- (a) to ensure that a draft regional counter disaster plan is prepared for the region and submitted to the Director;
- (b) to recommend to the Director the appointment of particular persons to the Emergency Service and the establishment of particular units of that Service in his region;
- (c) to co-ordinate operations in his region in an emergency, other than a state of disaster, when the resources required are beyond the capacity of a single organization; and
- (d) during a state of disaster, and subject to the direction of the Territory Co-ordinator, to control and co-ordinate all counter disaster facilities at his disposal in his region.

Local
Co-ordinator

19. Where the Director considers that a Local Counter Disaster Co-ordinator should be appointed for a particular town, community or locality, he shall -

- (a) where there is a police station situated in that town, community or locality - appoint the officer in charge of that police station; or
- (b) where there is no police station so situated - appoint a resident of the town, community or locality,
to be the Local Counter Disaster Co-ordinator for that town, community or locality.

20. The Local Co-ordinator shall -

Functions
of Local
Co-ordina-
tor

- (a) make recommendations to the Regional Co-ordinator regarding the regional counter disaster plan as it affects the local area;
- (b) maintain contact with the local representatives of government departments, instrumentalities and authorities, and community organizations and individual citizens, with a view to promoting co-operation in counter disaster activities;
- (c) subject to the directions of the Regional Co-ordinator, co-ordinate local counter disaster operations during a state of disaster; and
- (d) carry out such other functions as the Regional Co-ordinator or the Director may direct.

PART VI - STATE OF DISASTER

21.(1) If at any time it appears to the Administrator in Council that the extent or degree of a disaster or impending disaster is, or is likely to be, so great that the counter disaster measures necessary to combat its effects are beyond the resources of the existing governmental, statutory or municipal services in the area, he may declare that a state of disaster exists in respect of so much of the Territory as in his opinion is affected by the disaster or is likely to be affected by the impending disaster.

Declaration
of state of
disaster

(2) A declaration of a state of disaster shall -

- (a) come into force immediately the declaration is made; and
- (b) continue in force for 7 days from the date of the declaration unless sooner revoked by the Administrator in Council.

(3) A state of disaster may be extended by the Administrator in Council for such periods, not exceeding 14 days in each case, as he considers necessary.

Duties upon
declaration
of a state
of disaster

22. (1) Upon a declaration of a state of disaster-
 - (a) the Territory Co-ordinator shall institute such counter disaster measures as are in accordance with the approved counter disaster plans;
 - (b) the Director shall place at the disposal of the Territory Co-ordinator the resources, manpower and equipment of the Emergency Service;
 - (c) the Regional Co-ordinator, subject to the direction of the Territory Co-ordinator and, where appropriate, the Local Co-ordinator on the directions of the Regional Co-ordinator, shall -
 - (i) take immediate action to use, direct and co-ordinate all available resources within his region or locality (as the case may be) to counter the effect of the disaster;
 - (ii) immediately they become available, use, direct and co-ordinate all additional resources that may be made available to him from any source; and
 - (iii) take such other measures as are provided for in respect of his region or locality in the approved plan for the region;
 - (d) the officers in charge of governmental, statutory and municipal services, the local officer in charge of the Emergency Service, and officers in charge of units of government departments and voluntary organizations making themselves available for counter disaster operations, shall place themselves and their organizations at the disposal of the Territory Co-ordinator, Regional Co-ordinators and Local Co-ordinators; and
 - (e) officers commanding units of the armed forces made available for counter disaster operations shall operate under the co-ordination of the Territory Co-ordinator, but remain under their own chain of command.

Special
powers
during

23. (1) During a state of disaster, the Territory Co-ordinator, a Regional Co-ordinator, a Local

Co-ordinator, a member of the Police Force of the Northern Territory or authorized person may, for the purposes of carrying out counter disaster activities - state of disaster

- (a) require the owner or person in possession of any personal property to surrender it or place it under the control and direction of the person making the requisition;
- (b) require any person to assist in tasks to save life or property in immediate danger;
- (c) direct the evacuation and exclusion of any persons from any place, and in the exercise of that power may remove or cause to be removed a person who does not comply with a direction to evacuate, or a person who enters or is found in a place in respect of which a direction for the exclusion of persons has been given;
- (d) enter, by force if necessary, any place where he believes, on reasonable grounds, it is necessary to do so for the saving of human life or the prevention of injury to a person, or for the rescue of an injured or endangered person or for facilitating the carrying out of other urgent measures with respect to the relief of suffering and distress;
- (e) if in his opinion it is necessary to do so for the conduct of counter disaster operations, close to traffic any road within the meaning of the Control of Roads Ordinance or close any other place open to or used by the public; and
- (f) remove from any place, a vehicle that is impeding counter disaster operations, and to facilitate its removal may use such force as is reasonably necessary to break into that vehicle.

(2) A person who suffers loss or damage to his property by reason of the exercise of the powers conferred by sub-section (1)(a), (d) and (f) shall be entitled to receive fair and reasonable compensation from the Commonwealth for such loss or damage.

(3) For the purposes of this section, "authorized person" means any person authorized to carry out counter disaster and civil defence functions by the

Council, the Territory Co-ordinator, the Director, a Region Controller or a Local Co-ordinator.

PART VII - MISCELLANEOUS

Power of
delegation

24.(1) A person to whom any power is given, or upon whom any function is imposed by or under this Ordinance may, by writing under his hand, delegate all or any of his powers or functions to another person, except this power of delegation.

(2) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the person delegating that power or function.

Certain
proceedings
not to be
taken

25. No civil or criminal action or proceedings shall lie or be brought against the Crown or any person acting in the execution or intended execution of this Ordinance, the regulations or a delegation under this Ordinance, or in compliance or intended compliance with any direction given or purported to be given under this Ordinance or the regulations, in respect of anything done or omitted to be done in good faith by that person under or for the purposes of this Ordinance or the regulations.

Person exer-
cising power,
etc., not to
be obstructed

26. No person shall assault, obstruct, threaten, abuse, insult or intimidate a person carrying out his powers or performing his functions under this Ordinance.

Offence and
penalty

27. A person who contravenes or fails to comply with any provision of this Ordinance the regulations, or an order lawfully given under this Ordinance or the regulations, is guilty of an offence against this Ordinance.

Penalty: 500 dollars.

Offences by
body
corporate

28. Where a body corporate commits an offence against this Ordinance or the regulations -

(a) the managing director, manager, or other governing officer, by whatever name called, and every member of the governing body thereof, by whatever name called; and

(b) every person who in the Territory manages or acts or takes part in the management, administration, or government of the business in the Territory of the body corporate, shall be deemed also to have committed the offence jointly with the body corporate.

29.(1) A person who, during the period of a state of disaster, is absent from his usual employment on duties in connexion with counter disaster measures in any capacity whatsoever, shall not be liable for dismissal, loss of long service leave, sick leave, recreation leave, or other benefits to which he may be entitled under the industrial award or agreement applicable to his usual employment, by reason only of his absence on those duties, whether or not his usual employer has consented to his absence.

Protection
of employ-
ment
rights

30. The Commonwealth shall be liable in respect of the loss of life of, or injury to, a person, that occurs while that person is -

Compensation
for
personal
injury

(a) engaged in counter disaster activities under the authority of the Territory Co-ordinator, Director, Regional Co-ordinator or Local Co-ordinator; or

(b) participating in counter disaster training under the control of -

(i) the Director or a person acting under the authority of the Director;

(ii) a Regional Co-ordinator or a person acting under the authority of the Regional Co-ordinator; or

(iii) a Local Co-ordinator or a person acting under the authority of a Local Co-ordinator,

as if that person were a person to whom the Compensation (Australian Government Employees) Act 1971 applies.

31. The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters that are necessary or convenient to be prescribed for carrying out, or giving effect to this Ordinance.

Regulations

THE NORTHERN TERRITORY OF AUSTRALIA

Magistrates Ordinance

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THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

Relating to the provision of
Magistrates

BE it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

PART I - PRELIMINARY

- | | |
|---|--------------|
| 1. This Ordinance may be cited as the <u>Magistrates Ordinance 1976</u> . | Short title |
| 2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the <u>Gazette</u> . | Commencement |
| 3. In this Ordinance unless the contrary intention appears -
"Coroner" has the same meaning as in the <u>Coroner's Ordinance</u> ;
"Justice" has the same meaning as in the <u>Justices Ordinance</u> ;
"Magistrate" means the Chief Magistrate, a Stipendiary Magistrate or a Special Magistrate;
"the Territory" includes the Territory of Ashmore and Cartier Islands. | Definitions |

PART II - AMENDMENTS OF THE
JUSTICES ORDINANCE

Appoint-
ment of
Justices

4.(1) Section 10(1) of the Justices Ordinance is amended by omitting paragraph (b).

(2) Section 10(3) of the Justices Ordinance is amended by omitting paragraphs (b), (c) and (d).

(3) Section 10 of the Justices Ordinance is amended by omitting sub-section (4).

Oaths of
office,
etc.

5.(1) Section 11(1) of the Justices Ordinance is amended by omitting "a Special Magistrate or a Stipendiary Magistrate".

(2) Section 11 of the Justices Ordinance is amended by omitting sub-section (5).

Repeal of
sections
12 and
13

6. Sections 12 and 13 of the Justices Ordinance are repealed.

PART III - CHIEF MAGISTRATE AND
STIPENDIARY MAGISTRATE

Chief
Magis-
trate,
Stipendi-
ary
Magistrate

7.(1) For the purposes of this Ordinance, there shall be -

(a) an office of Chief Magistrate; and

(b) 6 offices of Stipendiary Magistrate.

(2) The Governor-General may appoint persons to hold offices referred to in sub-section (1).

(3) Before making an appointment under sub-section (2) the Governor-General shall seek and consider the advice of the Administrator in Council.

(4) Where a person holding an office of Stipendiary Magistrate is appointed to hold the office of Chief Magistrate, the person ceases to hold the office of Stipendiary Magistrate.

8. A person is not eligible for appointment under section 7(2) unless he is enrolled as a legal practitioner of the High Court or of the Supreme Court of a State or Territory and has been so enrolled for not less than 5 years.

Eligibility for appointment

9. Unless and until express provision is made in relation thereto, by or under an Act or another Ordinance, a Magistrate appointed under this Part -

Terms and conditions of appointment

(a) shall be paid such remuneration and allowances; and

(b) holds office on such terms and conditions,

as the Governor-General, from time to time, determines.

10.(1) Subject to this Ordinance, a Magistrate appointed under this Part holds office until he attains the age of 65 years.

Tenure of office

(2) A person who has attained the age of 65 years shall not be appointed under section 7(2).

11. A Magistrate appointed under this Part may resign his office by writing signed by him and delivered to the Governor-General.

Resignation

12.(1) Where -

(a) there is a vacancy in the office of Chief Magistrate; or

(b) the Chief Magistrate is absent from duty or from the Territory or, for any other reason, is unable to carry out the duties of his office,

Acting Chief Magistrate, acting Stipendiary Magistrate

the Governor-General may appoint a Stipendiary Magistrate to act as Chief Magistrate during that vacancy, absence or inability, as the case may be.

(2) Where -

- (a) there is a vacancy in an office of Stipendiary Magistrate; or
- (b) a Stipendiary Magistrate is absent from duty or from the Territory or, for any other reason, is unable to carry out the duties of his office,

the Governor-General may appoint a person who is eligible for appointment under section 7(2) to act as a Stipendiary Magistrate during that vacancy, absence or inability, as the case may be.

(3) Subject to this section, a person appointed under sub-section (1) or (2) shall not continue to act as Chief Magistrate or Stipendiary Magistrate, as the case may be, for more than 12 months.

(4) Where a person is acting as Chief Magistrate in pursuance of an appointment under sub-section (1) or as Stipendiary Magistrate in pursuance of an appointment under sub-section (2) -

- (a) a reference in a law of the Territory to the Chief Magistrate or a Stipendiary Magistrate, as the case may be, includes a reference to that person; and
- (b) that person has all the powers, functions and duties conferred or imposed upon the Chief Magistrate or a Stipendiary Magistrate, as the case may be, by any law of the Territory.

(5) The Governor-General may -

- (a) determine the terms and conditions of appointment of a person under this section; and
- (b) at any time terminate such an appointment.

(6) Where a person is acting as Chief Magistrate in pursuance of an appointment under sub-section (1) and the office of Chief Magistrate becomes vacant while that person is so acting, or where a person is acting as a Stipendiary Magistrate in pursuance of an appointment under sub-section (2) and that office of Stipendiary Magistrate becomes vacant while that person is so acting, that person may continue to act until the Governor-General otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happened.

(7) A person may resign an appointment under sub-section (1) or (2) by writing **signed** by him and delivered to the Governor-General.

(8) The validity of anything done by a person acting as Chief Magistrate in pursuance of an appointment under sub-section (1) or as a Stipendiary Magistrate in pursuance of an appointment under sub-section (2) shall not be called in question by reason of any defect or irregularity in or in connexion with his appointment or on the ground that the occasion for his acting had not arisen or had ceased.

13.(1) The Governor-General may remove a Magistrate appointed under this Part from office on a resolution requesting his removal on the ground of proved misbehaviour or incapacity being presented to the Governor-General by the Legislative Assembly.

Removal
from
office

(2) The Governor-General may suspend a Magistrate appointed under this Part from office on the ground of misbehaviour or incapacity.

(3) Where the Governor-General suspends a Magistrate from office, the Attorney-General shall cause a statement of the ground of the suspension to be forwarded to the Administrator for tabling in the Legislative Assembly within the period of 5 sitting days of that Assembly after the suspension.

(4) Where -

- (a) a statement has been tabled in the Legislative Assembly in accordance with sub-section (3); and
- (b) the Legislative Assembly, within the period of 5 sitting days of that Assembly after the statement was tabled, by resolution declares that the Magistrate to whom the statement relates should be removed from office,

the Governor-General shall remove that Magistrate from office.

(5) Where -

- (a) a statement has been tabled in accordance with sub-section (3); and
- (b) on the first day on which a period referred to in sub-section (4)(b) expires, the Legislative Assembly has failed to pass the resolution referred to in sub-section (4)(b),

the Governor-General shall cancel the suspension of the Magistrate from office.

(6) The suspension of a Magistrate from office under this section does not affect any entitlement of the Magistrate to be paid remuneration and allowances.

(7) The Governor-General may, with the consent of a Magistrate appointed under this Part, retire the Magistrate from office on the ground of invalidity or physical or mental incapacity.

(8) A Magistrate appointed under this Part shall not be removed or suspended from office except as provided by this section.

14.(1) A Magistrate appointed under this Part shall not engage in practice as a barrister, as a solicitor or as a barrister and solicitor.

Magistrates not to undertake other work

(2) A Magistrate appointed under this Part shall not, without the consent of the Attorney-General, engage in paid employment outside the duties of his office under this Ordinance or any office or appointment held by him in the Defence Force.

(3) The acceptance by a Magistrate of appointment to a judicial office in another Territory does not affect his office under this Ordinance.

15. Where a Magistrate appointed under this Part was, immediately before his appointment an officer of the Australian Public Service or a person to whom the Officers' Rights Declaration Act 1928 applied, he retains his existing and accruing rights.

Rights of public servants

16. The Chief Magistrate is, subject to rules made under the Local Courts Ordinance, responsible for the administrative allocation and co-ordination of the work of Magistrates and Justices of the Peace under this Ordinance or any other law in force in the Northern Territory relating to the jurisdiction of courts in the Northern Territory that are constituted by

Functions of Chief Magistrate

Magistrates or by Justices of the Peace.

PART IV - SPECIAL MAGISTRATES

Appoint-
ment of
Special
Magistrate

17.(1) For the purposes of this Ordinance, the Governor-General may appoint such Special Magistrates as are required.

(2) A person is not eligible for appointment under sub-section (1) unless he is a Justice of the Peace.

Tenure
of
office

18. A Special Magistrate holds office during the pleasure of the Governor-General.

Resigna-
tion

19. A Special Magistrate may resign his office by writing signed by him and delivered to the Governor-General.

Terms and
conditions
of
appoint-
ment

20. Subject to section 18, a Special Magistrate holds office upon such terms and conditions, whether as to remuneration or otherwise, as the Governor-General, from time to time determines.

PART V - JURISDICTION OF MAGISTRATES

Powers of
Magis-
trates

21.(1) Subject to sub-section (2), each Stipendiary Magistrate and each Special Magistrate has jurisdiction, power and authority to do alone whatsoever any one, 2 or more Justices may lawfully do under the Justices Ordinance, or under or by virtue of any other Ordinance or any Act conferring jurisdiction, power or authority upon Justices.

(2) Sub-section (1) does not authorize a Magistrate to exercise any jurisdiction or to do any act which he is, by the express provisions of any Ordinance or Act, authorized to exercise or do only in conjunction with other Justices.

(3) Every Stipendiary Magistrate has the jurisdiction and all the powers and functions of a Special Magistrate whether given by or under the Justices Ordinance or

by or under any other law in force in the Northern Territory.

(4) The Chief Magistrate has the jurisdiction and all the powers and functions of a Stipendiary Magistrate whether given by or under this Ordinance, the Justices Ordinance or any other law in force in the Northern Territory.

22.(1) An act done by a Magistrate, by virtue of his office, outside the Territory for the purpose of authenticating the signature of a person to an instrument intended to take effect in the Territory shall, unless the act is required by law to be done in the Territory, be effective for the purposes of any law of the Territory.

Acts done
beyond
the
Territory

(2) An oath or affirmation administered by a Magistrate, by virtue of his office, outside the Territory in any case in which an oath or affirmation may be administered by a Magistrate shall, unless the oath or affirmation is required by law to be administered in the Territory, be effective for the purposes of any law of the Territory.

PART VI - MISCELLANEOUS

23.(1) Subject to sub-section (3), a person appointed under section 7(2) or section 17(1) shall not exercise or perform any of the powers, functions or duties conferred or imposed upon him by any law of the Territory unless he has made an oath or affirmation in accordance with the form in the Schedule.

Oath, etc.,
of
office

(2) An oath or affirmation for the purpose of sub-section (1) shall be made before a Judge of the Supreme Court.

(3) Where a person has made the oath or affirmation required by sub-section (1) on his appointment under section 7(2) or section 17(1) and -

(a) afterwards ceases to hold that appointment; or

- (b) being a Stipendiary Magistrate of a Special Magistrate, is appointed to be the Chief Magistrate,

it is not necessary for him to make an oath or affirmation for the purpose of sub-section (1) on his again being appointed under section 7(2) or section 17(1).

Trans-
itional
and
savings
provisions

24.(1) Where -

- (a) the appointment of a person under section 7(2) has effect from and including the date of commencement of this Ordinance;
- (b) immediately before the commencement of this Ordinance, that person held office as a Chief Magistrate or as a Stipendiary Magistrate by virtue of an appointment under section 10(3) of the Justices Ordinance; and
- (c) at the date of commencement of this Ordinance, a Court or Tribunal constituted by that person had commenced the hearing of proceedings but -
 - (i) the hearing had not been completed; or
 - (ii) the proceedings had not been determined,

the Court or Tribunal constituted by that person may continue the hearing of the proceedings and may determine the proceedings as if -

- (d) this Ordinance had come into operation before the hearing of the proceedings commenced; and

- (e) that person had been appointed under section 7(2) immediately before the hearing of the proceedings commenced.

