

BILLS INTRODUCED

14-23 October 1975

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THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

Relating to the Church of England in Australia

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

1. This Ordinance may be cited as the *Church of England in Australia Constitution Ordinance 1975*. Short title

2. In this Ordinance, unless the contrary intention appears—

Definitions

“Act” means the *Church of England in Australia Act 1961*, of the State of New South Wales;

“Constitution” means the Constitution of the Church of England in Australia as set out in the Schedule to the Act;

“Corporation” means the Church of England in Australia Trust Corporation incorporated in the State of New South Wales by virtue of section 7 of the Act.

3. The provisions of the Constitution, and of any canon or rule made under the Constitution, are, as provided in the Constitution but subject to this Ordinance, for all purposes connected with or in any way relating to the property within the Territory of the Church of England in Australia, binding on the Bishops, clergy and laity of the Church of England in Australia who are in a diocese, or part of a diocese, of the Church of England in Australia within the Territory.

Constitution,
canon and rules
to be binding for
church property
purposes

4. A canon or rule made under the Constitution that is inconsistent with a law in force in the Territory is, to the extent of that inconsistency, incapable of having any force or effect in the Territory.

Effect of canon
and rules

5.(1) The Corporation is, by virtue of this section, capable of holding land and exercising all the rights and powers in relation to the property in the Territory of the Church of England in Australia that it is capable of exercising in relation to property in the State of New South Wales of that Church.

Church of
England in
Australia Trust
Corporation

(2) A certificate purporting to be under the hand of the Primate of the Church of England in Australia, or of a Metropolitan or Bishop of that Church exercising the authority, powers, rights and duties of the Primate under the Constitution, certifying that the Corporation consists of the persons specified in the certificate, is, for all purposes, *prima facie* evidence of the matters certified.

(3) A certificate purporting to be under the hand of a person holding office as a member of the Corporation, certifying that a document affixed to the certificate is a copy of a resolution of the Corporation duly passed at a duly constituted meeting of the Corporation is, for all purposes, *prima facie* evidence of the matters certified.

(4) Nothing in this section shall be taken to prevent property in the Territory that is for the time being subject to a trust for, or for the use, benefit or purposes of, the Church of England in Australia being held by a trustee other than the Corporation.

References to
Church of
England

6. On the commencement of this Ordinance, a reference in—

- (a) an Ordinance in force in the Territory;
- (b) an Act of the State of South Australia applying in the Territory;
- (c) regulations, rules or instruments made under such an Ordinance or under such an Act in its application in the Territory; or
- (d) a grant, deed, will or other instrument,

to the Church of England shall be read as a reference to the Church of England in Australia.

Administra-
tion of customary
oaths

7. It is lawful for a Bishop, Commissary, Administrator, Chancellor, Archdeacon or Registrar holding office in a Diocese of the Church of England in Australia to administer to a Bishop, clergyman or member of that Church the oath or oaths customarily used at the ordaining of deacons or priests, the consecration or enthronement of Bishops, the institution of a clergyman to a cure of souls in a parish or other ecclesiastical district or the installation, induction or collation to any office on the grant of a licence in that Church in the Territory, and it is lawful for such a person to take and make such an oath or any such oaths.

Powers to
tribunal under
chapter 9 of
Constitution

8. For the purpose of securing the attendance of witnesses and the production of documents, or of examining witnesses on oath or otherwise, a tribunal referred to in chapter 9 of the Constitution shall be deemed to be an arbitrator within the meaning of the law from time to time in force in the Territory relating to arbitration, and has power to administer an oath to, or take an affirmation from, a witness, and, for the like purpose, a party to a proceeding before such a tribunal or a person permitted by such a tribunal to submit evidence to it shall be deemed to be a party to a reference or submission to arbitration within the meaning of that law.

Alteration of
Register Books

9. The Registrar-General for the Northern Territory shall, upon written request by the Corporation, make such entries, cancellations and corrections as he considers necessary by reason of section 6 of this Ordinance—

- (a) on each instrument, and on each endorsement on an instrument, in the Register Book, the Register Book of Crown Leases or the Provisional Register of Crown Leases kept in Accordance with the *Real Property Act and Ordinance* that relates to real property in the Territory vested in or held on behalf of the Church of England in Australia, and to which reference is made in the written request; and
- (b) on the original of such an instrument, and on each endorsement of the original of such an instrument, that is produced to him for the purpose.

