

Serial 58
Interpretation Legislation Amendment Bill 2018
Ms Fyles

A Bill for an Act to amend the *Interpretation Act* and *Sentencing Act* and to
repeal the *Amendments Incorporation Act*

NORTHERN TERRITORY OF AUSTRALIA

INTERPRETATION LEGISLATION AMENDMENT ACT 2018

Act No. [] of 2018

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2018

An Act to amend the *Interpretation Act* and *Sentencing Act* and to repeal the *Amendments Incorporation Act*

[Assented to [] 2018]
[Introduced [] 2018]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Interpretation Legislation Amendment Act 2018*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Repealed Acts

3 Acts repealed

The Acts specified in the Schedule are repealed.

Part 3 Amendment of Interpretation Act

4 Act amended

This Part amends the *Interpretation Act*.

5 Section 8 replaced

Section 8

repeal, insert

8 Exercise of powers before commencement

- (1) A power to make a statutory instrument, or to do any other thing, under a provision of an Act may be exercised before the provision commences.

Examples of powers under subsection (1)

1 *A power to establish a board or other body.*

2 *A power to make regulations.*

3 *A power to approve forms.*

- (2) The statutory instrument or other thing may take effect either:
- (a) on the commencement of the provision under which the power was exercised; or
 - (b) before the commencement of the provision under which the power was exercised, to the extent necessary for the effective operation of the Act.
- (3) Subsection (1) applies whether the provision is in the Act as enacted or whether it is to be inserted into the Act by another Act.

6 Section 15 replaced

Section 15

repeal, insert

15 References to repealed provisions

- (1) If an Act repeals and re-enacts, with or without modification, any provision of a former Act, a reference in any other Act to the provision so repealed is taken to be a reference to the provision so re-enacted.

- (2) If a Commonwealth Act or legislative instrument repeals and re-enacts, with or without modification, any provision of a former Commonwealth Act or legislative instrument, a reference in an Act to the provision so repealed is taken to be reference to the provision so re-enacted.
- (3) If a State, Territory or New Zealand Act or subordinate legislation repeals and re-enacts, with or without modification, any provision of a former State, Territory or New Zealand Act or subordinate legislation, a reference in an Act to the provision so repealed is taken to be a reference to the provision so re-enacted.

7 Section 17 amended (Definitions)

- (1) Section 17, definition ***Appropriation***

omit

- (2) Section 17

insert (in alphabetical order)

appropriation, see section 3(1) of the *Financial Management Act*.

business day means a day other than:

- (a) a Saturday or Sunday; or
- (b) a day that is a public holiday in the place concerned (other than a public holiday that is part of a day).

Chief Health Officer, see section 4 of the *Public and Environmental Health Act*.

Commonwealth Act means an Act passed by the Parliament of the Commonwealth.

NTCAT means the Northern Territory Civil and Administrative Tribunal established under section 7 of the *Northern Territory Civil and Administrative Tribunal Act*.

public place includes the following:

- (a) a place to which free access is permitted to the public with the express or tacit consent of the owner or occupier of the place;
- (b) a place to which the public are admitted on payment of money;

- (c) a road, street, footway, court, alley or thoroughfare that the public are allowed to use, even if the road, street, footway, court, alley or thoroughfare is on private property.

revenue unit, see the *Revenue Units Act*.

Under Treasurer means the Chief Executive Officer, within the meaning of the *Public Sector Employment and Management Act*, of the Agency administering the *Financial Management Act*.

year means a period of 12 months.

- (3) Section 17, definitions **calendar year** and **financial year**

omit

period of 12 months

insert

year

- (4) Section 17, definition **Executive Council**

omit

Territory.

insert

Territory as established under section 33 of the *Northern Territory (Self-Government) Act 1978* (Cth).

8 Section 18A amended (References relating to an Agency)

Section 18A(1)

omit, insert

- (1) An **Agency** is a department or unit of a department, or other authority or body:
- (a) nominated as an Agency in an Administrative Arrangements Order; or
 - (b) declared by an Act to be an Agency for the *Public Sector Employment and Management Act* or the *Financial Management Act*.

9 Section 24 amended (Gender and number)

(1) Section 24(1)

omit, insert

- (1) In an Act, any language that indicates or could be taken to indicate a person of a particular gender or sex includes any individual, regardless of gender or sex.