(2) A person who, immediately before the commencement of this Ordinance, held office as a Special Magistrate by virtue of an appointment under section 10(3) of the Justices Ordinance continues after the commencement to hold office as if -

- (a) this Ordinance had been in operation when the appointment was made; and
- (b) the appointment had been made under section 17(1),

but such an appointment may be revoked.

(3) For the purposes of any law of the Territory that -

- (a) confers or imposes any power, function or duty upon a Magistrate or upon a Coroner; or
- (b) confers any jurisdiction upon a Court or Tribunal,

an act done before the commencement of this Ordinance by a person holding office as the Special Magistrate, as a Stipendiary Magistrate or as a Special Magistrate by virtue of an appointment under section 10(3) of the Justices Ordinance has the same force and effect after the commencement as it would have had if -

- (c) this Ordinance had been in operation when the act was done; and
- (d) the person had, at that time, held office under section 7(2) or section 17 (10).

Further
savings
pro-
vision

25. Where, before the date of commencement of this Ordinance, a Magistrate had refused to do an act relating to the duties of his office, section 189 of the Justices Ordinance applies, on and after that date, and proceedings under that section 189 may be continued, as if -

- (a) section 7(2) and section 17(1) had been in operation at the time of the refusal; and
- (b) the Magistrate had held office under section 7(2) or section 17(1), as the case may be.

Appoint-
ments
may be
made
before
commence-
ment

26.(1) For the purpose of bringing this Ordinance into operation at the date of its commencement -

- (a) the Governor-General may make appointments under Parts III and IV; and
- (b) a person so appointed may take the oath or make affirmation required by section 23,

before this Ordinance comes into operation.

(2) An appointment made in pursuance of sub-section (1) has effect from and including the date on which this Ordinance comes into operation.

SCHEDULE

Section 23

O A T H

I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second, Her heirs and successors, according to law, that I will well and truly serve in the office of _____ and that I will do right to all manner of people according to law, without fear or favour, affection of ill-will. So help me God!

AFFIRMATION

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second, Her heirs and successors, according to law, that I will well and truly serve in the office of _____ and that I will do right to all manner of people, according to law, without fear or favour, affection or ill-will.

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the Medical Practitioners Registration Ordinance

BE it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

1. This Ordinance may be cited as the Medical Practitioners Registration Ordinance 1976.

Short
title

2. The Medical Practitioners Registration Ordinance is in this Ordinance referred to as the Principal Ordinance.

Principal
Ordinance

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

Commencement

4. Section 5 of the Principal Ordinance is amended-

Definitions

(a) by inserting before the definition of "Board", the following definition:

" 'Assessor' means an Assessor appointed under section 31;";

(b) by omitting the definition of "Register";

(c) by omitting the definition of "Registered medical practitioner" and substituting the following definition:

" 'Registered medical practitioner' means a person registered and entitled to practise medicine in the Northern Territory, whether provisionally, subject to conditions or without restriction, under this Ordinance;"; and

- (d) by omitting the definitions of "The Chief Medical Officer", "The Director-General" and "The Minister" and substituting the following definitions:

" 'The Director of Health' means the person for the time being holding, occupying or performing the duties of the office of Director of Health for the Northern Territory under the Public Service Act 1922;

'The Judge' means the Judge nominated in accordance with section 31 to constitute, with the Assessors, the Tribunal;

'The Registrar' means the Registrar of the Board appointed under this Ordinance;

'The Senior Judge' means the Senior Judge for the time being of the Supreme Court;

'The Supreme Court' means the Supreme Court of the Northern Territory of Australia;

'The Tribunal' means the Medical Practitioners Disciplinary Tribunal established under section 31."

Establishment of
Medical
Board

5. Section 6(1) of the Principal Ordinance is amended-

- (a) by inserting after "Board, which" the words ",subject to the directions of the Executive Member,"; and
- (b) by omitting from sub-section (3), "Judges" and substituting "judges".

Members of
Medical
Board

6.(1) Section 7 of the Principal Ordinance is amended -

- (a) by omitting from sub-section (1) and (3) "Chief Medical Officer" and substituting "Director of Health";

- (b) by omitting from sub-section (1) "Minister" and substituting "Executive Member";
- (c) by inserting in sub-section (2) after "medical practitioner" the words "without restrictions as to practice"; and
- (d) by omitting sub-section (4).

(2) Notwithstanding the amendments made by sub-section (1), the persons holding office immediately before the commencement of this Ordinance as members of the Board shall be deemed to have been appointed as members of the Board under this Ordinance on the date on which they were appointed as though the amendments were in force on that date.

7. After section 7 of the Principal Ordinance the following section is inserted:

"7A.(1) The Executive Member may appoint a person to be Registrar of the Board. Registrar

"(2) The Registrar has such powers and functions as are conferred on him by or under this Ordinance.

"(3) In the exercise of his powers and functions the Registrar is subject to the control of the Board.

"(4) The Board may authorize the Registrar, either generally or in a particular case or class of cases, to sign on behalf of the Board a certificate which a person is entitled to receive from the Board."

8. Section 8 of the Principal Ordinance is amended- Meetings of the Board

- (a) by omitting from sub-section (1) "Chairman" and substituting "Registrar"; and

- (b) by omitting from sub-section (2) "Director-General" and substituting "Executive Member".

9. After section 9 of the Principal Ordinance, the following section is inserted:

"9A. Members and Assessors shall be paid such fees, allowances and expenses, if any, as are prescribed." Remuneration

Removal of
member from
office

10. Section 10 of the Principal Ordinance is amended by omitting "Minister" (wherever occurring) and substituting "Executive Member".

Office of
member, how
vacated,
etc.

11. Section 11 of the Principal Ordinance is amended by adding at the end the following sub-sections:

"(3) The exercise of a power or the performance of a function by the Board is not invalidated by reason only of there being a vacancy or vacancies in the membership of the Board.

"(4) The appointment of a person as a member is not invalidated and shall not be called in question by reason of a defect or irregularity in or in connexion with his appointment."

Power to
send for
witnesses
and
documents

12. Section 12 of the Principal Ordinance is amended-

(a) by omitting sub-section (1) and substituting the following:

"(1) For the purposes of this Ordinance -

(a) the Board may in writing under the hand of the Chairman; or

(b) the Tribunal may in writing under the hand of the Judge,

summons a person to attend before it to give evidence and to produce such books, documents or writings in his custody or control as he is required by the summons to do."; and

(b) by omitting from sub-section (2) -

(i) "Board" (first occurring) and substituting "Board or the Tribunal, as the case may be,"; and

(ii) "Board" (second and last occurring) and substituting "it".

Penalty
for failing
to attend
or produce
documents

13. Section 15 of the Principal Ordinance is amended-

(a) by inserting after "Board" (first occurring) the words "or the Tribunal"; and

- (b) by inserting after "Board" (second occurring) the words "or the Tribunal, as the case may be".

14. Section 16 of the Principal Ordinance is repealed and the following section substituted:

"16.(1) A person appearing as a witness before the Board or the Tribunal shall not refuse to be sworn or to answer any question relevant to the proceedings before the Board or the Tribunal, as the case may be, put to him by any of the Members, by the Judge, by an Assessor or by a party or by counsel appearing for a party before the Board or Tribunal.

Penalty for refusing to be sworn or to give evidence

Penalty: 100 dollars.

"(2) A person appearing before the Board or the Tribunal to give evidence or produce documents is not excused from answering a question, or producing a document, on the ground that the answer to the question, or the document, may tend to incriminate him.

"(3) Evidence given by a person before the Board or Tribunal is not admissible against him in any criminal proceedings other than proceedings for offences against this Ordinance."

15. Section 17 of the Principal Ordinance is amended-

Giving false testimony

- (a) by inserting after "Board" the words "or the Tribunal"; and
- (b) by omitting "inquiry" and substituting "issue before the Board or the Tribunal, as the case may be".

16. Section 18 of the Principal Ordinance is repealed and the following section substituted:

"18.(1) A member of the Board or the Judge or an Assessor has, in the performance of his duty, the same protection and immunity as a Judge of the Supreme Court.

Protection of members of Board and Tribunal, and of Counsel and witnesses

"(2) A barrister, solicitor or other person appearing before the Board or the Tribunal on behalf of a person has the same protection and immunity as a barrister has in appearing for a party in proceedings before the Supreme Court.

"(3) Subject to this Ordinance, a person summoned to attend or appear before the Board or the Tribunal as a witness has the same protection, and is, in addition to the penalties provided by this Ordinance, subject to the same liabilities, in any civil or criminal proceedings as a witness in proceedings in the Supreme Court."

17. Section 20 of the Principal Ordinance is repealed and the following sections substituted:

**Titles of
Registers**

"20. The Board shall keep 4 registers which shall be called as follows:

- (a) Register (Full);
- (b) Register (Provisional Full);
- (c) Register (Conditional); and
- (d) Register (Provisional Conditional).

**Full Regis-
traion**

"20A. A medical practitioner, whose name is entered in the Register (Full), is entitled to practise medicine in the Northern Territory without restriction.

**Provisional
Full Regis-
tration**

"20B. A medical practitioner whose name is entered in the Register (Provisional Full) is entitled to practise medicine in the Northern Territory without restriction until -

- (a) the expiry date stated in the Certificate of Registration; or
- (b) such later date as is fixed by the Board which in no case shall be later than 3 months from the granting of the Certificate.

**Conditional
Registration**

"20C.(1) A medical practitioner whose name is entered in the Register (Conditional) is entitled to practise medicine in the Northern Territory subject to such conditions as to practice as the Board may impose.

"(2) The period of practice subject to conditions shall not in the first instance exceed 12 months and

may not be renewed for a period which exceeds 12 months.

"20D.(1) A medical practitioner whose name is entered in the Register (Provisional Conditional) is entitled to practise medicine in the Northern Territory subject to such conditions as to practice or otherwise as the Chairman may impose, until -

Provisional
Conditional
Registration

(a) the expiry date stated in the Certificate of Registration; or

(b) such later date as is fixed by the Board which in no case shall be later than 3 months from the granting of the Certificate.

"(2) The period of provisional conditional registration of a medical practitioner may be taken into consideration, if the Board thinks fit, when specifying the initial period of conditional registration as set out in section 20C(2)."

18. Section 21 of the Principal Ordinance is amended-

Mode of
Registration

(a) by omitting from sub-section (1) "Register" and substituting "relevant register"; and

(b) by omitting from sub-section (2) "the Register" and substituting "a register".

19. Sections 22, 23 and 23A of the Principal Ordinance are repealed and the following sections substituted:

"22.(1) A person, not being a person to whom section 23B applies, who holds the degrees of Bachelor of Medicine and Bachelor of Surgery or equivalent degrees of a university or college in the Commonwealth or in a prescribed country, being a university or college that is authorized to grant degrees, may apply for his name to be entered in the Register (Conditional).

Conditional
Registration
and pre-
scribed gra-
duates

"(2) Where the Board is satisfied -

(a) concerning a person's qualifications;

(b) that the person's name has not been removed from the register of medical practitioners or of persons entitled to practise medicine or

surgery in a State or Territory or in another country for any cause that would disqualify him from being registered under this Ordinance;

(c) that the person is of good character; and

(d) that the person is not suffering from any mental or physical disability that would prevent him from practising medicine or surgery efficiently,

it shall enter that person's name in the Register (Conditional).

Conditional
Registration
- other
graduates

"23.(1) A person, who holds a degree, diploma, licence, letters, certificate, testimonials or other title or document granted in a place outside the Commonwealth, not being a prescribed country -

(a) that entitles him to practise medicine and surgery in that place; or

(b) whereby the holder is recognized by the law of that place as having attained a sufficiently high standard of training and skill in medicine and surgery to be permitted to practise medicine and surgery in that place,
may apply for his name to be entered in the Register (Conditional).

"(2) The Board may require a person applying under sub-section (1) to satisfy it-

(a) that he has taken up or intends to take up residence in the Territory; and

(b) by examination, that he has attained a sufficiently high standard of skill in medicine and surgery to be permitted to practise medicine and surgery.

"(3) Where the Board is satisfied -

(a) concerning a person's residential and professional qualifications;

(b) concerning a person's standard of skill in medicine and surgery;

(c) that the person's name has not been removed from the register of medical practitioners or

of persons entitled to practise medicine and surgery in a State or Territory or in another country for any cause that would disqualify him from being registered under this Ordinance;

(d) that the person is of good character; and

(e) that the person is not suffering from any mental or physical disability that would prevent him from practising medicine and surgery efficiently,

it shall enter that person's name in the Register (Conditional).

"23A. Where -

(a) a medical practitioner's name is entered in the Register (Conditional) under section 22;

(b) the medical practitioner has for a period of not less than 12 months served as a medical officer in a hospital or hospitals, which, in the opinion of the Board, provide satisfactory opportunities for training and experience in the practice of medicine and surgery; and

(c) the medical practitioner has obtained a certificate from the Medical Superintendent or other supervisor of each hospital in which that medical practitioner has served stating that that medical practitioner has performed his duties satisfactorily,

he may apply for his name to be entered in the Register (Full) and the Board shall enter his name in the Register (Full).

Registration
(Full) Commonwealth
and pre-
scribed
graduates -
currently
conditionally
registered

"23B.(1) A person who -

(a) holds the degrees of Bachelor of Medicine and Bachelor of Surgery or equivalent degrees of a university in the Commonwealth or in a prescribed country, being a university that is authorized to grant the degrees; and

(b) has for a period of not less than 12 months served as a physician, surgeon or other medical officer in a hospital or hospitals,

may apply to the Board for his name to be entered in the Register (Full).

Registration
(Full) Commonwealth
and
prescribed
graduates

"(2) Where the Board is satisfied -

- (a) that the person's name has not been removed from the register of medical practitioners or of persons entitled to practise medicine or surgery in a State or Territory or in another country for any cause that would disqualify him from being registered under this Ordinance;
 - (b) that the person is of good character;
 - (c) that the person is not suffering from any mental or physical disability that would prevent him from practising medicine or surgery;
 - (d) that the hospital or hospitals in which the person served as a medical officer provide satisfactory opportunities for training and experience in the practice of medicine and surgery; and
 - (e) that the person has obtained a certificate from the Medical Superintendent or other supervisor of each hospital in which that medical practitioner has served stating that that medical practitioner has performed his duties satisfactorily,
- it shall enter that person's name in the Register (Full).

"(3) The Board may give the entry of a medical practitioner's name in the Register (Full) the same date as that on which the medical practitioner's name was entered in the Register (Provisional Full).

Registration
(Full) other
graduates

"23C. A medical practitioner -

- (a) whose name is entered in the Register (Conditional) under section 23;
- (b) who has, for the period required by the Board under section 20C(2), served as a medical officer in a hospital or hospitals which, in the opinion of the Board, provide satisfactory opportunities for training and experience in the practice of medicine and surgery;

(c) who has obtained a certificate from the Medical Superintendent or other supervisor of the hospital stating that the medical practitioner has observed the conditions laid down by the Board under section 20C(1) and performed his duties satisfactorily; and

(d) who has at the request of the Board presented himself for an examination specified by the Board and has demonstrated a satisfactory degree of competency in that examination, may apply for his name to be entered in the Register (Full) and the Board shall enter his name in the Register (Full).

"23D.(1) Where the Chairman is satisfied that, if he were the Board, a person, who has applied for his name to be entered -

Chairman
may grant
provisional
registration

(a) in the Register (Full); or

(b) in the Register (Conditional), would be registered, the Chairman may cause that person's name to be entered -

(c) in the case of paragraph (a) - in the Register (Provisional Full); or

(d) in the case of paragraph (b) - in the Register (Provisional Conditional).

"(2) Where, before the expiry of the date specified in a certificate of registration issued in consequence of a registration under sub-section (1), the Board forms the opinion that the person to whom the certificate relates ought not to have been registered, the Board may cancel that registration, and that person shall thereupon cease to be a registered medical practitioner.

"(3) The fact that a cancellation has been effected pursuant to sub-section (2) shall not prejudice the applicant's application for registration or his right to make a further application.

"23E.(1) Where a medical practitioner whose name

Non-observance of
conditions

is entered in the Register (Conditional) or the Register (Provisional Conditional) does not observe the conditions imposed, the Board may cancel the registration, and that medical practitioner shall thereupon cease to be a registered medical practitioner.

"(2) Where the Board, pursuant to sub-section (1), cancels a registration, the Registrar shall forthwith give notice of that fact to the medical practitioner concerned.

"(3) The medical practitioner concerned may, within 14 days of receiving a notice under sub-section (2), appeal to the Tribunal.

"(4) On an appeal under this section, the Tribunal -

(a) may uphold the appeal;

(b) may confirm the cancellation; or

(c) may impose a penalty of a kind specified in section 31A(2)(b)(i), (iii), (iv) and (vi).

"(5) An appeal pursuant to sub-section (3) is instituted by the medical practitioner concerned lodging a written notice of appeal with the Registrar setting out the grounds of appeal.

"(6) A notice of appeal shall be in such form as may be prescribed, or, if no form is prescribed, as the Board may determine and shall be signed by the appellant.

"(7) Upon receiving a notice of appeal under sub-section (5), the Registrar shall bring it to the attention of the Board.

"(8) The provisions of this Ordinance apply to an appeal under this section as though the appellant were a medical practitioner against whom a complaint is made."

Appeal in
case of re-
fusal by the
Board to

20. Section 24 of the Principal Ordinance is amended -

- (a) by omitting from sub-section (1) all words from and including "Such persons may"; register any person
- (b) by inserting after sub-section (1) the following new sub-section:

"(1A) Upon the Board stating its reasons as required by sub-section (1), the person whose registration is refused may, within 14 days of the stating of the reason, appeal to the Tribunal."; and

- (c) by adding at the end the following new sub-section:

"(3) The provisions of section 23E(4), (5), (6), (7) and (8) apply to an appeal instituted under this section.".

21. Section 25 of the Principal Ordinance is amended by inserting after "Register" (wherever occurring) the word "(Full)". Copy of register to be published

22. Section 27 of the Principal Ordinance is amended by omitting "Register" (wherever occurring) and substituting "relevant register". Registers may be altered

23. Section 28 of the Principal Ordinance is amended by omitting "Chairman of the Board" (wherever occurring) and substituting "Registrar". Change of address to be notified

24. Section 29 of the Principal Ordinance is amended- Alteration of registers

- (a) by omitting "Board" (wherever occurring) and substituting "Registrar";

- (b) by omitting "Register" (wherever occurring) and substituting "relevant register"; and

- (c) by omitting from sub-section (1) "it thinks fit" and substituting "are necessary".

25. The Principal Ordinance is amended by inserting after section 29 in Part III the following new section:

"29A.(1) Upon the registration of a medical practitioner under this Ordinance in the Register (Full), the Registrar shall, upon payment of such fees as are prescribed, issue to him a registration certificate and a practising certificate in such form as the Board may determine.