CONSTRUCTION SAFETY BILL 1974

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THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

Relating to the Safety and Welfare of Persons
engaged in Construction and other Work and for
other purposes

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

1. This Ordinance may be cited as the *Construction Safety Ordinance* 1975. Short title

2.(1) The *Scaffolding Inspection Ordinance* 1932 and the *Scaffolding Inspection Ordinance* 1961 are repealed. Repeal and saving

(2) Notwithstanding the repeals effected by sub-section (1), a licence to engage in the trade of a scaffolder or rigger granted under the repealed Ordinances and in force immediately before the date of commencement of this Ordinance remains in force until the expiration of the term of the licence and according to its tenor under the repealed Ordinances, as if they had not been repealed.

3. This Ordinance binds the Crown.

Ordinance to
bind the Crown

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

Interpreta-
tion

“building or other structure” includes a wall, chimney, fence, bridge, dam, reservoir, wharf, jetty, earth works, reclamation or other erection, or ship or other floating structure;

“Chief Inspector” means the Chief Inspector of Construction Safety appointed under section 6 and shall include a person appointed by the Administrator to act in the place of the Chief Inspector;

“compressed air work” means work done by a person while breathing a gas, or mixture of gases at a greater pressure than atmospheric pressure;

“construction work” means

(a) in relation to a building or other structure that is not a ship or other floating structure—work in erecting, adding to, altering, repairing, equipping, cleaning, painting, signwriting or demolishing, being work that is done at or adjacent to the site;

(b) in relation to a ship or other floating structure—the construction of the ship or other floating structure and all work

in erecting, adding to, altering, repairing, equipping, cleaning, painting, signwriting or demolishing, being work that is done on, or adjacent to, the ship or other floating structure, in a dock or on a ship or at a wharf;

- (c) work in driving or extracting piles, sheet piles or trench sheet;
- (d) work in laying or lining a pipe having an internal diameter exceeding 180 millimetres; or
- (e) work in sinking or lining a well or borehole;

“constructor” means a person who, before or after the commencement of this Ordinance or its application to the area and work in question, has undertaken to carry out himself, or through employees or other persons, work.

“demolish” includes take away, remove or dismantle, and “demolition” has a similar meaning;

“erect” includes setting up, building, constructing or setting or placing in position, and “erection” has a similar meaning;

“excavation work” means work in—

- (a) excavating for or preparing foundations for a building or structure;
- (b) tunnelling;
- (c) the making of a shaft or well; and
- (d) excavating for the supply of sewers to a building or other structure

but does not include an excavation less than 1.5 metres depth;

“explosive-powered tool” means a tool by the use of which a projectile may be driven against, into or through a substance by means of an explosive charge, and includes each attachment to, and accessory of, such a tool, and each device used or adapted or intended to be used with the tool, but does not include a firearm;

“gear” includes a ladder, plank, rope, chain, coupling, fastening, fitting, hoist-block, pulley, hanger, sling, brace or other moveable contrivance of a like kind used, or intended to be used in connexion with work to which this Ordinance applies;

“hoisting appliance” means an appliance used, or capable of being used, for raising or lowering loads;

“Inspector” means an Inspector of Construction Safety appointed under section 6 and includes the Chief Inspector;

“light duty work” means work involving the use of a platform where—

- (a) the platform is not more than 600 millimetres or less than 200 millimetres in width;
- (b) the weight of tools and material used on the platform at any one time does not exceed 270 kilograms; and
- (c) the weight of the tools and materials used on the platform at any one time is less than the weight of the persons supported by the platform;

“owner”, in relation to work to which this Ordinance applies, means the person for whose direct benefit the work is done, and, in relation to any gear, scaffolding, crane or other hoisting appliance, power-driven equipment or shoring, includes the person to whom it belongs or its lessee, hirer or borrower;

“platform” includes a surface of planks or other material used—

- (a) by a person to stand on; or
- (b) as a working or loading platform;

“power-driven equipment” means equipment that is driven or worked by compressed air, internal combustion, electricity or other power not being human or animal power, and includes electrical equipment and associated wiring and an explosive-powered tool, but does not include a hoisting appliance;

“safety supervisor” means a person appointed under section 13 to be a safety supervisor;

“scaffolding” means a staging, platform, swinging stage, boatswain’s chair or other structure (including a ladder forming part of such a structure) that is set up or used or intended to be set up or used—

- (a) in work to which this Ordinance applies; or
- (b) for the support or protection of workmen or other persons on, or in the vicinity of, the work,

and includes a supporting structure;

“serious bodily injury” means an injury that incapacitates or is likely to incapacitate the person suffering the injury from work for at least 7 working days;

“shoring” means material or equipment used for the temporary support of the whole or part of a building or other structure or of excavation work;

“site” means a place where work to which this Ordinance applies is or is to be carried out, including the adjoining areas where gear, materials or equipment to be used in that work are, being a place where the constructor has control for the purpose of that work;

“worker” means a person working for reward, whether as an employee, contractor or sub-contractor but, where work is being done on a ship or other floating structure, does not include a member of the crew of that ship or other structure.