(2) Section 24(2), at the end

insert

Examples for section 24(2)

1 The word "dog" includes the word "dogs".

2 The word "cats" includes the word "cat".

10 Section 24A amended (Range of numbers, words or other things)

Section 24A, example 3

omit

11 Section 28 amended (Reckoning of time)

(1) Section 28(1) and (2)

omit

Where

insert

If

(2) Section 28(1)

omit

shall

insert

must

(3) After section 28(1)

insert

(1A) If an Act provides that a period of time ends at, with or on a given day, act or event, the time is reckoned to include that day or the day of that act or event.

12 Section 30 amended (Reckoning of age)

(1) Section 30(1) and (2)

omit

shall

insert

must

(2) Section 30(1)

omit

his

insert

the person's

(3) Section 30(2)

omit

where in an Act any reference is made

insert

if an Act refers

(4) Section 30(3)

omit

Where

insert

If

- (5) Section 30(3)
omit
shall be deemed
insert
is taken

13 Sections 38D to 38DB repealed

Sections 38D, 38DA and 38DB
repeal

14 Section 42 amended (How power may be exercised)

Section 42(1)(b), before "subject"
insert
so that it is

15 Section 44 amended (Power to appoint includes power to remove)

Section 44(2)
omit

16 Section 44A inserted

After section 44
insert

44A Acting appointment

If an Act authorises or requires a person or authority (the **appointer**) to appoint a person to an office or position, the appointer may appoint a person, or 2 or more people, to act in the office or position:

- (a) during a vacancy, or all vacancies, in the office or position whether or not an appointment has previously been made to the office or position; or
- (b) during any period, or all periods, when the holder of the office or position is unable to perform the duties of the office or position.

17 Section 46 amended (Power to authorise another person to exercise power or perform function)

(1) Section 46(1)

omit, insert

(1) If an Act or a statutory instrument confers a function or power on a minister or other person (whether by reference to an office or otherwise), the function or power may be performed or exercised:

(a) for a minister – by a person who has the authority of the minister; or

(b) otherwise – by a person who, with the approval of the minister administering the provision conferring the function or power, or of a person authorised by that minister to give that approval, has the authority of the person on whom the function or power is conferred.

Note for subsection (1)

See subsection (7) for functions and powers to which this section does not apply.

(2) Section 46(4)

omit

(3) Section 46(5)

omit

a written

insert

an

(4) Section 46(5)

omit

upon whom authority relating to the same power or

insert

on whom authority to exercise the power or perform the

- (5) Section 46(6) and (7)
omit, insert
- (6) The performance of a function or exercise of a power by the authority of a person under this section is subject to any conditions and limitations specified in the instrument conferring the authority.
- (7) This section does not apply to:
- (a) a function or power of a legislative or judicial nature; or
 - (b) a function or power relating to:
 - (i) the investigation or detection of offences or other unlawful acts; or
 - (ii) the grant or the defeasance or forfeiture of a right or title to land.

18 Section 48A amended (Participation in meetings by telephone etc.)

- (1) Section 48A(2)(a), at the end
insert
or
- (2) Section 48A(2)(b) and (c)
omit, insert
- (b) exchange of emails; or
 - (c) online facilities; or
- (3) Section 48A(3)
omit
shall be
insert
is

19 Section 49 amended (Citation)

- (1) Section 49(1), after "cited"
insert
in any of the following ways
- (2) Section 49(1)(a), after "title"
insert
including the year of enactment
- (3) Section 49(1)(b)
omit
assent;
insert
assent.
- (4) Section 49(1)(c) and (d)
omit
- (5) Section 49(3)
omit
Such a reference shall
insert
A reference mentioned in subsection (2) must

20 Section 50 replaced

Sections 50
repeal, insert

50 References to other legislation

- (1) A reference in an Act to other legislation is a reference to the other legislation as amended from time to time.
- (2) If a provision of an Act amends another Act, a reference in the provision to the other Act is a reference to the other Act as in force immediately before the commencement of the provision.

21 Section 57B inserted

After section 57A, in Part VI

insert

57B Definitions automatically inserted in alphabetical order

If an Act amends a provision of another Act that contains definitions by inserting another definition in that provision but does not specify where in that provision the definition is to be inserted, it is taken to be inserted in alphabetical order.