Registration
and
practising
certificates

"(2) Notwithstanding registration under this Ordinance, a medical practitioner whose name is entered or deemed entered in the Register (Full) shall not, after the expiry of a period of 3 months after the date of commencement of this section, practise as a medical practitioner unless he holds a current practising certificate issued under this Ordinance.

"(3) A practising certificate takes effect on the date on which the certificate is expressed to take effect.

"(4) A practising certificate expires on 31 December next following the date on which it takes effect.

"(5) A medical practitioner to whom a practising certificate has been issued shall, before 31 March in each year succeeding the issue of the certificate, apply for renewal of his practising certificate and shall pay to the Registrar the prescribed fee.

"(6) The Registrar shall, before 31 December in each year, give notice in writing to each registered medical practitioner to whom this section applies of the obligation to renew his practising certificate.

"(7) A registered medical practitioner to whom this section applies-

(a) who fails to comply with sub-section (2); or

(b) who fails to comply with sub-section (5), shall be deemed no longer to require registration under this Ordinance and the Registrar shall remove his name from the Register (Full).

"(8) An application for a practising certificate shall be in such form as the Board may determine.

"(9) Where the name of a person is removed from the Register (Full), a practising certificate held by that person is by force of this section, cancelled.

"(10) Where the right of a medical practitioner to practise in the Territory is suspended, a practising certificate held by him is by force of this section, cancelled.

"(11) Where an application for the issue of a practising certificate is made after 30 June in any year and before the next succeeding 31 December the fee payable for the issue of a practising certificate is an amount that bears to the prescribed fee the same proportion as the number of months in the period between the date of the application and the next succeeding 31 December bears to 12.

"(12) Where a registered medical practitioner has been suspended or his name has been removed from the Register (Full), that registered medical practitioner shall deliver his practising certificate to the Registrar.

Penalty: 200 dollars.

"(13) Where, before the expiry of his practising certificate, the suspension of a registered medical practitioner has been revoked or his name has been restored to the register after having been removed, the Registrar shall forthwith cause the certificate to be returned to him."

26. Sections 30 and 31 of the Principal Ordinance are repealed and the following sections substituted:

Grounds of
complaint
against
medical
practitioner

"30. (1) A person may make a complaint to the Registrar against a registered medical practitioner on the ground that the registered medical practitioner -

- (a) has obtained registration by fraud or misrepresentation;
- (b) does not possess the qualification by reason of which he obtained registration;
- (c) has been convicted of an offence which renders him unfit to practise as a medical practitioner;

- (d) has been certified insane;
- (e) is suffering from a mental or physical disability which prevents him from practising medicine or surgery efficiently;
- (f) by addiction to intoxicating liquor or drugs, has rendered himself unfit to practise as a medical practitioner; or
- (g) has been guilty of unprofessional conduct.

"(2) For the purposes of sub-section (1)(g) "unprofessional conduct" includes -

- (a) the practice of advertising with a view to procuring patients or increasing a practice, or of sanctioning or being associated with or employed by those who sanction such an advertisement;
- (b) the practice of canvassing or employing an agent or canvasser for the purpose of procuring patients or increasing a practice, or of sanctioning or of being associated with or being employed by one who sanctions such an employment; or
- (c) any conduct which may be considered to be unprofessional according to the standards of good medical practice and professional behaviour and the ethics of the medical profession.

"31.(1) There is established by this Ordinance a Tribunal to be known as the Medical Practitioners' Disciplinary Tribunal.

Medical
Practition-
ers'
Disciplinary
Tribunal

"(2) The Tribunal shall consist of -

- (a) a Judge of the Supreme Court nominated from time to time by the Senior Judge; and
- (b) 2 Assessors.

"(3) Each Assessor -

- (a) shall be a registered medical practitioner of not less than 10 years experience; and
- (b) shall be nominated from time to time by the Senior Judge after receiving a request from, and the recommendation of, the Board pursuant to section 31B(5).

"(4) Where the Board is unable to recommend to the Senior Judge the name of a person to be an Assessor-

- (a) because there are insufficient registered medical practitioners in the Territory who possess the qualifications required by sub-section (3)(a); or
- (b) because, in the opinion of the Board, the medical practitioners available to be recommended as either one of the Assessors are, by virtue of their personal knowledge of the person against whom the complaint has been made, unlikely to appear impartial,
the Board may recommend a medical practitioner of not less than 10 years experience who-
- (c) practises or resides outside the Territory; and
- (d) is willing to act as an Assessor.

Power of
Tribunal

"31A.(1) The Tribunal has the power and authority to hear and determine or, as the case may be, investigate -

- (a) complaints made against a registered medical practitioner under this Ordinance;
- (b) appeals made pursuant to sections 23E(3) and 24; or
- (c) any other matters which, under this Ordinance, may be referred to it by the Board.

"(2) After hearing a complaint, the Tribunal -

- (a) may dismiss the complaint and, if the name of the medical practitioner has been removed from a register kept under this Ordinance, may

direct that the Registrar restore that name to that register; or

(b) may -

- (i) issue a reprimand;
- (ii) suspend the medical practitioner for a specified period;
- (iii) impose a fine of not more than 1,000 dollars;
- (iv) require a written undertaking by the medical practitioner as to his future conduct;
- (v) direct the Registrar to remove the name of the medical practitioner from the relevant register; or
- (vi) impose more than one of the penalties referred to in sub-paragraphs (ii), (iii) and (iv).

"(3) The Registrar shall comply with a direction given to him under this section.

"31B.(1) The Registrar may require -

Procedure
following
complaint

- (a) that a complaint lodged pursuant to section 30 be in writing verified by statutory declaration; and
- (b) that pending consideration of the complaint by the Board the complainant deposit with the Registrar the sum of 10 dollars as a surety for the bona fides of his complaint.

"(2) Upon receipt by the Registrar of a complaint made under section 30, the Registrar shall forthwith bring it to the attention of the Board.

"(3) The Board shall, within one month of the date of receipt of the complaint, consider it and determine whether there are reasonable grounds for believing that the allegations made against the registered medical practitioner are such that the complaint should be investigated by the Tribunal.

"(4) Where the Board determines that there are no reasonable grounds for investigating a complaint, it may order-

(a) that the complaint be dismissed; and

(b) that the amount deposited with the Registrar as surety be forfeited to the Board.

"(5) Where the Board determines that there are reasonable grounds for investigating a complaint, the Board -

(a) shall forward to the Senior Judge its recommendation for the appointment of Assessors; and

(b) shall request the Senior Judge to nominate a Judge and Assessors to constitute the Tribunal to hear and determine the complaint.

"(6) The Senior Judge shall notify the Board in writing of the names of the Judge and Assessors who are to constitute the Tribunal.

"(7) Upon receipt of a notification under sub-section (6), the Board shall forthwith send a copy of that notification by post to the registered medical practitioner against whom the complaint is made.

"(8) Pending the hearing of a complaint by the Tribunal, the Board may direct the Registrar to remove the name of the registered medical practitioner against whom a complaint is made from the relevant register.

Procedure
before
Tribunal

"31C.(1) The Judge may, whether at the hearing of a matter before the Tribunal or before it is heard -

(a) give such directions; or

(b) make such rules,
as to the hearing of the matter and the giving and recording of evidence as he thinks fit.

"(2) It is the duty of the Assessors to advise the Judge -

(a) on matters relating to the standards of good medical practice and professional behaviour and the ethics of the medical profession; and

- (b) as to what, in their opinion, is the proper determination of any question of fact that may arise in respect of a matter before the Tribunal.

"(3) At a hearing of the Tribunal-

- (a) the complainant;
 - (b) the registered medical practitioner against whom the complaint is made; and
 - (c) the Board,
- are each entitled to be heard and may be represented by counsel.

"(4) At a hearing before the Tribunal-

- (a) the Judge, subject to this Ordinance, has all the powers, jurisdiction and authority of a judge of the Supreme Court except the power to award costs; and
- (b) the Assessors may put questions to witnesses and may discuss questions of fact with counsel appearing for a party.

"(5) In a matter heard before the Tribunal, all questions of law and fact shall be determined by the Judge but, in determining a question of fact, the Judge shall give such effect as he thinks fit to the advice and opinion of the Assessors or either one of them.

"(6) A sitting of the Tribunal shall be held at such time and place as the Judge shall appoint, and the Judge may adjourn a sitting from time to time and from place to place.

"(7) The Board shall give the parties concerned in a hearing before the Tribunal not less than 14 days notice of the time and place fixed for the hearing.

"31D. A person aggrieved by a decision of the Tribunal - Appeal from Tribunal

- (a) on a question of law or mixed fact and law, may appeal to the Supreme Court; or

(b) on a question of fact, may, with the leave of the Tribunal, appeal to the Supreme Court.

Power of
Board to
refer matter
to Tribunal

"31E.(1) Subject to this Ordinance, the Board may refer to the Tribunal for investigation and determination any question as to the conduct or qualifications of a medical practitioner which, in the opinion of the Board, requires investigation in the public interest.

"(2) The provisions of this Ordinance apply to an investigation under sub-section (1) as though the person whose conduct is, or whose qualifications are, being investigated were a person against whom a complaint is made.

Registrar
custodian of
records

"31F. The Registrar shall be the custodian of the records of the Tribunal."

Surrender of
certificate
on removal
of name from
a register

27. Section 32(1) of the Principal Ordinance is amended-

(a) by omitting "Register" and substituting "a register kept under this Ordinance"; and

(b) by omitting "Board" and substituting "Registrar".

No person
other than a
registered
medical prac-
titioner to
practise
medicine

28. Section 34 of the Principal Ordinance is amended by inserting after sub-section (1) the following sub-section:

"(1A) Nothing contained in sub-section (1) absolves a registered medical practitioner from complying with section 29A."

29. Sections 42A, 42B and 42C of the Principal Ordinance are repealed and the following sections substituted:

Notices

"42A. A notice or document which is required to be posted, given or sent under this Ordinance to a person shall be deemed posted, given or sent if it is sent by prepaid post addressed to the last known address of that person.

Certificate
of Good
Standing

"42B.(1) The Board, under the hand of the Chairman may, at the request of a medical practitioner whose name is registered in the Register (Full) and upon payment of the prescribed fee, issue to the

medical board or other body or authority in a State or in the Australian Capital Territory responsible for the registration of medical practitioners a Certificate of Good Standing in the prescribed form.

"(2) A certificate under sub-section (1) is evidence-

- (a) that the medical practitioner named in the certificate has the qualifications set out in the certificate;
- (b) that the medical practitioner is registered in the Register (Full) in the Territory; and
- (c) that no disciplinary proceedings under this Ordinance are pending or contemplated against the registered medical practitioner at the date of the certificate."

30. Section 43 of the Principal Ordinance is amended by omitting from paragraph (c) "Register" and substituting "registers required to be kept under this Ordinance". Regulations

31.(1) Notwithstanding anything contained in this Ordinance, where a person is, immediately before the commencement of this Ordinance, a registered medical practitioner, his name shall be deemed to be entered, and shall in fact be entered, in the Register (Full). Savings

(2) Notwithstanding anything contained in this Ordinance and notwithstanding the repeal of section 23A of the Principal Ordinance, where a person is immediately before the commencement of this Ordinance a medical practitioner who is the holder of a certificate of provisional registration issued under that section, the provisions of that section shall continue to apply to that person until the expiry of the time fixed in accordance with that section whereupon that person shall be deemed to have applied for registration under this Ordinance and the provisions of this Ordinance shall apply to that application.

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the Fire Brigades Arbitral Tribunal Ordinance

BE it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

1. This Ordinance may be cited as the Fire Brigades Arbitral Tribunal Ordinance 1976.

Short
title

2. The Fire Brigades Arbitral Tribunal Ordinance is in this Ordinance referred to as the Principal Ordinance.

Principal
Ordinance

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

Commencement

4.(1) The persons holding office immediately before the commencement of this Ordinance as the nominated member of the Tribunal and the elected member of the Tribunal respectively shall be deemed to have been appointed as the nominated member and the available elected member to represent the Northern Territory Firefighter's Association respectively under the Principal Ordinance as amended by this Ordinance and shall, subject to the Principal Ordinance as amended by this Ordinance, hold office for the remainder of their respective terms of appointment as nominated member and elected member under the Principal Ordinance.

Preserva-
tion of
existing
appoint-
ments

(2) Until such time as the Administrator in Council appoints a person to be a member of the Tribunal under section 3(3) of the Principal Ordinance as amended by this Ordinance, a Judge of the Supreme Court of the Northern Territory of Australia shall be a member, and the Chairman, of the Tribunal as if he

were appointed by the Administrator in Council under section 3(3) of the Principal Ordinance as amended by this Ordinance.

Definitions

5. Section 2A of the Principal Ordinance is amended by inserting after the definition of "officer" the following definition:

" 'senior officer' in relation to a fire brigade, means an officer of the fire brigade who is holding or performing the duties of an office under the Public Service Ordinance of a higher classification than the office of Station Officer, other than the office of Chief Fire Officer.

Fire Brigade Arbitral Tribunal

6.(1) Section 3(1) of the Principal Ordinance is amended -

(a) by inserting after "officers" the words "and senior officers"; and

(b) by inserting after "officer" (wherever occurring) "or senior officer".

(2) Section 3 of the Principal Ordinance is amended by omitting sub-sections (2) to (8) inclusive and substituting the following sub-sections:

"(2) The Tribunal shall be constituted by the following members:

(a) a person appointed by the Administrator in Council who shall be Chairman of the Tribunal;

(b) the nominated member; and

(c) the appropriate available elected member.

"(3) The Administrator in Council shall appoint a person to be a member of the Tribunal.

"(4) The Executive Member shall appoint a person to be the nominated member of the Tribunal.

"(5) The Executive Member shall appoint to be available elected members of the Tribunal -

(a) a person stated by the secretary of the Northern Territory Firefighters' Association, in writing under his hand, to be the person elected by that Association for the purpose of being appointed to be an available elected member; and

(b) a person stated by the secretary of the Northern Territory Fire Officers' Federation, in writing under his hand, to be the person elected by that Federation for the purposes of being appointed to be an available elected member.

"(6) The appropriate available elected member is-

(a) where the Tribunal exercises or is to exercise jurisdiction or a power conferred on it by this Ordinance in respect of the conditions of service of officers - the person appointed to be an available elected member after having been elected by the Northern Territory Firefighters' Association for the purpose of being so appointed; and

(b) where the Tribunal exercises or is to exercise jurisdiction or a power conferred on it by this Ordinance in respect of the conditions of service of senior officers - the person appointed to be an available elected member after having been elected by the Northern Territory Fire Officers' Federation for the purpose of being so appointed.

"(7) Subject to this Ordinance -

(a) the person appointed to be the nominated member shall hold office as a member; and

(b) each person appointed to be an available elected member shall hold office as an available elected member,

for such term, not being more than 3 years, as is specified in the relevant instrument of appointment, and, on the expiration of his term of office, each of them shall be eligible for re-appointment.

"(8) The office of the nominated member becomes vacant upon the publication in the Gazette of a notice by the Executive Member that the office of the nominated member is vacant.

"(9) The secretary of the Northern Territory Firefighters' Association or the secretary of the Northern Territory Fire Officers' Federation, may, pursuant to a resolution passed at a general meeting of the Association or the Federation, as the case may be, by notice in the Gazette, declare that the person elected by that Association or Federation to be the respective available elected member no longer holds office as that available elected member.

"(10) Upon the publication of a notice referred to in sub-section (9), the person referred to in that notice ceases to hold office as an available elected member.

"(11) A member of the Tribunal may resign his office by delivering a written resignation to the Administrator (where the member is the Chairman of the Tribunal) or the Executive Member (where the member is a nominated member or available elected member) and the resignation of that member becomes effective when it is received by the Administrator or the Executive Member, as the case may be.

"(12) There shall be a secretary to the Tribunal who shall be appointed by the Executive Member."

Meetings
of
Tribunal

7. Section 4(1) of the Principal Ordinance is amended by omitting "each appointed member" and substituting "the appropriate appointed member".

Fees and
allowances

8. Section 5(1) of the Principal Ordinance is amended-

(a) by omitting "other than the Chairman"; and

(b) by omitting "Administrator" and substituting "Administrator in Council".

Agreements

9.(1) Section 6(1) of the Principal Ordinance is amended -

(a) by omitting "Administrator" and substituting "Administrator in Council"; and

(b) by omitting "other than the Chief Fire Officer,".

(2) Section 6 of the Principal Ordinance is amended by inserting after sub-section (1) the following sub-section:

"(1A) The Northern Territory Fire Officers' Federation may make an agreement with the Administrator in Council relating to the conditions of service of senior officers of fire brigades with respect to matters mentioned in section 3(1).".

(3) Section 6 of the Principal Ordinance is amended by omitting sub-section (5) and substituting the following sub-section:

"(5) Every such agreement shall, during its continuance, be binding on the Administrator and-

(a) in the case of an agreement with the Northern Territory Firefighters' Association - all officers; and

(b) in the case of an agreement with the Northern Territory Fire Officers' Federation - all senior officers.".

10. Section 8 of the Principal Ordinance is repealed and the following sections substituted:

"8.(1) The making of an agreement or a determination under this Ordinance shall be notified in the Gazette and the notice shall specify the place where copies of that agreement or determination can be purchased or obtained.

Notification
of agree-
ments and
determina-
tions

"(2) The Chairman of the Tribunal shall send a copy of all agreements and determinations made under this Ordinance to the Executive Member as soon as practicable after the agreement or determination has been made.

"(3) The Executive Member shall, at the first sitting day of the Legislative Assembly after he receives a copy of an agreement or determination, cause that copy to be laid before

the Assembly.

Determinations

"8A.(1) A determination made under this Ordinance shall, except to the extent to which it is expressed to come into operation on an earlier or later date, but subject to sub-section (2), come into operation on the date it is notified in the Gazette.

"(2) If the Legislative Assembly passes a resolution (notice of which was given at the meeting of the Assembly during which the copy of the determination was laid before the Assembly), disallowing the determination, that determination shall cease to have effect.

"(3) Where a determination is disallowed under this section, the disallowance of the determination shall have the same effect as does the repeal of a regulation."

On whom
determination
is
binding

11. Section 9 of the Principal Ordinance is amended by omitting "officers of the fire brigade" (wherever occurring) and substituting "officers or senior officers".

Interim
conditions

12. Until other provision is made by way of agreement or determination under the Principal Ordinance as amended by this Ordinance, the remuneration or terms and conditions of service of senior officers agreed or determined under the Principal Ordinance shall continue to apply to senior officers as if those agreements or determinations were made under the Principal Ordinance as amended by this Ordinance.

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

Relating to the Transfer to the Legislative Assembly of certain Executive Powers

BE it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

1. This Ordinance may be cited as the Transfer of Powers Ordinance 1976.

Short
title

2.(1) Subject to sub-section (2), this Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the Gazette.

Commence-
ment

(2) The amendments made by reference to Part IV of Schedule 1 to section 12A of the Police and Police Offences Ordinance and to section 11A of the Prisons Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the Gazette as the date upon which those amendments shall come into operation.