5.(1) The Administrator in Council may, by notice in the *Gazette*, declare that, as from a date and in an area specified in the notice, this Ordinance applies in respect of one or more of the following classes of work: Application

- (a) construction work on which a hoisting appliance or scaffolding is used or intended to be used;
- (b) the demolition of the whole or part of a building or other structure where that building, or part being demolished, exceeds 6 metres above ground level;
- (c) excavation work for a building or other structure where any part of the excavation exceeds a depth of 1.5 metres measured from ground level at the highest point of the excavation;
- (d) compressed air work in construction work on which an explosive is or is intended to be used; or
- (e) work or a class of work specified in the notice, being work in connexion with an excavation or tunnel.

(2) Where a declaration is made under sub-section (1), then, as from the date specified in the notice, this Ordinance applies to work included in the class or classes or work specified in the notice in the area specified in the notice.

(3) Subject to sub-section (2), this Ordinance does not apply to work.

Appointment of
Chief Inspector
and Inspectors of
construction
Safety

6.(1) The Administrator may appoint a Chief Inspector of Construction Safety who shall, subject to the direction of the Administrator, be responsible for the administration of this Ordinance.

(2) The Administrator may appoint such Inspectors of Construction Safety as he considers necessary for the purposes of this Ordinance.

Inspection by
Inspector

7.(1) An Inspector may, at any reasonable time and for the purpose of making an inspection, examination or inquiry necessary or convenient for the administration and enforcement of this Ordinance, enter and remain in or on any land, building or other structure or works where work to which this Ordinance applies is being carried out.

(2) In exercising his powers under sub-section (1), an Inspector may require the production of a document or record required to be kept under this Ordinance and inspect, examine and copy the document or record.

Duties of
Inspector

8.(1) Where it appears to an Inspector that, on any work to which this Ordinance applies—

- (a) the use or operation of scaffolding, gear, shoring, hoisting appliance or power-driven equipment would constitute a danger to a person; or
- (b) scaffolding, gear, shoring, hoisting appliance or power-driven equipment does not meet the prescribed standards or conditions or is not set up, maintained or used in accordance with the prescribed requirements,

the Inspector shall give such directions in writing to the owner or person in charge of the scaffolding, gear, shoring, hoisting appliance or power-driven equipment as the Inspector considers necessary for the prevention of accidents, or for securing compliance with those requirements.

(2) Where it appears to an Inspector that, on any work to which this Ordinance applies, or in any other work connected with that work, a person, whether engaged on that work or not, is exposed or likely to be exposed to a risk of injury from falling, or being struck by falling or moving material or from any other potential hazard, and that it is reasonable and practicable—

- (a) to protect a person from that risk by a fence, guard, screen, net, rope or other precaution; or
- (b) to protect a worker by supplying to him, and causing him to use, protective equipment,

the Inspector shall give to the constructor or, if the constructor is not on the site where the work is being carried out, to the person carrying out or in charge of the work, directions in writing to take such precautions as the Inspector considers necessary for the removal or reduction of that risk, and the directions shall specify the time within which the directions shall be complied with.

(3) Where an Inspector gives directions under this section, he may also, if he considers it necessary, at the same time or subsequently, order a person in writing immediately—

- (a) to cease to use, or to cease to work with, the scaffolding, gear, shoring, hoisting appliance or power-driven equipment; or

- (b) in the case of directions given under sub-section (2), to cease to work in the place specified in the order until the directions have been complied with.

(4) A person shall not refuse or fail to comply, to the best of his ability, with a direction or order given to him by an Inspector under this section.

Penalty: 500 dollars.

9. A person shall not—

- (a) obstruct an Inspector in the exercise of his functions under this Ordinance;
- (b) fail to answer truthfully a question that an Inspector, acting in the exercise of his functions under this Ordinance, requires him to answer;
- (c) fail to produce a document or record that an Inspector, acting in the exercise of his functions under this Ordinance, requires him to produce; or
- (d) directly or indirectly prevent a person from appearing before, or being questioned by, an Inspector.

Offences in
relation to an
Inspector

Penalty: 400 dollars.