22 Section 62B amended (Use of extrinsic material in interpreting Act)

- (1) Section 62B(2), after "includes"

insert

the following

- (2) Section 62B(2)(e), after "Minister"

insert

or other Member

- (3) Section 62B(2)(f)

omit, insert

- (f) any explanatory speech or statement given by a Minister or other Member to the Legislative Assembly on introducing the Bill;

- (4) Section 62B(2)(g)

omit

section.

insert

section;

(5) After section 62B(2)(g)

insert

(h) any relevant material in any official record of debates in the Legislative Assembly.

23 Section 65E inserted

After section 65D

insert

65E Statutory instrument may require making of statutory declaration

- (1) If an Act gives power to make, grant or issue a statutory instrument, the instrument may require the making of a statutory declaration.
- (2) Subsection (1) applies:
 - (a) whether or not the Act authorises or requires penalties to be prescribed by instrument; and
 - (b) if the Act authorises or requires penalties to be prescribed by instrument not exceeding a specified amount or period of imprisonment.

24 Section 69 replaced

Section 69

repeal, insert

69 Civil proceedings

If money is due under an Act, the money is recoverable in a court or tribunal having, in the Territory, civil jurisdiction to the extent of the amount due.

25 Part VIIA inserted

After section 72

insert

Part VIIA Incorporation of amendments**72A Meaning of *reprint***

In this Part:

legislation means an Act or subordinate legislation.

reprint, of legislation, means a consolidated copy of the legislation published by the Government Printer.

72B Reprint of legislation in force at stated date

- (1) A reprint of legislation must show the legislation as in force at the date stated in the reprint.
- (2) For the avoidance of doubt, an amendment of legislation that commences after the date of the reprint is not included in the reprint.
- (3) Subsection (2) does not prevent the inclusion of uncommenced amendments in a reprint that are identified as uncommenced.

72C Omission of making words in reprint

A reprint of legislation must be published without the inclusion of:

- (a) the words of making the legislation; or
- (b) the date of the making of the legislation; or
- (c) the signature of the person making the legislation.

72D Inclusion of tables of amendments in reprints

A reprint of legislation must include a table of amendments listing:

- (a) each amending Act or other instrument that has amended that legislation; and
- (b) each provision of that legislation that has been amended and a reference to the amending Act or instrument that made the amendment.

26 Part VIII heading replaced

Part VIII, heading

omit, insert

Part VIII Transitional matters**Division 1 Justice Legislation Amendment Act 2006****27 Part VIII, Division 2 inserted**

After section 74

insert

Division 2 Interpretation Legislation Amendment Act 2018**75 Short titles and cross references taken to include year of enactment or making**

- (1) On and after the repeal of the *Amendments Incorporation Act*:
 - (a) the short title of an Act that, but for the operation of section 4(1) of the *Amendments Incorporation Act*, would have included the year of enactment is taken to include the year of enactment; and
 - (b) the short title of subordinate legislation is taken to include the year of making; and
 - (c) a reference in an Act or subordinate legislation to another Act or subordinate legislation by its short title is taken to be a reference to that Act or subordinate legislation including its year of enactment or making; and
 - (d) the short title of an Act or subordinate legislation including its year of enactment or making may be substituted in any Act or subordinate legislation for any other form of reference to the short title of the Act or subordinate legislation.
- (2) For the avoidance of doubt, a reference in any other document of any kind to an Act or subordinate legislation is not invalid merely because it does not include the year of enactment or making.

76 Disapplication of section 50(1) in certain circumstances

Section 50(1) does not apply to a reference in an Act to another Act or subordinate legislation that, under section 50(1)(a) of this Act as in force immediately before the commencement of section 20 of the

Interpretation Legislation Amendment Act 2018, is read as a reference to the other Act as originally made.

Example for section 76

A reference in an Act (the relevant Act) to the Local Court Act 2015 is a reference to the Local Court Act 2015 as amended from time to time unless the Local Court Act 2015 had been amended before the making of the relevant Act. This is because under the former provision, the reference is read as a reference to the Local Court Act as originally made.

Part 4 Amendment of Sentencing Act

28 Act amended

This Part amends the *Sentencing Act*.

29 Section 16 replaced

Section 16

repeal, insert

16 Power to fine

- (1) If a person is found guilty of an offence, the court may fine the offender.
- (2) The maximum fine that a court may impose is:
 - (a) if the only punishment specified for the offence is a sentence of imprisonment – a fine calculated in accordance with section 28; or
 - (b) if no period of imprisonment is specified for the offence:
 - (i) the maximum fine specified for the offence under a provision of this or any other Act that applies to the offence; or
 - (ii) if there is also no maximum fine specified for the offence – 20 penalty units.
- (3) Subsections (1) and (2) do not apply to the extent that a specific provision of an Act provides otherwise.