3. The Transfer of Executive Powers Ordinance 1975 is repealed.

Repeal

4. The Ordinances specified in Schedule 1 are respectively amended as provided by that Schedule.

Amendments
of certain
Ordin-
ances

5. The Regulations specified in Schedule 2 are respectively amended as provided by that Schedule.

Amendments
of
certain
Regula-
tions

Savings

6. An appointment purported to have been made, or other action purported to have been taken or done, before the commencement of this Ordinance under a provision of an Ordinance specified in Schedule 1 or Regulations specified in Schedule 2 and having effect immediately before the commencement of this Ordinance is as valid and effective as if made, taken or done under that provision as amended by this Ordinance, but any action that may be taken or done in respect of an appointment or action made, taken or done under that provision as amended by this Ordinance may be taken or done in respect of that first-mentioned appointment or action.

SCHEDULE 1

Section 4

AMENDMENTS OF ORDINANCES

PART I - REFERENCES TO ADMINISTRATOR

The following Ordinances are amended by omitting from the provisions indicated the word "Administrator" (wherever occurring) and substituting "Executive Member":-

Architects

S 10, 11(2), 21

Building

S 9(a), (d), (e), (f), 11

Bush Fires Control

S 6 (definition of "fire danger period" and definition of "prohibited fire day"), 10(2), 12, 13, 14(a), 18, 19, 20, 21(2), (3), 24, 25, 27(3), (12), 28(1), (2), (4), 29(1), (2), 34, 45, 49, 50, 52, 55, 57, 58, 62(1), (3), (4), (5)

Consumers Protection Council

S 4(5), 5(1), (6)

Crown Lands

S 103C (2A), (4), (6)

Fire Brigade

S 6, 7(1), (3), 8, 14(1), (2), (3), (4), 17(1), (2), (3)

Housing

S 7(1), 9(b), 10, 22(2), 23(1), (2), (3), 24, 26

Katherine Town Management

S 4(2), (5), (6), 4A(1), 7, 8, 9(1),
(2), (4), 10, 11(1), 11A

Local Government

S 7, 25, 46, 120(1), (2), 163(4), (5),
(6), 210A(2), 222, 225, 228, 232(2),
(3), 233, 251(1), (2), 255, 266,
268, 276(1), (2), 279(1), (2), 283,
284, 285, 288, 288A, 288B(2), 288C
(1), (2), (3), 290, 302(2), 305(1)
(b), (4), (5), 336, 341(1), (2), 357
(2), (3), 359(2), (3)

Lottery and Gaming

S 94F(1), (2), 94KB(2), 94KC(2), (3),
94P(5), (6), (7), (8), (9), (10), 94
AAR(1), (2), (3), (4), (5)

Motor Vehicles

S 5(1) (definitions of "motor omnibus"
and "officer"), 7(1), (2), (3), (4),
27A(2), 27B(4), (5), 28A(1), (3),
30(1), (5), (9), (11), 32(2), (3),
45 (definition of "authorized insurer"),
50A(5), 56(1A), (2), (3), 57
(1), (2), (3), (4), (6), (7), (11),
60(2), 71(1), (2), 81(1), (2), 102
(5), 111, 120, 125, 135, 136, 138(z)

Museums and Art Galleries

S 11(2), 29(3), 30(2), (3)

National Parks and Gardens

S 26(2), 27(1), (2), (3)

Pharmacy

S 7A

Police and Police Offences

S 8(2), 12, 12A(1)(a), (3), (3A), (6B),
 (6C), (6D), (8), 12DA(2), (3),
 12F(3), (4), 13(1), (6), (7), (8),
 (9), 42, 73, 106(1) (h)

Ports

S 16(2)

Prevention of Pollution of Waters by Oil

S 6(1), (3), 11(1), (2), (4), 13(1),
 14(1), (2), (3), (4), 16(1), (2),
 (3), 17, 19(d)

Prisons

S 6(1), (2), 7(1), 11, 11A(1)(m), (3),
 (3A), (6B), (6C), (6D), (8), 11DA
 (2), (3), 11F(3), (4), 12(1), (3),
 13(1), (2), 14(1), (2), (3), (4),
 15, 22

Supply of Services

S 5, 5A, 5C, 5D

Tennant Creek Town Management

S 4(2), (5), (6), 4A(1), 7, 8, 9(1),
 (2), (4), 10, 11(1), 11A

Tourist Board

S 6(5), (6), 20(2), 21(2), (3)

Weights and Measures

S 7(1), (2), 8, 9, 12, 39(4)

Weights and Measures (Packaged Goods)

S 4(2), (3), (6)

Wildlife Conservation and Control

S 6(1), 8(2), (3), 9A(4), 20(1), (6),
 24(1)

PART II - REFERENCES TO ADMINISTRATOR IN COUNCIL

The following Ordinances are amended by omitting from the provisions indicated the words "Administrator in Council" (wherever occurring) and substituting "Executive Member":-

Architects

S 6(1), (3), 7, 9(1), (4)

Building

S 6, 8(1), (2), (3)

Bush Fires Control

S 8(2), (3), 9, 10(3), 14(b), 15, 16, 23,
26(2)(d), 27(1), (13), (14), 39(1),
(2), 53(1), (2)

Consumers Protection Council

S 4(1), (4), (6), 5(1)

Crown Lands

S 103C(1), (2), (2B), (8)

Encouragement of Primary Production

S 4(1), (2)

Katherine Town Management

S 4F(2), 4N(2)

Local Government

S 112, 137(1), 210(2)

Lottery and Gaming

S 94D(2), (3), (4)

Motor Vehicles

S 132(1)

Museums and Art Galleries

S 8(1), (2), 11(1), (2)

Nursing

S 5

Pharmacy

S 7

Prisons

S 36A(3)

Tennant Creek Town Management

S 4F(2), 4N(2)

Tourist Board

S 6(1), (4), (5), (8), (9)

Weights and Measures (Packaged Goods)

S 10(1), (2), (3), (9), (10), (11), 21
(1)(e), (f)

Wildlife Conservation and Control

S 6(2), 12(3), 13

PART III - REFERENCES TO MINISTER

The following Ordinances are amended by omitting from the provisions indicated the word "Minister" (wherever occurring) and substituting "Executive Member" :-

Dentists Registration

S 8, 10

Encouragement of Primary Production

S 9(2), 16A

Housing

S 17(2), 20B, 33A, 33B, 33E

Local Government

S 5(definition of "trading undertaking"), 6(1), (2), 234, 235(1), (2), 236, 242, 244, 246, 248, 250, 259(3), 289, 305(1)(c)

Nursing

S 26

Optometrists

S 6(1), (3), (4), 7, 9, 10, 11, 12

Ports

S 13, 14(1), (3), (4), 17(1), (2), (3), 18

Tourist Board

S 14(2)

PART IV - MISCELLANEOUS AMENDMENTS

The Ordinances listed in column 1 of the following table are amended as set out in that table :-

Column 1	Column 2	Column 3
Ordinance and Provision	Omit	Insert
<u>Architects</u>		
S 33	Board	Executive Member
40	Adminis- trator	Executive Member responsible for Law
<u>Dentists</u> <u>Registra-</u> <u>tion</u>		
S 5	Definition of "Minister"	
7	Board	Executive Member
<u>Encourage-</u> <u>ment of</u> <u>Primary</u> <u>Pro-</u> <u>duction</u>		
S 3	Definition of "the Minister"	
6	Territory	Territory and any directions of the Executive Member

9(1)	voted by Parliament for the purposes of this Ordinance	approved by the Legislative Assembly for the purposes of the Board out of moneys appropriated by the Parliament for the Government of the Northern Territory
32	Minister	Administrator
<u>Housing</u>		
S 4	Definition of "advance"	
6(6)	Minister (where- ever occurring)	Administrator in Council
13(2)(a)	advanced by the Treasurer	, approved by the Legislative Assembly out of moneys appropriated by the Parliament for the Government of the Northern Territory
13(2)(b)	by the Treasurer	received under paragraph (a)
15(a)	omit	
16	Minister or the Administrator	Executive Member
17(1), 17A, 17B and 17C	The	With the approval of the Administrator in Council, the
19A	Treasurer	Executive Member responsible for Finance

21 and 23(1)	Treasurer (wherever occurring)	Executive Member
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Katherine
Town Man-
agement

S 5	Administrator	Administrator in Council
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11(2)	to the Admin- istrator	under this section
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Local Gov-
ernment

S 24	Administrator (second occurring)	Executive Member
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45	Administrator (second occurring)	Executive Member
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163(2) and (4)	Minister	Administrator in Council
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288B(1)	Adminis- trator's	Executive Member's
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342(1) and (2), 343 and 344	Minister (wherever occurring)	Administrator in Council
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347	Adminis- trator's	Executive Member's
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Lottery and
Gaming

S 94D(1), (5) and (6)	Executive Member	Administrative Officer
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94G	Omit	
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94H	Omit	
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94H. The moneys of the Board consist of such moneys as are approved for the purposes of the Board by the Legislative Assembly out of moneys appropriated by the Parliament for the Government of the Northern Territory.

94K	Treasurer	Executive Member responsible for Finance
94KB(1)	Administrator's	Executive Member's
94KC(1)	Administrator (first occurring)	Executive Member
<u>Museums and Art Galleries</u>		
S 6	Omit	
10	Omit	
17	Ordinance -	Ordinance and any direction of the Executive Member -
23	Omit paragraph (a)	(a) such moneys as are approved by the Legislative Assembly for the purposes of the Board out of moneys appropriated by the Parliament for the Government of the Northern Territory
25 and 26	Administrator in Council	Executive Member responsible for Finance
29(2)	Administrator's	Executive Member's
30(1)	Administrator (first occurring)	Executive Member
<u>National Parks and Gardens</u>		
S 18(1)	Administrator	Administrator in Council
19	Omit	
19A	Treasurer	Executive Member responsible for Finance

20(1)	appropriated by the Parlia- ment from time to time, for the purposes of the Board	approved by the Legislative Assembly for the purposes of the Board out of moneys appropriated by the Parlia- ment for the Govern- ment of the Northern Territory
26(1)	Administrator's	Executive Member's
<u>Nursing</u>		
S 7	Board	Executive Member
<u>Optomet-</u> <u>rists</u>		
S 4(1)	Omit the defini- tion of "the Minister"	
5(3)	Omit	
<u>Pharmacy</u>		
S 8	Director of Health	Executive Member
<u>Police and</u> <u>Police</u> <u>Offences</u>		
S 7	Minister	Administrator in Council
9	Omit	
9A	Omit	
9B	and, for the pur- poses of that Ordinance, shall be deemed to have been appointed under that Ordinance	
10	Administrator	Administrator in Council

12A(2)	omit paragraph (a)	(a) a person, appointed by the Administrator in Council, who shall be the Chairman of the Tribunal;
12A(4)	omit paragraph (a)	(a) the Chairman and the person appointed to be the nominated member shall hold office as members; and
12A(5)	omit	(5) The office of Chairman or nominated member, as the case may be, becomes vacant upon the publication in the <u>Gazette</u> of a notice by the Executive Member that the office is vacant.
12A(6)	the nominated member	Chairman or nominated member, as the case may be,
12A (6B)	nominated member	member other than an available elected member
12A (6D)	nominated member or available elected member	member
12A(7)	omit	(7) When the office of Chairman or nominated member becomes vacant, the vacancy shall be filled by the appointment of a person by

the Administrator
in Council or
Executive Mem-
ber as the case
may be.

12C(1) the Secretary
of the
Tribunal and
the members
of the Tri-
bunal, other
than the
Chairman,

Administrator Administrator in
Council

12D(1) Administrator Administrator in
Council

13(3) Administrator Administrator in
Council

Ports

S 3 -
(defini-
tion of
"approv-
ed bank")

Treasurer

Executive Member
responsible for
Finance

(defini-
tion of
"Port
Superin-
tendent")

Executive
Member

General Manager

6

6A

6(1),
(3),
(4),
(6),
(7),
and
(8)

executive
member

General Manager

- | | | |
|-------|----------------------------------|---|
| 6(8) | Minister
(twice
occurring) | Administrator in
Council |
| 10(1) | Omit
paragraph
(c) | (c) such moneys as
are approved by
the Legislative
Assembly for the
purposes of the
Board out of
moneys appropri-
ated by the
Parliament for
the Government
of the Northern
Territory. |
| 10(2) | Omit | |
| 16(1) | Adminis-
trator's | Executive Member's |
| 17(1) | Treasurer | Executive Member
responsible for
Finance |
| 19 | Omit | |
| 29(1) | Executive
Member | General Manager |

Prevention
of Pollu-
tion of
Waters
by Oil

- | | | |
|---|---------------------|-----------------|
| S 3(1)
(defini-
tion of
"Port
Superin-
tendent") | Executive
Member | General Manager |
|---|---------------------|-----------------|

Prisons

- | | |
|--------|---|
| S 9(1) | who is an
officer or
temporary
employee of
the Public |
|--------|---|

Service of
the Territory
and

of Part IV

9(2) omit

11A(2) omit paragraph (a) a person, appointed by the Administrator in Council, who shall be the Chairman of the Tribunal;

11A(4) omit paragraph (a) (a) the Chairman and the person appointed to be the nominated member shall hold office as members; and

11A(5) omit (5) The office of Chairman or nominated member, as the case may be, becomes vacant upon the publication in the Gazette of a notice by the Executive Member that the office is vacant.

11A(6) the nominated member Chairman or nominated member, as the case may be,

11A(6B) nominated member member other than an available elected member

11A(6D)	nominated member or available elected member	member
11A(7)	omit	(7) When the office of Chairman or nominated member becomes vacant, the vacancy shall be filled by the appoint- ment of a person by the Administrator in Council or Executive Member, as the case may be.
11C(1)	the Secretary of the Tribunal and the members of the Tribunal, other than the Chairman,	the members of the Tribunal
11D(1)	Administrator	Administrator in Council
36C(1)	Administrator (wherever occurring)	Administrator in Council

Supply of
Services

S 5D	Adminis- trator's	Executive Member's
------	----------------------	-----------------------

Tennant
Creek
Town
Manage-
ment

S 5	Administrator	Administrator in Council
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11(2) to the Administrator under this section

Tourist
Board

S 16 omit

17	appropriated by the Parliament, from time to time, for the purposes of the Board	approved by the Legislative Assembly for the purposes of the Board out of moneys appropriated by the Parliament for the Government of the Northern Territory
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18	Treasurer	Executive Member responsible for Finance
----	-----------	--

20(1)	Administrator's	Executive Member's
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21(1)	Administrator (first occurring)	Executive Member
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Weights and
Measures

S 10(2) and (3), and 11(1)	Administrator	Administrator in Council
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Wildlife
Conservation and
Control

S 12(4)	Administrator's	Executive Member's
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SCHEDULE 2

Section 5

AMENDMENTS OF REGULATIONS

PART I - REFERENCES TO ADMINISTRATOR

The following Regulations are amended by omitting from the provisions indicated the word "Administrator" (wherever occurring) and substituting "Executive Member":-

Regulations under the Crown Lands Ordinance -Crown Lands (Recreation Reserve) Regulations

Regulations 6, 8, 9(1), (2), 10, 11

Regulations under the Fire Brigade Ordinance -Fire Hazards Regulations

Regulations 3, 5(3), (4), (5)

Inflammable Matter Regulations

Regulations 5 (Definition of "inflammable liquid"), 15(3)

Regulations under the Local Government Ordinance -Local Government Regulations

Regulations 8(2), 27(3), 28(2), 38, 44, 67(2), 68(2), 69(2)

Regulations under the Motor Vehicles OrdinanceMotor Vehicles (Hire Car) Regulations

Regulations 5 (Definitions of "official traffic sign" and "taximeter area"), 6

Regulations under the Police and Police
Offences Ordinance -

Police Regulations

Regulations 4, 9(2), 48, 49(1), 50(1),
79(2), (3), 92, 93(2), (4),
94, 95(4), 100, 101, 106(2),
129, 147(1), (2)

Regulations under the Prisons Ordinance -

Prison Regulations

Regulations 19, 74, 158

Regulations under the Supply of Services
Ordinance -

Electricity Supply Regulations

Regulations 4 (definition of "approved"
and "authorized officer"), 5(1), (2),
7, 7A(1), 8, 9, 10, 11, 12, 13, 13A,
13B(1), (2), (3), 13C, 13D, 13E, 14,
15(1), (2), (4), (5), 18, 19(3), (4),
20(1), (2), (3), 22, 23(1), (3), (4),
24, 25(1), 27(1), (2), (3), 28(1), (2),
29(1), 31, 32, 33(1), (2), 34, 35(3),
(4), 41(1), (2), 47, 49, 53,
First Schedule Service Rules 5 and 23

Sewerage Regulations

Regulations 4(1) (definitions of "approved",
"inspector", "proprietor", "Sewerage
District" and "the Engineer"), 5, 6,
7(1), (2), 8A, 9(1), (2), 20(3), 28A,
28B(1), (2), (3), 28C(1), 28D(2), 28E
(1), 28F, 28G, 28J(2), 29(3), (4), 32,
46, 48, 49(1), (3), (4), 50, 52, 54(1),
74(1)(b), 76, 77(3), (4), 87(2), 182
(2), (4), 192(9), 227(1), (2), 228,
229, 230(1), (2), 231, 234(1), (3), 241
(2), 242, 243(2), (3), (5), (6), (8),
246, 247(1), (3), (4), (5), 248(1),
(2), (3), 249, 251(1), (2), 254, 256.

Water Supply (Terms and Conditions of Supply) Regulations

Regulations 3 (definitions of "authorized officer" and "main"), 41(1), (2), 6, 7, 8, 9(1), (3), 10(1), (2), 11, 16(3), 22, 25(1), (2), 26, 29(1), (2), 33, 34, 44B(1), (3), 45(1), (2), 46,
First Schedule

Regulations under the Weights and Measures Ordinance -

Weights and Measures Regulations

Regulation 3(3)

PART II - REFERENCES TO MINISTER

The following Regulations are amended by omitting from the provisions indicated the word "Minister" (wherever occurring) and substituting "Executive Member" :-

Regulations under the Crown Lands Ordinance -

Crown Lands (Recreation Reserve) Regulations

Regulations 5, 7(2)

Regulations under the Encouragement of Primary Production Ordinance -

Encouragement of Primary Production Regulations

Regulations 3, 12

Regulations under the Local Government Ordinance -

Local Government Regulations

Regulation 37(1)

Regulations under the Police and Police Offences Ordinance -

Police Regulations

Regulation 54

PART III - MISCELLANEOUS AMENDMENTS

The Regulations listed in column 1 of the following table are amended as set out in that table :-

Column 1 Regulation	Column 2 Omit	Column 3 Insert
<u>Encouragement of Primary Production Ordinance -</u>		
<u>Encouragement of Primary Production Regulations</u>		
Regulation 4	Board	Executive Member
<u>Local Govern- ment Ordin- ance -</u>		
<u>Local Govern- ment Regulations</u>		
Regulation 37(1)	Administrator for trans- mission to the Minister	Executive Member
Schedule, Form 7	Minister's	Executive Member's
<u>Police and Police Offences Ordinance -</u>		
<u>Police Regulations</u>		

Regulations 15, 33(3), 35(1) and (2), 36, 55(1), 56, 57(1), 59 and 101	Minister	Administrator in Council
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Regulation 148	Omit
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Supply of Services
Ordinance -

Sewerage
Regulations

Regulation 49(3)	Adminis- trator's	Executive Member's
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Second Schedule, Form 1	Adminis- trator's	Executive Member's
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Water Supply
(Terms and
Conditions
of Supply)
Regulations

Regulation 28A	Minister	Administrator in Council
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Public Service
Dr Letts

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THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

For the Regulation of the Public Service
of the Northern Territory

BE it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

PART I - PRELIMINARY

1. This Ordinance may be cited as the Public Service Ordinance 1976.

Short title

2. (1) Part I (other than section 3), Part II (other than sections 15 and 16) and sections 18, 19, 20, 65 and 66 shall come into operation on the date on which this Ordinance receives assent.

Commencement

(2) The remaining provisions of this Ordinance shall come into operation on a date to be fixed by the Administrator by notice published in the Gazette.

3. The Ordinances specified in the First Schedule are repealed.

Repeal

4. (1) In this Ordinance, unless the contrary intention appears -

Interpretation

"Administrator" means the Administrator acting with the advice of the Executive Council;

"Chief Executive Officer" means, in relation to a Department or other unit of administration within a Department in connexion with which the term is used in this Ordinance or in which there is employed an employee in connexion with whom the term is used, the Departmental Head, or the employee for the time being directed by

the Administrator under section 19(2) to be responsible for the management and conduct of the business and activities of the unit of administration, as the case may be;

"Commissioner" means the Public Service Commissioner for the Northern Territory;

"Department" means a Department of the Public Service;

"Departmental Head" means, in relation to a Department in connexion with which the term is used in this Ordinance or in which there is employed an employee in connexion with whom the term is used, the Head for the time being of that Department;

"employee" means a person (including a Departmental Head) employed in the Public Service;

"Executive Member" means the relevant Executive Member for the time being performing, by virtue of a determination in force under section 4ZE(2) of the Act, functions in respect of matters dealt with by the Department, unit of administration or prescribed authority in connexion with which the term is used in this Ordinance, and includes an Executive Member for the time being acting for or on behalf of any such Executive Member;

"former Service" means the Public Service of the Northern Territory that was established under the repealed Ordinance;

"prescribed authority" means a public authority, institution or body (being a body corporate) constituted by a law of the Territory, and specified in the Second Schedule, being the relevant authority, institution or body in connexion with which the term is used in this Ordinance or in which there is employed an employee in connexion with which the term is so used;

"promotion" means the giving (including temporarily) to an employee of a designation that has a higher attainable maximum salary than the salary that he had immediately before he was so given that designation;

"Public Service" means the Public Service of the Northern Territory;

"repealed Ordinance" means the Ordinance comprising the Ordinances repealed by section 3;

"salary" includes salary payable by increments within a range of salary;

"transferred employee" means an employee who is to be deemed to be appointed to the Public Service by virtue of Part VI;

"unit of administration", in relation to a Chief Executive Officer other than a Departmental Head, means the division, section, branch or other part of a Department for the management and control of the business and activities of which the Chief Executive Officer is, by a direction of the Administrator under section 19(2), responsible.

(2) A reference in this Ordinance to an employee employed in the service of a prescribed authority does not include a person appointed as a member of the prescribed authority.

(3) A reference in this Ordinance to an employee being employed in a permanent capacity shall be read as a reference to an employee being employed under this Ordinance otherwise than for a period determined by the Commissioner under section 26(2)(a).

(4) For the purposes of this Ordinance, where a person who is an unattached officer of the Australian Public Service is performing duty in a Department of the Australian Public Service-

- (a) he shall be deemed to occupy an office in that Department of that Service; and
- (b) he shall be deemed to be entitled to be paid salary in respect of that office at a rate equal to the rate at which salary is payable to him as an unattached officer.

(5) In this Ordinance, unless the contrary intention appears, where a word or phrase is given a particular meaning, the parts of speech and grammatical forms of that word or phrase have corresponding meanings.

Employment
outside the
Public Service

5.(1) This Ordinance does not apply to or in relation to -

- (a) a person employed in an honorary capacity;
- (b) a person remunerated by fees, allowances or commission only; or
- (c) a person engaged on a daily basis.

(2) The Commissioner may give authority, subject to such conditions as he imposes, to a Chief Executive Officer or prescribed authority to employ, outside the Public Service, persons referred to in sub-section (1) or to enter into a contract for services for the purposes of the Department or other unit of administration or the prescribed authority, as the case may be.

PART II - THE PUBLIC SERVICE COMMISSIONER

Appointment of
Public Service
Commissioner

6.(1) There shall be a Public Service Commissioner for the Northern Territory.

(2) The Administrator shall, by instrument in writing, appoint a person to be the Commissioner.

(3) The Commissioner holds office on such terms and conditions, not inconsistent with this Part, as the Administrator determines.

(4) The Commissioner holds office for such period not exceeding 7 years as the Administrator specifies in the instrument of appointment, but is eligible for re-appointment.

(5) A person who is appointed or re-appointed Commissioner within 7 years before the day on which he will attain the age of 65 years ceases to hold office on that day and a person who has attained that age shall not be appointed or re-appointed Commissioner.

7. The Commissioner shall be paid salary at such rate, and an annual allowance at such rate (if any) and such other allowances, as the Administrator fixes.

Salary and
allowances of
Commissioner

8. The Executive Member may grant leave of absence to the Commissioner upon such terms and conditions as to salary or otherwise as the Executive Member determines.

Leave of
absence of
Commissioner

9. The Commissioner may resign his office by writing signed by him delivered to the Administrator.

Resignation of
Commissioner

10. The Administrator may, with the consent of the Commissioner, retire the Commissioner on the ground of invalidity.

Termination of
appointment of
Commissioner

11.(1) The Administrator may suspend the Commissioner from office for misbehaviour or physical or mental incapacity.

Suspension and
removal of
Commissioner

(2) The Executive Member shall cause a statement of the ground of the suspension to be laid before the Legislative Assembly within 7 sitting days of the Assembly after the suspension.

(3) Where such a statement has been laid before the Legislative Assembly, the Assembly may, within 7 sitting days of the Assembly after the day on which the statement has been laid before it, by resolution, declare that the Commissioner ought to be restored to office and, if the Assembly so resolves, the Administrator shall terminate the suspension.

(4) If, at the expiration of 7 sitting days of the Legislative Assembly after the day on which the statement has been laid before the Assembly, the Assembly has not passed such a resolution, the Administrator may remove the Commissioner from office.

(5) The Commissioner shall not be removed from office except as provided by this section.

(6) The period during which the Commissioner is suspended from office under this section shall be deemed to be a period of absence on leave with salary.

Acting
Commissioner

12. (1) The Administrator may, by instrument in writing, appoint a person to act in the office of Commissioner during any period, or during all periods, when the person holding office is absent from duty or from the Territory or during a vacancy in that office and, when a person is so acting as Commissioner, he has the powers and functions of the Commissioner under this Ordinance and the regulations and any other Ordinance.

(2) An acting Commissioner appointed to act during a vacancy in the office of Commissioner shall not continue so to act for more than 12 months after the occurrence of the vacancy.

(3) The Administrator may -

(a) determine the terms and conditions (including salary and allowances) of a person appointed as acting Commissioner under this section; and

(b) at any time terminate such an appointment.

(4) An acting Commissioner may resign his office by writing signed by him delivered to the Administrator.

Delegation by
Commissioner

13. (1) The Commissioner may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a Chief Executive Officer any of his powers under this Ordinance, or the regulations, other than this power of delegation, that may be exercised in relation to a Department.

(2) The Commissioner may, with the approval of the Executive Member, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a member of a prescribed authority any of his powers under this Ordinance, or

the regulations, other than this power of delegation, that may be exercised in relation to the prescribed authority.

(3) A power so delegated, when exercised by the delegate, shall, for the purposes of this Ordinance or the regulations, be deemed to have been exercised by the Commissioner.

(4) A delegation under this section does not prevent the exercise of a power by the Commissioner.

14.(1) In addition to such other duties as are, by this Ordinance, imposed on the Commissioner, the Commissioner shall take all necessary steps to promote and improve the efficiency and effectiveness of the Public Service.

Duties of
Commissioner

(2) The Commissioner shall take such action as he thinks necessary to ensure that all transactions by each Department and prescribed authority involving public moneys are accountably made within the budget approved for the Department or prescribed authority by the Legislative Assembly out of moneys appropriated, or out of moneys that the Legislative Assembly estimates will be appropriated, by the Parliament for the purpose of the government of the Territory.

(3) The Commissioner shall take steps, and may give directions to Chief Executive Officers and prescribed authorities for that purpose, to ensure that there is no discrimination in the employment in the Public Service of any person on the ground of that person's race, creed, sex, marital status, political belief or security record except where reasonably or justifiably required for the effective performance of the work to be undertaken in that employment.

15.(1) The Commissioner may, at any time, for the purposes of performing his duties under this Ordinance or the regulations -

Powers of
Commissioner

- (a) enter premises occupied or used by a Department or a prescribed authority;
- (b) summon any person whose evidence appears to be material to any determination of the Commissioner;

(c) take evidence on oath or affirmation and, for that purpose, administer oaths and affirmations; and

(d) require any person to produce documents within his possession or subject to his control.

(2) A person shall not knowingly make, either orally or in writing, a false or misleading statement to the Commissioner.

Penalty: 500 dollars.

(3) An employee who neglects or fails, without reasonable cause (the burden of proof of which lies upon him), to attend in obedience to a summons under sub-section (1), to be sworn or make an affirmation, to answer relevant questions or to produce relevant documents when required to do so under that sub-section is guilty of an offence.

Penalty: 500 dollars.

(4) A person, not being an employee who, after payment or tender to him by the Commissioner of reasonable expenses, neglects or fails, without reasonable cause (the burden of proof of which lies upon him), to attend in obedience to a summons under sub-section (1) or to be sworn or make an affirmation, to answer relevant questions or to produce relevant documents when required to do so under that sub-section is guilty of an offence.

Penalty: 500 dollars.

(5) A person is not excused from answering questions or producing documents when required to do so under sub-section (1) on the ground that the answer or document may tend to incriminate him, but his answer to such a question or the production of such a document is not admissible in evidence against the person in any criminal proceedings other than proceedings for an offence against this section.

Reports by
Commissioner

16. (1) The Commissioner shall, as soon as practicable after each 31 December, prepare and furnish to the Executive Member for presentation to the

Legislative Assembly a report on the condition and efficiency of the Public Service and on his activities during the preceding 12 months and, in that report, shall set out any changes that have been made in that period and any further measures that he considers are necessary for improving the working of the Public Service (and, in particular, for ensuring efficiency and economy in the Public Service).

(2) In the report, the Commissioner shall draw attention to any breaches or evasions of this Ordinance that have come to his notice during the preceding 12 months or any irregularity discovered by him in the accounts and records of the financial transactions of a Department or prescribed authority for that period that is, in his opinion, of sufficient importance to justify his so doing.

(3) The Commissioner shall, at such times as he considers necessary, report to the Executive Member on improvements that he considers to be desirable in the management of the Public Service.

PART III - THE PUBLIC SERVICE OF THE NORTHERN TERRITORY

17. There is hereby established a Public Service of the Northern Territory.

Northern Territory Public Service

18.(1) Subject to sub-section (3), the Administrator may, by notice published in the Gazette, establish, abolish, or change the name of, a Department as the Administrator considers necessary for the efficiency of the Public Service.

Departments and units of administration

(2) The Administrator shall, from time to time, by notice published in the Gazette, determine the matters (including matters arising under specified laws of the Territory as amended from time to time) to be dealt with by each Department as functions of the Department.

(3) Notwithstanding sub-section (1), there shall be, at the commencement of this Ordinance, a Department of the Chief Secretary, a Department of Finance and Local Government, a Department of Law, a Department of Transport and Industry and a Department of Community Services.

Departmental
Heads and
other Chief
Executive
Officers

19. (1) The Administrator may, by notice published in the Gazette -

- (a) create a position of Departmental Head as the Head of a Department;
- (b) abolish a position of such a Departmental Head; or
- (c) change the designation of such a Departmental Head.

(2) Where there is no position in a Department of Departmental Head or the position is vacant, the Administrator may, by notice published in the Gazette, direct an employee to be the Chief Executive Officer of a unit of administration in the Department.

(3) Each position of Chief Executive Officer shall be filled by the Administrator by the promotion or transfer of any employee, or by an appointment.

(4) The Administrator may temporarily promote an employee to a position of Chief Executive Officer during a vacancy in the position or during an absence or inability to act of the Chief Executive Officer and the employee so promoted may perform or exercise any duty or power of the Chief Executive Officer under this Ordinance while temporarily in the position.

(5) Each Chief Executive Officer is, subject to any directions of the Commissioner given under sections 14(3) and 29, responsible to the Executive Member for the general management and efficient conduct of the business and activities of his Department or unit of administration.

(6) The Commissioner has all the powers of, or exercisable by, a Departmental Head under this Ordinance and the regulations so far as relates to employees under his direct control.

(7) The Commissioner of Police, for the time being, appointed under the Police and Police Offences Ordinance has all the powers of, or exercisable by, a Departmental Head under this

Ordinance and the regulations so far as relates to members of the Police Force of the Northern Territory and other employees under his direct control as if those members and employees were in a Department for which he is responsible.

(8) The Speaker of the Legislative Assembly has all the powers of, or exercisable by, a Departmental Head under this Ordinance and the regulations so far as relates to employees employed as staff of the Legislative Assembly as if those employees were in a Department for which he is responsible.

20.(1) A Chief Executive Officer may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to an employee or to the Commissioner any of his powers, under this Ordinance, or the regulations, other than this power of delegation.

Delegation by
Chief Executive
Officers

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Ordinance or the regulations, be deemed to have been exercised by the Chief Executive Officer.

(3) A delegation under this section does not prevent the exercise of a power by the Chief Executive Officer.

21.(1) Each Chief Executive Officer shall report annually to the Executive Member, with a copy to the Commissioner, on the staffing and activities of his Department or unit of administration during the preceding 12 months.

Reports by
Chief Executive
Officers

(2) Each Chief Executive Officer shall report to the Executive Member, with a copy to the Commissioner, whenever the necessity arises -

- (a) any alterations that are, in his opinion, necessary or expedient for the more efficient or effective management or working of his Department or unit of administration, or of any body or authority the management and control of which are matters within his responsibility; and

- (b) any alterations that are in his opinion, necessary in the terms and conditions of employment of employees under his control.

Responsibilities of prescribed authorities

22. A prescribed authority is, subject to the Ordinance under which it is established and to directions of the Commissioner under sections 14(3) and 29, responsible to the Executive Member who administers that Ordinance for the general working and efficient conduct of the business and activities of the prescribed authority.

Reports by prescribed authorities

23.(1) Each prescribed authority shall report annually to the Executive Member administering the Ordinance under which it is established, with a copy to the Commissioner, on the staffing and activities of the prescribed authority during the preceding 12 months.

(2) Each prescribed authority shall report to the Executive Member, with a copy to the Commissioner, whenever the necessity arises -

- (a) any alterations that are, in the opinion of the prescribed authority, necessary for the more efficient management and working of the prescribed authority; and
- (b) any alterations that are, in the opinion of the prescribed authority, necessary in the salary or other terms and conditions of employment of employees in the service of the prescribed authority.

PART IV - STAFF OF PUBLIC SERVICE

Staff of Public Service

24. The Public Service consists of persons employed as employees in Departments and in the services of the prescribed authorities in accordance with this Ordinance.

Establishments for Departments and prescribed authorities

25.(1) The Administrator shall, after receiving a report from the Commissioner, determine the number of employees for, and the establishment of, each Department and prescribed authority, being such number and

establishment as he thinks necessary for the efficient conduct of the business and activities of the Department or prescribed authority.

(2) Before reporting to the Administrator under sub-section (1), the Commissioner shall consult and obtain a report from the Chief Executive Officers or prescribed authority concerned.

26.(1) Subject to this Ordinance, the Commissioner shall determine the respective designations, duties and other terms and conditions of employment (including rates of salary and leave, including long service leave, and pay in lieu of long service leave) for employees, and an employee is employed accordingly.

Terms and conditions of employment of employees

(2) The Commissioner may, as a term or condition of employment in respect of a specified employee, determine -

- (a) that the employee may be employed for a specified period only; or
- (b) that specified tenure provisions (being provisions in Part VII) do not apply in relation to the employee.

27.(1) An employee shall not engage in paid employment outside his duties as such an employee except with the approval of the Commissioner.

Employees not to undertake outside work

(2) The Commissioner shall not give an approval for the purposes of sub-section (1) unless he is satisfied that the paid employment will not interfere with the performance by the employee of his duties.

PART V - APPOINTMENTS, TRANSFERS AND PROMOTIONS

28.(1) A vacancy in a Department or in the service of a prescribed authority may be filled by the appointment of a person, or by the transfer or promotion of an employee.

Filling vacancies

(2) A vacancy (other than as Chief Executive Officer or a vacancy with a prescribed designation in respect of which the regulations make other provision) may be filled by selection made by the Chief Executive

Officer of the Department or unit of administration, or by the prescribed authority, as the case may be, in which the vacancy exists.

(3) Except where the Commissioner otherwise directs, all vacancies in a Department or in the service of a prescribed authority shall be advertised in the Gazette or in such other publication as the Commissioner determines.

(4) All appointments (other than appointments deemed to be made under Part VI), transfers and promotions shall be notified in the Gazette.

Recruitment and
promotion pro-
cedures

29. The Commissioner shall develop recruitment and promotion procedures and give directions to Chief Executive Officers and prescribed authorities for that purpose, being procedures for the careful assessment of personal qualifications and capabilities that are likely to contribute to the efficient working of the Department, unit of administration or prescribed authority concerned and preclude patronage, favouritism and unjustified discrimination.

Conditions for
appointment

30.(1) A person shall not be appointed as an employee unless -

- (a) he possesses such educational qualifications, or meets such other requirements (if any) (including health and physical fitness), as are determined by the Commissioner for such an appointment; and
- (b) the Chief Executive Officer or the prescribed authority making the appointment is satisfied that he is a fit and proper person to be so appointed.

(2) The Commissioner shall determine -

- (a) the manner in which applications for appointment are to be sought; and
- (b) the manner of ascertaining the order in which offers of appointment will be made to persons who apply for

appointment to specified vacancies or to vacancies included in a specified class of vacancies.

(3) The Commissioner may, from time to time, for the purposes of this Part -

- (a) hold such examinations as he thinks fit;
- (b) determine conditions of entry for any such examination; and
- (c) appoint examiners for the purpose of any such examination.

(4) Subject to this Ordinance, and except in the case of appointment as Departmental Head or where the Commissioner, in a particular case, otherwise directs, the appointment of every person to the Public Service shall be on probation for a period of 6 months commencing on the day on which the person commences duties in pursuance of his appointment.