30 Sections 27 to 29 inserted

After section 26, in Part 3, Division 3

insert

27 Alternative penalties

If a provision of an Act confers a discretion to impose a fine or a period of imprisonment on a person as the penalty for the person contravening a provision of an Act, the court, on finding the person guilty of the contravention and in accordance with the penalty specified for the contravention, may:

- (a) fine the person; or
- (b) imprison the person; or
- (c) both fine and imprison the person.

28 Fine in addition to or instead of imprisonment

- (1) An offence against an Act for which there is no punishment specified other than a term of imprisonment is punishable in addition to or instead of imprisonment by a maximum fine calculated in accordance with subsection (2).
- (2) The maximum fine is calculated by multiplying 100 penalty units by the term of imprisonment expressed:
 - (a) in years; or
 - (b) if the term is less than 12 months – as a fraction of a year.
- (3) Subsections (1) and (2) do not apply if the specified term of imprisonment is life.

29 Body corporate fines under penalty provision

- (1) If a provision of an Act or subordinate legislation specifies a fine for an offence but does not expressly differentiate between the fine for a body corporate and the fine for an individual, the specified fine is taken to be the fine for an individual.
- (2) If a body corporate is found guilty of an offence referred to in subsection (1), the court may impose a maximum fine of an amount equal to 5 times the fine specified in the provision.

Part 5 Consequential amendments

Division 1 Co-operatives (National Uniform Legislation) Act

31 Act amended

This Division amends the *Co-operatives (National Uniform Legislation) Act*.

32 Section 3 amended (Interpretation)

Section 3, at the end

insert

Note for section 3

The Interpretation Act contains definitions and other provisions that may be relevant to this Act.

33 Section 13 amended (Secrecy)

Section 13(1)(b)

omit

, as defined in section 3 of the *Northern Territory Treasury Corporation Act*

Division 2 Fiscal Integrity and Transparency Act 2001

34 Act amended

This Division amends the *Fiscal Integrity and Transparency Act 2001*.

35 Schedule amended

(1) Schedule, clause 3(1), definition ***Under Treasurer***

omit

(2) Schedule, clause 3, at the end

Note for clause 3

The Interpretation Act contains definitions and other provisions that may be relevant to this Framework.

Division 3 Legislative Assembly Members' Superannuation Fund Act

36 Act amended

This Division amends the *Legislative Assembly Members' Superannuation Fund Act*.

37 Section 3 amended (Definitions)

(1) Section 3, definition ***Under Treasurer***

omit

(2) Section 3, at the end

insert

Note for section 3

The Interpretation Act contains definitions and other provisions that may be relevant to this Act.

Division 4 Northern Territory Treasury Corporation Act

38 Act amended

This Division amends the *Northern Territory Treasury Corporation Act*.

39 Section 3 amended (Definitions)

(1) Section 3, definition ***Under Treasurer***

omit

(2) Section 3, at the end

insert

Note for section 3

The Interpretation Act contains definitions and other provisions that may be relevant to this Act.

Division 5 Superannuation Act**40 Act amended**

This Division amends the *Superannuation Act*.

41 Section 3 amended (Interpretation)

(1) Section 3(1), definition ***Under Treasurer***

omit

(2) Section 3(2)(b)

omit

by notice in the *Gazette*

insert

by *Gazette* notice

(3) Section 3(3)

omit

shall be deemed to have taken

insert

is taken to have

(4) Section 3, at the end

insert

Note for section 3

The Interpretation Act contains definitions and other provisions that may be relevant to this Act.

Part 6 Repeal of Act**42 Repeal of Act**

This Act is repealed on the day after it commences.

Schedule Repealed Acts

section 3

<i>Amendments Incorporation Ordinance 1938</i>	Act No. 17 of 1938
<i>Amendments Incorporation Ordinance 1960</i>	Act No. 20 of 1960
<i>Amendments Incorporation Ordinance 1961</i>	Act No. 1 of 1962
<i>Amendments Incorporation Ordinance 1972</i>	Act No. 18 of 1972
<i>Amendments Incorporation Ordinance 1978</i>	Act No. 58 of 1978