(5) A person appointed on probation remains a probationer until his appointment is confirmed or terminated in accordance with this section.

(6) As soon as practicable after the expiration of the period of 6 months' probation, the Chief Executive Officer or the prescribed authority, as the case may be, making the appointment shall -

- (a) confirm the appointment;
- (b) terminate the appointment; or
- (c) direct that the probationer continue on probation for a further period (not being a period exceeding 6 months) as the Chief Executive Officer or the prescribed authority, as the case may be, determines.

(7) The Chief Executive Officer or the prescribed authority, as the case may be, making the appointment on probation may, at any time during the period of probation, terminate the appointment.

Transfer of
staff be-
tween Depart-
ments and pre-
scribed
authorities

31.(1) The Commissioner may, with the approval of the Executive Members concerned, and after consulting the Chief Executive Officer and the prescribed authority concerned -

- (a) transfer an employee in a Department or unit of administration to another Department or to the service of a prescribed authority; or
- (b) transfer an employee in the service of a prescribed authority to a Department or unit of administration or to the service of another prescribed authority.

(2) An employee so transferred shall not, without his consent, by the transfer, be paid at a salary lower than the salary (not including any allowance on account of higher duties) payable to the employee immediately before the transfer.

Re-appointment
of persons re-
signing to be-
come candi-
dates at elect-
ions

32.(1) Where the Commissioner is satisfied that -

- (a) a person who was an employee in the Public Service -
 - (i) resigned from the Public Service in order to become a candidate for election, or to take his seat as a person elected, as a member of a House of the Parliament of the Commonwealth or as a member of the Legislative Assembly;
 - (ii) was a candidate at the election; and
 - (iii) was not duly elected; and
- (b) the resignation took effect not earlier than one month before the date on which nominations for the election closed,

the Commissioner shall, subject to this Ordinance, upon application by that person within 2 months after the declaration of the result of the election, re-appoint him to the Public Service, without probation, at a designation and salary equivalent, or as nearly as

possible equivalent, to the designation and salary that he had immediately before the date upon which his resignation took effect.

(2) Where -

- (a) proceedings in respect of an offence against a law of the Commonwealth or of a State, the Territory or another Territory are pending against a person who has made an application under sub-section (1); or
- (b) proceedings in respect of an offence against a law of a foreign country, being an offence which, if committed in the territory, would have constituted an offence against a law of the Commonwealth or of the Territory, are pending against a person who has made such an application,

the person is not eligible for re-appointment until the proceedings have been determined and unless he has been acquitted of the offence or the Commissioner is of the opinion that the nature and circumstances of the offence are such that, if the offence had been committed by an employee, it is unlikely that the employee would be dismissed from the Public Service.

(3) A person shall be re-appointed under this section without being required to undergo any medical examination and whether or not he possesses the appropriate educational qualifications or meets the appropriate requirements.

(4) A person re-appointed under this section shall be deemed to have continued in the Public Service as if he had been on leave without salary during the period from the day of his resignation to and including the day immediately preceding the day on which he was re-appointed, and that period shall, for all purposes, be deemed to form part of his service in the Public Service.

33.(1) In the selection of an employee for promotion in the Public Service, consideration shall be given only to the relative efficiency of the employees available for promotion.

Selection of
employees for
promotion

(2) For the purposes of this section, "efficiency" means suitability for the discharge of the duties of the kind to be performed by the person selected having regard to -

- (a) aptitude for the discharge of those duties;
- (b) the extent of relevant experience;
- (c) training, including formal training;
- (d) capacity for development; and
- (e) relevant personal qualities.

Qualifications
for particular
designations

34.(1) The Commissioner may determine that a person may not be appointed or shall not be transferred or promoted to a specified designation unless the person possesses such qualifications, and complies with such conditions, as are specified in the determination.

(2) A qualification or condition specified in a determination in accordance with sub-section (1) may be a qualification or condition that is defined or expressed by reference to the opinion of the Commissioner, or of the Chief Executive Officer or the prescribed authority, as the case may be, in relation to a particular matter.

(3) The Commissioner may determine that -

- (a) a specified employee or an employee included in a specified class of employees shall be required to undergo a course of training approved by the Commissioner for the purpose of enabling the employee to perform duties that require professional, technical or other knowledge; and
- (b) an employee who has completed that course of training to the satisfaction of the Chief Executive Officer or the prescribed authority, as the case may be, is entitled to be promoted in accordance with this section.

(4) An employee who has completed that course of training to the satisfaction of the Chief Executive Officer or the prescribed authority, as the case may be, shall be promoted in accordance with the Commissioner's determination under sub-section (3) as soon as practicable after he completes the course of training.

(5) A promotion under sub-section (4) is not subject to appeal as provided by section 35.

35.(1) The appointment, otherwise than as a promotion, of a person as an employee from outside the Public Service (including an appointment deemed to have been made under Part VI) is not subject to appeal as provided by this section.

Appeals
against pro-
motions

(2) The promotion of a person as an employee is provisional and is subject to appeal as provided by this section from an officer of the Australian Public Service or from an employee.

(3) An employee or an officer of the Australian Public Service who was an applicant for a vacancy and claims that he should have been promoted in preference to a person provisionally promoted, may appeal, in the manner provided by the regulations, against the provisional promotion on the ground of superior efficiency.

(4) The Commissioner may regard an appeal as having been duly made under this section by an employee or an officer of the Australian Public Service who, satisfies the Commissioner that he did not have a reasonable opportunity of applying for the vacancy or of appealing within the time prescribed by the regulations for lodging an appeal.

(5) The regulations may make provision for and in relation to the conduct of appeals under this section by Promotions Appeal Boards.

(6) Upon an appeal or appeals, a Promotions Appeal Board shall make full inquiry into the claims of the appellant or appellants and those of the person provisionally promoted and determine the appeal or appeals.

(7) Where an appeal is allowed, the Chief Executive Officer or the prescribed authority, as the case may be, shall cancel the provisional promotion and, if the appellant or the appellant with the better or best established claim is an employee, promote him, or, if he is not an employee, appoint him as an employee, without probation, to the vacancy.

(8) Where no appeal is duly made or an appeal has, or appeals have, been duly made but the appeal or each of the appeals has been disallowed or has become inoperative, the Chief Executive Officer or the prescribed authority, as the case may be, shall confirm the promotion.

(9) If after notification has been made of a provisional promotion but before it has been confirmed, the Commissioner is satisfied that the promotion is unnecessary or that, instead, an excess employee should be transferred under section 48, or that further advertising is desirable, the Commissioner may cancel the promotion.

(10) The Commissioner may cancel a provisional promotion in accordance with sub-section (9) whether or not there has been an appeal under this section, but, upon the cancellation, any appeals in respect of the promotion shall be discontinued.

(11) Salary at the higher rate is payable to a person provisionally promoted, but, where the provisional promotion is cancelled, the amount payable to the person during the period from the date of his promotion to the date of the cancellation, being an amount equal to the difference between his salary for that period at the rate payable to him immediately before his promotion and the salary for that period at the higher rate payable in respect of the provisional promotion, shall be deemed to have been an allowance payable to him.

(12) For the purposes of this section -

(a) an appeal shall be taken to become inoperative if -

(i) the appeal is withdrawn; or

- (ii) the appellant ceases, by reason of the confirmation of his appointment or promotion elsewhere or for any other reason, to be eligible for the particular promotion; and
- (b) a reference to "promotion" includes a reference to the appointment of a person who was an officer of the Australian Public Service to the Public Service of the Northern Territory to a designation that has a higher attainable maximum salary than the salary of the office in which he was employed immediately before the appointment, but does not include a reference to a promotion or such an appointment upon the allowing of an appeal under this section.

36.(1) For the purposes of this Part, the Commissioner shall, from time to time, arrange for the establishment of such Promotions Appeal Boards as are required.

Promotions
Appeal Boards

(2) A Promotions Appeal Board shall be constituted as prescribed.

PART VI - EMPLOYEES DEEMED TO BE APPOINTED TO THE PUBLIC SERVICE

37.(1) A person who was, immediately before the commencement of this Ordinance, an officer of the former Service or employed in the service of a prescribed authority shall be deemed to be duly appointed to be an employee employed in a permanent capacity on that commencement.

Appointment of
employees from
the former Ser-
vice and pre-
scribed author-
ities

(2) A person who was, immediately before the commencement of this Ordinance, employed as a temporary employee in the former Service shall be deemed to be duly appointed on that commencement to be an employee employed in a permanent capacity, or for a period determined by the Commissioner under section 26(2)(a), having regard to the work that was being performed by that person in the former Service and to the period during which he would have been required to perform that work if he had not been so appointed.

Arrangements
for transfer of
Australian Pub-
lic servants to
the Territory
Service

38. (1) The Administrator may make arrangements with the Minister in accordance with Division 11 of Part III of the Public Service Act 1922 for the transfer on a specified day to the Public Service of the Northern Territory of a specified officer of the Australian Public Service or of officers of the Australian Public Service holding offices included in a specified class of offices.

(2) The Administrator may make arrangements with the Minister, in accordance with that Division of the Public Service Act 1922, for the transfer on a specified day to the Public Service of the Northern Territory of a specified employee employed in the Australian Public Service or of an employee included in a specified class of such employees.

(3) The Administrator may do such things as are necessary to carry out the arrangement.

Officers and
employees of
Australian
Public Service
deemed to be
appointed to
Territory Ser-
vice on trans-
fer

39. (1) An officer of the Australian Public Service who is transferred to the Public Service of the Northern Territory in pursuance of an arrangement under section 38 shall be deemed, by virtue of his transfer, to be duly appointed, on the date of his transfer, to be an employee of the Public Service of the Northern Territory employed in a permanent capacity.

(2) An employee of the Australian Public Service who is transferred to the Public Service of the Northern Territory in pursuance of an arrangement under section 38 shall be deemed, by virtue of his transfer, to be duly appointed, on the date of his transfer, to be an employee of the Public Service of the Northern Territory employed in a permanent capacity, or for such period only as the Commissioner determines under section 26(2)(a) having regard to the work that was being performed by the employee in the Australian Public Service immediately before his transfer and to the period during which he would have been required to perform that work if he had not been so transferred.

Conditions of
appointment of
transferred em-
ployees

40. (1) A transferred employee shall be deemed to have been appointed under this Part -

(a) subject to paragraph (b) - without probation; or

- (b) if he was an officer of the Australian Public Service or the former Service and his appointment as an officer has not been confirmed before the date of his transfer, or he was a temporary employee in the Australian Public Service or the former Service with a period of service immediately before the transfer of less than 12 months and he is, on the transfer, employed in a permanent capacity - upon probation.

(2) For the purposes of sub-section (1)(b) -

- (a) the probationary service of the officer in the Australian Public Service, in the former Service or in the service of the prescribed authority, as the case may be, shall be treated as probationary service in the Public Service of the Northern Territory; and
- (b) if a direction had been given before his transfer in relation to him that he continue on probation in the Australian Public Service, the former Service or in the service of the prescribed authority, as the case may be, for a period in excess of 6 months - that direction has effect as if it were a direction given under this Ordinance.

(3) A transferred employee, other than a transferred employee referred to in sub-section (5) or (6), shall be entitled, upon his transfer, to be paid at a rate equal to the rate at which the salary was payable to him in the Australian Public Service, the former Service or in the service of the prescribed authority, as the case may be, immediately before the date of his transfer.

(4) For the purpose of ensuring that conditions of employment of a transferred employee are, as far as

possible, as favourable as those that, in the opinion of the Commissioner, he enjoyed immediately before his transfer, the Commissioner may, notwithstanding anything in any other provision of this Ordinance -

- (a) determine any conditions of employment (including conditions relating to salary, pay or allowances) that are to apply to him; or
- (b) determine that an allowance is payable to him as compensation.

(5) A transferred employee who is, on the date of his transfer, performing duty for an authority (whether a prescribed authority or otherwise), body or person by reason of his having been authorized to do so under the Public Service Act 1922 shall -

- (a) be entitled to continue, on and after the date of his transfer, to perform duty for that authority, body or person for the remainder of the period for which he has been authorized to do so as if he has been authorized to do so in accordance with the terms and conditions of his service in the Public Service of the Northern Territory and upon terms and conditions similar to the terms and conditions upon which he was authorized to do so under that Act;
- (b) be deemed to have been granted, on the date of his transfer, leave of absence without salary from the Public Service of the Northern Territory for the period commencing on that date and ending on the last day of the period for which he is to be treated as authorized to perform duty for that authority, body or person; and
- (c) be entitled, upon the termination of the leave of absence referred to in paragraph (b), to be paid salary at the rate that the Commissioner

determines to be the appropriate rate having regard to the rate at which salary was payable to him in respect of the office held by him in the Australian Public Service immediately before he commenced to perform duty for that authority, body or person and the period during which he performed that duty.

(6) A transferred employee who, on the date of his transfer, holds office as, or is employed as a member of, a Commonwealth authority and who was, immediately before that date, a person to whom section 6 of the Officers' Rights Declaration Act 1928 applied by virtue of his holding that office or being so employed -

(a) shall be deemed to have been granted, on the date of his transfer, leave of absence without salary from the Public Service of the Northern Territory for the period commencing on that date and ending on the day on which he ceases to hold that office or to be so employed, as the case may be; and

(b) shall be entitled, upon the termination of the leave of absence referred to in paragraph (a), to be paid salary at the rate that the Commissioner determines to be the appropriate rate having regard to the rate at which salary was payable to him in respect of the office held by him in the Australian Public Service immediately before he commenced to hold office as, or as a member of, or to be employed by, that authority and the period during which he held that office or was so employed.

(7) A transferred employee who, immediately before his transfer, was a temporary employee, shall be deemed, by virtue of his transfer, to have been appointed, on the date of his transfer, as an employee of the Public Service of the Northern Territory on

terms entitling him to continue to be employed in that Service at such a salary as the Commissioner determines to be the appropriate salary for the employee having regard to the work performed by the employee during the period of his temporary employment in the Australian Public Service, or the former Service, or, if that period is in excess of 3 months, during the period of 3 months immediately preceding the date of his transfer.

(8) Where, but for his transfer, the salary payable to a transferred employee would or might have been increased by reason of an increment of salary in respect of the office held by him immediately before his transfer, the entitlement to salary by virtue of this section on his transfer includes an entitlement to increments of salary on the same terms as applied to him immediately before his transfer.

(9) A transferred employee shall retain such rights (if any) and under the same conditions in respect of -

(a) recreation leave;

(b) leave on the ground of illness; and

(c) special leave;

as had accrued to him as an officer or employee of the Australian Public Service, the former Service or the service of the prescribed authority, as the case may be, immediately before the date of his transfer.

(10) A transferred employee to whom leave of absence has been granted before the date of his transfer from the Australian Public Service, the former Service or a prescribed authority, as the case may be, for a period commencing on or before the date of his transfer and ending after that date shall be deemed to have been granted leave of absence for the purpose for which that leave was granted for the period commencing on the day of his transfer and ending on the last day of the first-mentioned period.

(11) The entitlement of a transferred employee to long service leave in respect of his service in the Public Service of the Northern Territory shall be determined -

- (a) in accordance with a rate of accrual of long service leave that is not less than the rate of accrual of long service leave that was applicable to him, immediately before his transfer, in respect of his service in the Australian Public Service, in the former Service or the service of the prescribed authority, as the case may be; and
- (b) in respect of a period of service that is not less than the period ascertained by aggregating the period of his service in the Public Service of the Northern Territory after his transfer and the period that was, immediately before his transfer, the period of his service for the purposes of long service leave under the conditions of his employment in the Australian Public Service, the former Service or the service of the prescribed authority, as the case may be,

and the amount of pay in lieu of long service leave payable to or in relation to him shall be calculated in a like manner.

41. Where -

Promotions before transfer

- (a) a transferred employee -
 - (i) had, before the date of his transfer been provisionally promoted to a vacant office in the Australian Public Service, being an office the holder of which is to be transferred under an arrangement under section 38;
 - (ii) had appealed, before that day, against the provisional promotion of another person to fill such an office; or
 - (iii) would, if he had continued to be an officer in the Australian Public Service, have had, on that day, a right to appeal against the

provisional promotion of another person to fill such an office, being a provisional promotion made before that day; and

(b) the promotion had not been confirmed or cancelled before that day, this Part has effect in relation to that transferred employee subject to section 4 of the Public Service Amendment Act (No. 2) 1976.

Discipline

42.(1) Where a transferred employee who was an officer or employee in the former Service had, before his transfer, committed, or was charged with having committed, an offence against the repealed Ordinance, being an offence that corresponds to an offence referred to in Part VIII, the person may be dealt with under that Part as if the offence were the offence of having failed to fulfil his duty as an employee within the meaning of that Part.

(2) Nothing in this section shall render a person to whom this section applies liable to be punished twice in respect of the same offence.

Deductions from salary

43. An authority, given by a transferred employee and in force immediately before his transfer, for the deduction of an amount from each payment of his salary for the payment of that amount on his behalf to a specified body or person continues in force as such an authority on and after his transfer until cancelled by the person.

PART VII - TENURE

Termination of employment

44. Employment in the Public Service shall not be terminated except by resignation, on the expiration of a specified period employment, by retirement as provided by this Part or by dismissal as provided by Part VIII.

Resignation

45.(1) An employee in a Department (other than a Chief Executive Officer) or in the service of a prescribed authority may resign as an employee at any time by writing signed by him and delivered to his Chief Executive Officer or the prescribed authority, as the case may be.

(2) A Chief Executive Officer may resign from the Public Service by writing signed by him and delivered to the Executive Member, but the resignation does not have effect until it is accepted by the Executive Member.

(3) The regulations may require a period of notice to be given or acceptance by a specified person or body of the resignation of an employee included in a specified class of employees or of an employee resigning in prescribed circumstances.

46. (1) An employee who has attained the retirement age in respect of the class of employees in which he is included is entitled to retire from the Public Service if he desires to do so, but may, subject to this Ordinance, continue in the Public Service until he attains the age prescribed for the purposes of sub-section (2) in respect of the prescribed class of employees in which he is included.

Retirement

(2) Subject to sub-section (3), an employee who attains the age prescribed for the purposes of this sub-section in respect of the prescribed class of employees in which he is included ceases to be an employee.

(3) The Commissioner may, if he is satisfied that an employee should, in the interest of the efficient working of the Public Service, continue to be employed in the Public Service after he attains the age prescribed for the purposes of sub-section (2) in respect of the prescribed class of employees in which he is included, permit the employee to continue to be so employed for such further period, or periods as the Commissioner in the particular case, with the approval of the Executive Member, determines.

(4) In this section, in relation to an employee referred to in this section, "retirement age" means the prescribed age at which such an employee in the prescribed class of employees in which he is included may retire from the Public Service.

47. If, at any time, the Commissioner finds that a greater number of employees with a particular salary or range of salary is employed in the Public Service than

Excess
employees

is necessary for the efficient working of the Public Service, the Commissioner may reduce the salary of an employee so employed whom the Commissioner finds to be in excess, may transfer him under section 31, or may retire him from the Public Service, as the Commissioner thinks appropriate.

Retirement, &c.,
on ground of
inefficiency,
incapacity, &c.

48. If an employee appears to the Commissioner to be inefficient or incompetent, or unable to discharge or incapable of discharging his duties as such an employee, the Commissioner may change his duties, transfer him to another part of the Public Service, reduce his salary or retire him from the Public Service, as the Commissioner thinks appropriate.

Review of
decisions
under sections
47 and 48

49. The regulations shall make provision for and in relation to reviews of decisions of the Commissioner under this Part on applications by persons affected by the decisions.

Enforced
resignation
following un-
explained
absence

50.(1) Where an employee in a Department or in the service of a prescribed authority is absent from duty without permission, and has been so absent for a continuous period of not less than 4 weeks, the Chief Executive Officer or the prescribed authority, as the case may be, may send to him by pre-paid registered post addressed to him at his last-known address a notice informing him that, unless within a period of 2 weeks from and including the date on which the notice was sent -

(a) he returns to duty; or

(b) he explains his absence and seeks the permission of the Chief Executive Officer or the prescribed authority, as the case may be, for any further period of absence that may be necessary having regard to that explanation,

he shall be deemed to have resigned upon the expiration of that period of 2 weeks.

(2) Where an employee to whom a notice under sub-section (1) has been sent does not, within a period of 2 weeks from and including the date on which the notice was so sent -

- (a) return to duty; or
- (b) explain his absence and seek the permission of the Chief Executive Officer or the prescribed authority for a further period of absence,

and the notice has not been revoked under sub-section (11), he shall be deemed to have resigned on the day following the expiration of that period of 2 weeks.

(3) Where a notice has been sent to an employee under sub-section (1) and, within the period of 2 weeks after that notice was so sent, the employee explains his absence and seeks the permission for a further period of absence, the Chief Executive Officer or the prescribed authority shall, as soon as practicable, consider the matter and may, by notice in writing sent to him by pre-paid registered post addressed to him at his last-known address inform him -

- (a) that he has been granted leave of absence for such period and on such conditions as are specified in the notice; or
- (b) that he is required to return to duty and that, unless he returns to duty within a period of 2 weeks from and including the date on which the notice is sent, he will be deemed to have resigned upon the expiration of that last-mentioned period,

(4) Where an employee who is required by notice sent to him under sub-section (3) to return to duty does not return to duty within the period referred to in the notice and the notice is not revoked under sub-section (11), he shall be deemed to have resigned on the day following the expiration of that period.

(5) A person who is deemed to have resigned in accordance with sub-section (2) or (4) may apply, in writing, to the Commissioner for re-appointment.

(6) Where the Commissioner is satisfied that a person making application under sub-section (5) had

reasonable grounds for being absent, he may appoint the person to the Public Service, without probation, with the same salary, or as nearly as possible the same salary, as he had immediately before his resignation.

(7) Where the Commissioner refuses an application under sub-section (5), he shall notify the applicant, in writing, accordingly and furnish to him the reasons for his refusal.

(8) Where the Commissioner has refused an application under sub-section (5), the applicant may appeal against the refusal to a Disciplinary Appeal Board established under Part VIII.

(9) A Disciplinary Appeal Board shall hear each appeal submitted to it under sub-section (8) and may -

- (a) confirm the refusal appealed against; or
- (b) direct the Commissioner to appoint the person to the Public Service, without probation, with the same salary, or as nearly as possible the same salary, as he had immediately before his resignation.

(10) The provisions of sub-sections (3), (4), (8) and (9) apply to appeals made under this section in like manner as they apply to appeals against refusals by the Commissioner of applications under section (3).

(11) The Commissioner may, at any time before an employee is to be deemed to have resigned under this section, by notice in writing sent to him by pre-paid registered post addressed to him at his last-known address, revoke a notice previously sent to the person under this section, and the notice is then void and of no effect.

(12) Where an employee is to be deemed to have resigned under this section, the period during which he was absent from duty without permission shall be deemed to be a period of leave of absence without salary.

(13) For the purposes of this section, a transferred employee who does not, on the date of his transfer, or the expiration of any period of leave deemed to have been granted under section 40(10), report for duty shall be deemed, from that time, to be absent from duty without permission.

PART VIII - DISMISSALS AND PUNISHMENTS

51.(1) In this Part, unless the contrary intention appears, "salary" does not include such allowances as are prescribed.

Interpretation

(2) In this Part, a reference to misconduct or failure to fulfil his duty, in relation to an employee, is a reference to a failure of the employee to fulfil his duty as an employee.

52.(1) For the purposes of this Part, an employee shall be taken to have failed to fulfil his duty if and only if -

Disciplinary
action

- (a) he wilfully disobeys or wilfully disregards a direction given to him as an employee and given by a person having authority to give the directions;
- (b) he is inefficient or incompetent;
- (c) he is negligent or careless in the discharge of his duties;
- (d) he is guilty of improper conduct as an employee;
- (e) he is guilty of improper conduct otherwise than as an employee, being conduct that affects adversely the performance of his duties, is prejudicial to the interests, or damaging to the business, of the Public Service or, if he is employed in the service of a prescribed authority, is prejudicial to the interests, or damaging to the business of the prescribed authority;

(f) he contravenes or fails to comply with a provision of this Ordinance or of the regulations that is applicable to him or with the terms and conditions upon which he is employed; or

(g) he has, whether before or after becoming such an employee, wilfully supplied incorrect or misleading information in connexion with his appointment.

(2) If a supervisor of an employee has, at any time, reason to believe that the employee may have failed to fulfil his duty, the supervisor may require the employee to furnish to the supervisor, in writing, an explanation of the matters alleged to constitute the failure and may, after consideration of any explanation furnished by the employee, if he is of the opinion that the employee has failed to fulfil his duty -

(a) counsel the employee; or

(b) furnish a report concerning the matters, together with any explanation furnished to him, to a person authorized by the Commissioner for the purposes of sub-section (3).

(3) Where a person authorized by the Commissioner for the purposes of this sub-section is of the opinion, whether by reason of his consideration of a report furnished under sub-section (2) or otherwise, that an employee may have failed to fulfil his duty, the person so authorized shall, as soon as practicable, decide whether he should be charged and -

(a) if he decides that the employee should not be charged - may counsel him or cause his supervisor to counsel him; or

(b) if he decides that the employee should be charged - by writing signed by him and delivered to the employee, shall charge him with the failure.

(4) Where an employee charged under sub-section (3) so requests, a copy of the charge shall be furnished to the organization, being an organization within the meaning of the Conciliation and Arbitration Act 1904, to which he belongs.

(5) Where an employee is charged with misconduct, a person authorized by the Commissioner for the purposes of this sub-section, not being either the supervisor of the employee charged or a person authorized by the Commissioner for the purposes of sub-section (3), shall, without undue delay, hold an inquiry into the charge.

(6) In an inquiry for the purposes of sub-section (5), a formal hearing is not required, but the employee charged shall be notified that an inquiry is to be held into the alleged misconduct and given an opportunity to state, in writing, within 7 days or such longer period as the person holding the inquiry may allow after the notice is furnished to him, whether he admits or denies the truth of the matters alleged to constitute the misconduct and to furnish a statement in relation to those matters.

(7) Where an employee charged has furnished a statement in relation to the matters alleged to constitute misconduct, the employee shall, if he so requests, be given the opportunity of making a further oral statement to the person holding the inquiry and, if he does so, a written record of his further statement shall be made by the employee.

(8) An employee charged with misconduct shall not be taken, by reason only of having failed to deny the truth of a matter alleged to constitute the misconduct, to have admitted the truth of that matter.

(9) Where the person who held an inquiry into a charge is satisfied that the employee charged has failed to fulfil his duty, he may counsel him or cause his supervisor to counsel him, or, if he is of the opinion that other action is necessary -

(a) admonish him;

- (b) direct that a sum not exceeding 40 dollars be deducted from his salary;
- (c) if the employee is in receipt of a salary other than the minimum salary of a range of salary applicable to him - direct that his salary be reduced to a lower salary within that range for a period not exceeding 12 months; or
- (d) recommend to the Commissioner in writing -
 - (i) that the Commissioner transfer him, subject to his qualifications, elsewhere in the Public Service with a salary equivalent to the salary previously paid to him;
 - (ii) that the Commissioner reduce his salary or salary range; or
 - (iii) that the Commissioner dismiss him from the Public Service.

(10) Where a person who held an inquiry makes a recommendation specified in sub-section (9)(d) in respect of an employee, he shall furnish to the Commissioner with his recommendation, full particulars of his findings in relation to the facts giving rise to the misconduct.

(11) Where a person who held an inquiry makes a recommendation specified in sub-section (9)(d) in respect of an employee, the Commissioner may, after consideration of the particulars furnished under sub-section (10), counsel the employee or, if the Commissioner considers that other action is necessary -

- (a) admonish him;
- (b) decide -
 - (i) to give effect to the recommendation; or
 - (ii) to take any other action that could have been recommended under sub-section (9)(d); or

- (c) give a direction referred to in sub-section (9) (b) or (c).

(12) Where a person who held an inquiry recommends, or the Commissioner decides, that an employee be transferred with a salary equivalent to the salary previously paid to him, the person who held the inquiry may also recommend, or the Commissioner may also direct, as the case may be, that a sum not exceeding 40 dollars be deducted from the employee's salary.

(13) Where a person authorized for the purposes of sub-section (5) or the Commissioner gives a direction that the salary of an employee be reduced, the employee is entitled, at the expiration of the period specified by the authorized person or the Commissioner in that direction, to be paid salary at the rate at which salary would have been payable to him if the reduction had not taken place.

(14) The admonition of an employee by the Commissioner or by a person authorized for the purposes of sub-section (5) does not have any effect -

- (a) if the employee appeals against the admonition - unless the appeal lapses or is withdrawn or a Disciplinary Appeal Board confirms the admonition; or
- (b) in any other case - until the expiration of the period within which the employee may appeal against the admonition to a Disciplinary Appeal Board.

(15) A direction or decision under this section by the Commissioner or by a person authorized for the purposes of sub-section (5) does not take effect -

- (a) if the employee appeals against the direction or decision - unless the appeal lapses or is withdrawn or a Disciplinary Appeal Board confirms, either with or without a variation, the direction or decision; or

- (b) in any other case - until the expiration of the period within which the employee may appeal against the decision or direction to a Disciplinary Appeal Board.

Suspension of
employees

53. (1) Where -

- (a) an employee has been charged with having committed -

- (i) an offence against a law in force in the Territory; or

- (ii) an offence against a law of a State or another Territory or of a foreign country, being an offence which, if committed in the Territory, would have constituted against a law in force in the Territory; or

- (b) the Commissioner is of the opinion that an employee may have failed to fulfil his duty as an employee,

and the Commissioner is of the opinion that it would be prejudicial to the effective operation of the Public Service, or, if he is employed in the service of a prescribed authority, to the business of the prescribed authority, or to the interests of the public or to the interests of the employee and his fellow employees if the employee were to continue to perform the duties of his existing position, the Commissioner may, by notice in writing -

- (c) suspend the employee from duty; or

- (d) transfer the employee temporarily subject to the employee's qualifications, elsewhere in the Public Service with a salary equivalent to the salary previously paid to him.

(2) Where an employee is suspended from duty otherwise than by reason of circumstances referred to in sub-section (1)(a) before he is charged with

misconduct, he shall, until a person authorized for the purposes of section 51(3) decides whether he should be charged, be deemed to be absent on leave of absence with salary.

(3) Where an employee is suspended from duty at a time when he is absent on leave of absence, the suspension does not prevent his receiving any salary to which he is entitled during that period of absence.

(4) The suspension of an employee from duty does not prevent the granting to the employee of leave of absence with salary.

(5) Except as provided by sub-section (2), (3) or (4) or by section 54, an employee is not, unless the Commissioner, being satisfied that the employee is suffering or has suffered hardship, otherwise directs, entitled to be paid salary in respect of the period during which he is suspended.

(6) An employee who is suspended from duty is entitled to engage in paid employment during any period of suspension without salary.

54.(1) Where an employee is suspended from duty under section 53 -

Removal and
variation of
suspension

(a) the Commissioner may, at any time, whether upon application by the employee or otherwise, remove the suspension or direct that the employee be paid salary during the suspension; and

(b) the Commissioner shall, if the suspension continues for more than 30 days, forthwith after the suspension has continued for more than 30 days, consider whether the suspension should be removed or salary should be paid during the suspension.

(2) Where an employee has, by reason of his having been charged with an offence referred to in paragraph (a) of section 53(1), been suspended from duty or transferred temporarily elsewhere in the Public Service and, upon the hearing of the charge -

(a) the employee does not plead guilty, and is not found guilty in respect of the offence of which he is charged or of another offence of a kind referred to in that paragraph; or

(b) the charge is not proceeded with, the Commissioner shall, if he has not previously done so, remove the suspension or revoke the transfer of the employee.

(3) Where an employee has been suspended from duty or transferred in circumstances referred to in section 53(1)(b) and -

(a) if the employee is charged with misconduct - the person holding an inquiry into the misconduct or a Disciplinary Appeal Board finds that the charge has not been established or the charge is withdrawn; or

(b) in any other case - a person authorized for the purposes of section 52(3) decides that the employee should not be charged with misconduct, the Commissioner shall, if he has not previously done so, remove the suspension or revoke the transfer.

(4) Where -

(a) an employee has been suspended from duty under section 53;

(b) the amount of salary that would otherwise have been paid to the employee in respect of the period or a part of the period of the suspension was not paid to him; and

(c) the Commissioner removes the suspension, the employee shall, subject to sub-section (5), be paid that amount of salary.

(5) Where the Commissioner is satisfied that an employee to whom sub-section (4) applies has engaged in paid employment or work during the period or a part of

the period of his suspension, the amount payable to him under that sub-section shall be reduced by the amount equal to the total of the amount of the earnings that the Commissioner is satisfied were received or are receivable by him in respect of that employment or work.

(6) When the suspension of an employee who had, after the suspension commenced, sought and been granted leave of absence for a part of the period of suspension, is removed under this section, the employee is entitled to a credit of a period of leave of absence equal to that part of the period of suspension.

(7) Except where an employee is dismissed from the Public Service, the period during which the employee is suspended from duty counts as service for all purposes.

(8) Where an employee retires or resigns from the Public Service, or dies while he is suspended from duty without salary, the Commissioner may, in his discretion, authorize payment to the employee, or to the estate of the deceased employee, of an amount equal to the salary that would otherwise have been paid to the employee in respect of the period of his suspension without salary less the amount (if any) of the earnings that the Commissioner is satisfied the employee received or was entitled to receive in respect of any employment or work engaged in by him while so suspended.

(9) Where, immediately before a direction or decision of a person or of the Commissioner under section 55(1) or a decision of a Disciplinary Appeal Board under section 56 takes effect in relation to an employee, the employee is under suspension from duty in connexion with the misconduct or offence to which the direction or decision is related, the suspension ceases upon that direction or decision taking effect.

55.(1) Where a court convicts an employee on a charge for an offence referred to in section 53(1)(a) or a court, without recording a conviction, finds that an employee has committed such an offence and the Commissioner, after giving the employee an opportunity to furnish to him, in writing, any explanation that he desires to make in relation to the offence, is of the

Conviction by
courts

opinion that, having regard to the nature and circumstances of the offence and the nature of the duties of the employee, the interests of the Public Service justify him in so doing, the Commissioner may counsel the employee or may decide to -

- (a) transfer the employee, subject to his qualifications, elsewhere in the Public Service, whether at the same or a different locality, with the same salary or a lower salary than the salary previously paid to him or with a reduced salary or range of salary, as the Commissioner determines; or
- (b) dismiss the employee from the Public Service.

(2) A decision of the Commissioner under sub-section (1) with respect to an employee does not take effect -

- (a) if the employee appeals against the decision - unless the appeal lapses or is withdrawn or a Disciplinary Appeal Board confirms, either with or without a variation, the decision; or
- (b) in any other case - until the expiration of the period within which the employee may appeal against the decision to a Disciplinary Appeal Board.

(3) Where, after a person charged with an offence referred to in section 53(1)(a) has been dismissed from the Public Service in accordance with a decision of the Commissioner under sub-section (1), the finding of the court in relation to the offence with which he was charged is nullified, the Commissioner may, upon application, in writing, made to him by the person, appoint the person as an employee, without probation, with the same salary as the salary previously paid to him or as nearly as possible equivalent to the salary previously paid to him.

(4) Where an employee charged with an offence referred to in section 53(1)(a) has been transferred

under sub-section (1) and the finding of the court in relation to the offence with which he was charged is nullified, the Commissioner may, upon application, in writing, made to him by the employee, restore the employee to a salary equivalent to his former salary or as nearly as possible to a salary equivalent to his former salary.

(5) Where the Commissioner refuses an application under sub-section (3) or (4), he shall notify the applicant, in writing, accordingly and furnish to him his reasons for the refusal.

(6) Where an employee serves a term of imprisonment, or a period of custody in relation to an alleged offence, but is not dismissed from the Public Service -

- (a) he shall be deemed, for the duration of his imprisonment or custody, to be on leave of absence without salary;
- (b) his service before that period of imprisonment or custody shall be regarded as
- (c) the period of his imprisonment or custody shall not, unless the Commissioner otherwise determines, be regarded as service for any purpose under this Ordinance.

(7) For the purposes of this section, a finding of a court in relation to an offence shall be regarded as having been nullified -

- (a) where a person has been convicted on the basis of that finding - if the conviction has subsequently been quashed or otherwise nullified or the person convicted has received a pardon or has been released from prison as a result of an inquiry into the conviction; or
- (b) in any other case - if the finding has been set aside.

(8) This section does not prevent an employee

from being dealt with under another provision of this Ordinance or under another Ordinance, but an employee shall not be punished twice in respect of the same matter.

Appeals

56.(1) An employee may appeal to a Disciplinary Appeal Board -

- (a) against his admonition by, or a direction or decision made or given with respect to him by, a person or the Commissioner under section 52; or
- (b) against a decision made with respect to him by the Commissioner under section 55(1).

(2) Where the Commissioner has refused an application made under section 55(3) or (4), the applicant may appeal against the refusal to a Disciplinary Appeal Board.

(3) In the hearing of an appeal under this section, the Disciplinary Appeal Board may take evidence on oath or affirmation.

(4) The regulations may prescribe the manner in which, and the time within which, appeals may be made under this section and the manner in which the hearing of appeals so made shall be conducted and may include provision for or in relation to the summoning of witnesses, the production of documents, the taking of evidence on oath or affirmation and the administering of oaths and affirmations and for penalties not exceeding 200 dollars for an offence against the regulations.

(5) A Disciplinary Appeal Board shall hear each appeal submitted to it under sub-section (1) and may confirm, vary or set aside the direction or decision against which the appeal is made.

(6) Where an employee appeals under sub-section (1) against a direction or decision on the ground that the action to be taken in accordance with that direction or decision is excessively severe, evidence may be given on the hearing of the appeal -

- (a) if the employee was, under section 53, suspended without salary prior to the giving of that direction or the making of that decision - of any loss or earnings arising from that suspension;
- (b) if the employee is to be transferred to another position - of the expenses that will be incurred by the employee in connexion with that transfer; and
- (c) of matters relating to the previous employment history and general character of the appellant.

(7) A Disciplinary Appeal Board shall hear each appeal duly submitted to it under sub-section (2) and may -

- (a) confirm the refusal appealed against; or
- (b) direct the Commissioner as follows:
 - (i) if the appeal is against the refusal of an application made under section 55(3) - that the Commissioner appoint the person as an employee, without probation, with the same salary or range of salary as the salary previously paid to him or as nearly as possible equivalent to the salary previously paid to him; or
 - (ii) if the appeal is against the refusal of an application made under section 55(4) - that the Commissioner restore the employee to a salary equivalent to his former salary or as nearly as possible to a salary equivalent to his former salary.

(8) A Disciplinary Appeal Board shall give reasons, in writing, for its decision on an appeal to the Commissioner and the appellant.

(9) The Commissioner shall take such action as

is necessary to give effect to a decision of a Disciplinary Appeal Board.

Disciplinary
Appeal Boards

57.(1) For the purposes of this Part, the Commissioner shall, from time to time, arrange for the establishment of such Disciplinary Appeal Boards as are required.

(2) A Disciplinary Appeal Board with respect to an appeal by an employee shall be constituted by -

(a) a Chairman, who shall be a person appointed by the Executive Member to be the Chairman of a Disciplinary Appeal Board;

(b) an employee nominated the Commissioner; and

(c) a person nominated as provided by the regulations to represent employees.

(3) A person shall not be appointed to be the Chairman of a Disciplinary Appeal Board unless he is or has been a magistrate or is a barrister or solicitor of not less than 5 years' standing.

(4) A Chairman of a Disciplinary Appeal Board, not being a magistrate, shall be paid such remuneration and such allowances as are determined by the Administrator.

(5) Subject to sub-section (4), the Chairman of a Disciplinary Appeal Board holds office for such period, and upon such terms and conditions, as the Executive Member determines.

(6) The employee referred to in sub-section (2)(b) and the person referred to in sub-section (2)(c) shall be nominated for the purposes of a particular appeal only and an employee concerned in the laying of a charge against the appellant or in the inquiry related to the charge shall not be nominated for the purpose of an appeal relating to the charge.

(7) A Disciplinary Appeal Board may, when only 2 of the 3 members are present, with the consent of the

appellant and of the Commissioner, exercise all the powers of a Disciplinary Appeal Board in respect of an appeal.

(8) When, at a meeting of a Disciplinary Appeal Board, the members are divided in opinion on a question, that question shall be decided according to a decision of the majority but, if 2 members only are present and those members are equally divided on a question, the appeal shall be deemed to be adjourned for the purpose of being re-heard by a Disciplinary Appeal Board.

58.(1) Where -

Review of findings

(a) a person authorized for the purpose of section 52(5) or a Disciplinary Appeal Board has found that a charge against a person under section 52(3) has been established; and

(b) in respect of the charge -

(i) a sum was deducted from the salary of the person charged;

(ii) his salary was reduced;

(iii) he was transferred elsewhere in the Public Service; or

(iv) he was dismissed from the Public Service,

the person charged may, at any time, request the Commissioner, in writing, to review the finding, or the action taken in respect of the charge, on the ground that evidence that was not given, and could not reasonably be expected to be given, on his behalf in the course of the investigation of the charge is now available and that the evidence might, if it had been given, have resulted in the charge being found not to have been established, or in less severe action being taken in respect of the charge, as the case may be.

(2) A request under sub-section (1) shall set out particulars of the evidence that has become available.

(3) Where the Commissioner is satisfied that the ground of the request is established, the Commissioner shall review the finding or the action taken in respect of the charge, as the case may be.

(4) Where the Commissioner has reviewed a finding, the Commissioner shall -

(a) if he is satisfied, in the light of the evidence given when the charge was being investigated and the evidence before him in connexion with the review, that the person failed to fulfil his duty as an employee - confirm the finding; or

(b) in any other case - quash the finding and take such action by way of recompensing the person as is, in his opinion, reasonable and practicable in all the circumstances.

(5) Where the Commissioner has reviewed the action taken in respect of a charge, the Commissioner shall -

(a) if he is satisfied, in the light of the evidence given when the charge was investigated and the evidence before him in connexion with the review, that the action so taken was not too severe - confirm the action; or

(b) in any other case - take such action to mitigate the severity of the action taken in respect of the charge as is, in his opinion, reasonable and practicable in all the circumstances.

(6) Without limiting the power of the Commissioner under sub-section (4) or (5), the Commissioner may, if he considers it appropriate to do so, re-appoint the person as an employee at a salary equivalent to his former salary or as nearly as possible to a salary equivalent to his former salary.

(7) In this section -

- (a) a reference to the investigation of a charge is a reference -
 - (i) if the person charged appealed to a Disciplinary Appeal Board - to the investigation of the charge by the Disciplinary Appeal Board; or
 - (ii) in any other case - to the investigation of the charge by the person authorized under section 52(5) to investigate the charge; and
- (b) a reference to the giving of evidence includes a reference to the submission or production of statements or other material.

PART IX - MISCELLANEOUS

59.(1) The Commissioner may make By-laws, not inconsistent with this Ordinance, determining all matters (other than a matter in relation to a specified individual employee) that are required or permitted to be determined by the Commissioner.

By-laws and
determina-
tions

(2) Sections 15 and 16 of the Interpretation Ordinance and section 4(3) of the Regulations Publication Ordinance apply to By-laws in like manner as they apply to regulations.

(3) The By-laws may apply, adopt or incorporate, with or without modification -

- (a) the provisions of an Act, Ordinance, or any regulations under an Act or Ordinance, or of an award or arbitral determination or agreement under an Act or Ordinance, as in force at a particular time or as in force from time to time;
- (b) any matter contained in any other instrument or writing as in force or existing at the time when the first-mentioned determination takes effect; or

(c) a provision of the repealed Ordinance or of a regulation under the repealed Ordinance as in force immediately before the commencement of this Ordinance.

(4) Any of the By-laws may apply generally to all employees, to employees included in a specified class of employees or to an employee specified by reference to his designation.

(5) In relation to a transferred employee, the Commissioner shall not make a By-law that provide terms and conditions of service that are less favourable than the terms and conditions that were applicable to him immediately before his transfer.

(6) The Commissioner shall not make a determination under this Ordinance that are inconsistent with any other law in force in the Territory that makes specific provision in respect of the rank, designation or duties of an employee or an employee included in a class of employees, or a term or condition of employment specified in any such law in relation to such an employee, to whom that other law applies.

(7) The Commissioner shall not make By-laws under this Ordinance that are less favourable than any arbitral determination or agreement then in force by virtue of any other law in force in the Territory relating to employees included in the class of employees to whom that other law applies.

(8) Subject to this section, By-laws of the Commissioner made in accordance with this Ordinance and in force have effect notwithstanding the provisions of any other law of the Territory.

(9) Any other determination of the Commissioner under this Ordinance shall be in writing signed by him.

Interchange
between Aust-
ralian Public
Service and
Authorities
and Territory
Public Service

60. (1) The Administrator may make arrangements with the Public Service Board established under the Public Service Act 1922 for the performance for a

specified period by an employee of the duties of an office in the Australian Public Service or for the performance for a specified period by an officer or employee of the Australian Public Service of duties in the Public Service of the Northern Territory.

(2) The Administrator may make arrangements with the appropriate Minister administering another Territory or an Act establishing an authority of the Commonwealth, or having responsibilities for a body or person, as the case may be, for the performance for a specified period by an employee of duties in the Public Service of that other Territory or in the service of the authority of the Commonwealth or other body or person or for the performance by an officer or employee in the Public Service of that other Territory or in the service of the authority, body or person of duties in the Public Service of the Northern Territory.

(3) The Administrator may make arrangements with the appropriate person or body in a State responsible for the Public Service of that State or for an authority of that State for the performance for a specified period by an employee of duties in the Public Service of that State or in the service of the authority or for the performance of an officer or employee of the Public Service of that State or in the service of that authority of duties in the Public Service of the Northern Territory.

(4) The Administrator may make arrangements for an employee to perform duty with a person or body or with the Government of a country other than Australia or with an authority of such a Government.

(5) Arrangements under this section may include arrangements for determining the rate of payment for the work performed and any matters that may require to be adjusted with regard to the performance of that work.

(6) The Commissioner shall grant leave of absence without salary to an employee for the period for which he is authorized under an arrangement under this section to perform duty otherwise than for the Public Service of the Northern Territory, and any such leave shall not be regarded as a break in the

continuity of service of the employee.

(7) The employee shall be entitled, on the termination of the leave of absence on his return to duty in the Public Service of the Northern Territory, to be paid salary at the rate that the Commissioner determines to be the appropriate rate having regard to the salary payable to him in that Public Service immediately before he commenced to perform duty under the arrangement and the period during which he performed that duty.

(8) The power given to the Commissioner to make determinations includes power to make a determination necessary or convenient to be made for conferring on an employee performing duty while on leave of absence granted under this section specified rights in respect of appeals against promotions in the Public Service, recreation leave, leave on the ground of illness and long service leave.

Performance of
duties of
statutory
officeholder
in absence

61. (1) Where, by another Ordinance, a duty or power is imposed or conferred on an employee by virtue of his holding an office under that other Ordinance, that duty or power may, subject to that other Ordinance, be performed or exercised by an employee so directed by the Chief Executive Officer of the first-mentioned employee while the first-mentioned employee is absent or not available to perform the duty or exercise the power, or during a vacancy in the office, in the same manner and to the same extent as it might have been performed or exercised by the first-mentioned employee, and everything so done shall be regarded as effectual for all purposes as if done by the first-mentioned employee.

(2) The validity of an act done by an employee under this section shall not be questioned in any proceedings on a ground arising from the fact that the occasion for so acting had not arisen or the occasion had ceased.

References to
Departments,
&c., in other
laws

62. (1) In any law of the Territory or an instrument having effect under such a law, whether passed or made before or after the commencement of this Ordinance, a reference to the Public Service shall, where the context so admits, be read as a reference to

the Public Service of the Northern Territory.

(2) Where -

- (a) reference is made in a provision of an Ordinance or in regulations, by-laws, rules or other instruments made under an Ordinance to a particular Department or unit of administration;
- (b) the Department has been abolished or the name of the Department or unit of administration has been changed; and
- (c) the Administrator by order in writing, directs that the provision, or provisions that include the provision, shall have effect -
 - (i) as if there were substituted for that reference a reference to such Department or unit of administration as is specified in the order; or
 - (ii) as if, in a particular respect, being one of several respects specified in the order, there were substituted for that reference a reference to such Department or unit of administration as is specified in the order,

the provision shall, on and from the date of the order or such later date as is specified in the order, have effect accordingly for all purposes, except in relation to a subsequent order under this sub-section, or under sub-section (3), in which a contrary intention is expressed.

(3) Where -

- (a) reference is made in a provision of an Ordinance or in regulations, by-laws, rules or other instruments made under an Ordinance to a particular Department or unit of administration;
- (b) by virtue of a determination under section 4ZE of the Act, there is a change in the matters dealt with by

the Department or unit of Administration but the name of the Department or unit of administration is not changed; and

(c) the Administrator, by order in writing, directs that the provision, or provisions that include the provision, shall have effect -

(i) as if there were substituted for that reference to such Department or unit of administration as is specified in the order; or

(ii) as if, in a particular respect, being one of several respects specified in the order, there were substituted for that reference a reference to such Department or unit of administration as is specified in the order,

the provision shall, on and from the date of the order or such later date as is specified in the order, have effect accordingly for all purposes, except in relation to a subsequent order under this sub-section, or under sub-section (2), in which a contrary intention is expressed.

(4) Where -

(a) reference is made in a provision of an Ordinance or in regulations, by-laws, rules or other instruments made under an Ordinance to a particular position of Chief Executive Officer;

(b) the position has been abolished (whether by reason of the abolition of the Department or otherwise) or the name of the position has been changed; or

(c) the Administrator, by order in writing, directs that the provision, or provisions that include the provision, shall have effect -

(i) as if there were substituted for that reference a reference to such position as is specified in the order; or

(ii) as if, in a particular respect, being one of several respects specified in the order, there were substituted for that reference a reference to such position as is specified in the order,

the provision shall, on and from the date of the order or such a later date as is specified in the order, have effect accordingly for all purposes, except in relation to a subsequent order under this sub-section, or under sub-section (5), in which a contrary intention is expressed.

(5) Where -

(a) reference is made in a provision of an Ordinance or in regulations, by-laws, rules or other instruments made under an Ordinance to a particular position of Departmental Head;

(b) by virtue of a determination under section 4ZE of the Act, there is a change in the matters dealt with by the Department but the name of the Departmental Head is not changed; and

(c) the Administrator, by order in writing, directs that the provision, or provisions that include the provision, shall have effect -

(i) as if there were substituted for that reference a reference to such position as is specified in the order; or

(ii) as if, in a particular respect, being one of several respects specified in the order, there were substituted for that reference a reference to such position as is specified in the order,

the provision shall, on and from the date of the order

or such later date as is specified in the order, have effect accordingly for all purposes, except in relation to a subsequent order under this sub-section, or under sub-section (4), in which a contrary intention is expressed.

(6) A reference to the Public Service Commissioner in any other Ordinance or regulations under another Ordinance shall be read as a reference to the Public Service Commissioner for the Northern Territory for the time being holding office under this Ordinance, and includes a reference to a person appointed under section 12 while he is acting as Commissioner.

Recognition of
other service

63. (1) Subject to this Ordinance, where the service of an employee is continuous with a period during which he was continuously in a permanent or temporary capacity in the service of a public employer or 2 or more public employers in succession, that period shall be reckoned as a period of service in the Public Service.

(2) The Commissioner may determine that the whole or a part of a period during which an employee is on leave of absence without salary under section 40(5)(b), 40(6)(b) or 60(6) shall be reckoned as service in the Public Service for such purposes as the Commissioner specifies.

(3) In this section, "public employer" means the Commonwealth, a State, the Northern Territory (including in the former Service) or another Territory or an authority of the Commonwealth, of a State, of the Northern Territory (whether or not it is a prescribed authority), or of another Territory, being a body corporate (other than an incorporated company, society or association) incorporated for a public purpose under a law of the Commonwealth, of a State, of the Northern Territory or of another Territory.

Complaints
against in-
structions

64. (1) If an employee considers that he has grounds of complaint arising out of an official instruction or from any other cause, he may appeal to the Commissioner.

(2) An appeal under sub-section (1) shall be in writing given to the Commissioner and set out the grounds of complaint.

(3) The Commissioner shall, after receiving a report from the Departmental Head or the prescribed authority concerned, consider the appeal and may allow or refuse the appeal.

65. (1) At any time after this Ordinance receives assent and before the date of commencement of this Ordinance -

Transitional

(a) the Commissioner, on his appointment may make a determination under this Ordinance; and

(b) the Administrator may enter into arrangements under Part VI, as if this Ordinance were in force.

(2) Anything done under sub-section (1)(a) shall not have effect until the date of commencement of this Ordinance.

66. The Administrator may make regulations not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and making provision for, or with respect to, the establishment, constitution, functions and manner of carrying out the functions, of a consultative council, comprising the Commissioner or his representative, and representatives of organizations of employees, (being organizations within the meaning of the Conciliation and Arbitration Act 1904).

Regulations

FIRST SCHEDULE

Section 3

REPEALED ORDINANCES

<u>Public Service Ordinance</u>	1928
<u>Public Service Ordinance</u>	1929
<u>Public Service Ordinance</u>	(No.2) 1929
<u>Public Service Ordinance</u>	1931
<u>Public Service Ordinance</u>	1934
<u>Public Service Ordinance</u>	1936
<u>Public Service Ordinance</u>	1939
<u>Public Service Ordinance</u>	(No.2) 1939
<u>Public Service Ordinance</u>	1940
<u>Public Service Ordinance</u>	1941
<u>Public Service Ordinance</u>	1948
<u>Public Service Ordinance</u>	1959
<u>Public Service Ordinance</u>	1962
<u>Public Service Ordinance</u>	(No.2) 1962
<u>Public Service Ordinance</u>	1964
<u>Public Service Ordinance</u>	1965
<u>Public Service Ordinance</u>	1968
<u>Public Service Ordinance</u>	(No.2) 1968
<u>Public Service Ordinance</u>	(No.3) 1968
<u>Public Service Ordinance</u>	(No.2) 1970

<u>Public Service Ordinance</u>	1971
<u>Public Service Ordinance</u>	1972
<u>Public Service Ordinance</u>	(No.2) 1972
<u>Public Service Ordinance</u>	1973
<u>Public Service Ordinance</u>	(No.2) 1973
<u>Public Service Ordinance</u>	(No.3) 1973
<u>Public Service Ordinance</u>	(No.4) 1974

SECOND SCHEDULE

Section 4(1)

AUTHORITIES

AUTHORITY	ORDINANCE UNDER WHICH ESTABLISHED
Housing Commission	<u>Housing Ordinance</u>
Port Authority	<u>Ports Ordinance</u>
Museums and Art Galleries Board	<u>Museums and Art Galleries Ordinance</u>
Reserves Board	<u>National Parks and Gardens Ordinance</u>
Territory Parks and Wildlife Commission	<u>Territory Parks and Wildlife Conservation Ordinance</u>
Tourist Board	<u>Tourist Board Ordinance</u>

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the Interpretation Ordinance 1931
as amended

BE it ordained by the Legislative Assembly for the Northern Territory
of Australia as follows:

1. This Ordinance may be cited as the Interpretation Ordinance (No 2) 1976. Short
title
2. The Interpretation Ordinance 1931 as amended Principal
is in this Ordinance referred to as the Principal Ordinance
Ordinance.
3. Section 5 of the Principal Ordinance is Definitions
amended by omitting the definition of "The Executive
Member" and substituting the following definitions:

" 'the Act' means the Northern Territory
(Administration) Act 1910;

'Department' means a Department of the Northern
Territory Public Service;

'Executive Member' means the Executive Member
for the time being, by virtue of a
determination in force under section 4ZE(2)
of the Act, administering the Ordinance in
which, or in respect of which, the
expression is used, and includes an
Executive Member for the time being acting
for and on behalf of any such Executive
Member;"
4. After section 5 the following sections are
inserted:

References,
to Supreme
Court and
Judges

"5A. In any law in force in the Territory, unless the contrary intention appears -

- (a) a reference to the Supreme Court shall be read as a reference to the Supreme Court of the Northern Territory of Australia;
- (b) a reference to a Judge or a Judge of the Supreme Court shall be read as a reference to a Judge appointed under section 7 of the Northern Territory Supreme Court Act 1961, and includes an additional Judge appointed under that section; and
- (c) a reference to the senior Judge, or the Chief Judge, of the Supreme Court shall be read as a reference to the Judge who is the senior Judge of the Supreme Court.

References
in regula-
tions, to the
Ordinance
under which
they are
made

"5B. In any regulations, rules or by-laws made under an Ordinance, a reference to the Ordinance shall, unless the contrary intention appears, be read as a reference to the Ordinance under which the regulations, rules or by-laws are made."