10. An act done or omitted to be done by an Inspector in good faith in the exercise, or purported exercise, of a power conferred or a duty imposed by this Ordinance does not render the Inspector personally liable with respect to that act or omission.

Protection of
Inspector

11.(1) The constructor with respect to work to which this Ordinance applies shall, at least 24 hours before the commencement of the work or, if this is not practicable as soon as practicable thereafter, give or cause to be given to the Chief Inspector notice in writing, accompanied by the prescribed fee for inspection specifying—

Notice of
intention to carry
out work

- (a) the place where, and the date upon which, it is intended to commence the work; and
- (b) such other particulars as are prescribed.

Penalty: 200 dollars.

(2) The notice and the payment of a fee referred to in sub-section (1) are not required with respect to—

- (a) the erection or use of scaffolding or a hoisting appliance on, or the rigging of, a ship or other floating structure; or
- (b) construction work in which the only scaffolding used is a structure of step-ladders and planks that is used for light duty work and is a structure on which workers are not required to work at a height exceeding 3 metres above the ground or floor on which it is erected.

(3) Upon convicting a person of an offence against this section, the court may order payment of the prescribed fee for inspection.

12. A constructor shall, in respect of work to which this Ordinance applies—

- (a) ensure that scaffolding, gear, hoisting appliances, power-driven equipment and shoring used meets with the prescribed standards and conditions;

Require-
ments for
scaffolding gear,
&c.

- (b) ensure that the scaffolding, gear, hoisting appliances, power-driven equipment or shoring are erected, maintained and used as prescribed;
- (c) ensure that every working place where work is being undertaken by him or on his behalf is maintained, during the work, in a safe condition; and
- (d) take reasonable precautions to ensure the safety of workers engaged in that work.

Penalty: 400 dollars.

Appointment of
safety
supervisors

13.(1) Where the number of workers engaged at any one time at a site on work to which this Ordinance applies exceeds 20, the constructor shall, within 24 hours after the commencement of the work or after the number of workers at a site first exceeds 20, appoint in writing a qualified person to be a safety supervisor.

Penalty: 200 dollars.

(2) A person is qualified for the purpose of sub-section (1) if—

- (a) he has at least one year's experience in the work of the kind being performed; and
- (b) he has such other qualifications as may be prescribed, or the Chief Inspector certifies that he is otherwise qualified.

(3) This section does not prevent a qualified person from being appointed a safety supervisor—

- (a) for a group of sites on which work to which this Ordinance applies is being undertaken;
- (b) jointly by 2 or more constructors; or
- (c) in place of a qualified person previously appointed.

Constructor's
obligations after
appointment of
safety
supervisors

14.(1) A constructor shall, within 24 hours after appointing a safety supervisor under section 13—

- (a) notify the Chief Inspector of the appointment; and
- (b) cause notice of the appointment to be conspicuously displayed at the site or sites in respect of which the safety supervisor is appointed.

Penalty: 50 dollars.

Functions of
safety supervisor

15. A safety supervisor shall exercise a general supervision of the observance of the requirements of this Ordinance and, generally, promote the safe conduct of the work on the site or sites in respect of which he is appointed.

Protective
equipment and
safety measures

16.(1) Subject to this Ordinance and the regulations a constructor shall provide for workers while they are engaged on work to which this Ordinance applies such protective equipment and protective or safety measures as are prescribed in relation to the work or class of work in which they are engaged.

Penalty: 400 dollars.

(2) A worker shall not—

- (a) refuse or fail to wear or otherwise use protective equipment so provided when engaged on work to which this Ordinance applies;

- (b) without the permission of the constructor, remove from a site protective equipment so provided;
- (c) refuse or fail to carry out such protective or safety measures as are prescribed or are required by an Inspector in pursuance of this Ordinance; or
- (d) act in such a way on a site as to—
 - (i) render ineffective the protective or safety measures provided by a constructor; or
 - (ii) endanger his own safety or that of another person.

Penalty: 200 dollars.

17. Where natural lighting is insufficient adequately to illuminate the site, the constructor shall provide such artificial lighting as will adequately illuminate the site. Artificial lighting

Penalty: 400 dollars.

18.(1) The constructor shall provide, at a site at which work to which this Ordinance applies is being carried out, for the use of workers employed at that site— Amenities

- (a) drinking water;
- (b) washing facilities;
- (c) accommodation for meals, clothing and tools;
- (d) sanitary conveniences;
- (e) first aid equipment; and
- (f) appliances for the prevention and extinction of fire,

in such quantities as are prescribed in respect of the numbers of workers so employed.

(2) The facilities provided in accordance with sub-section (1) shall be of such standard and condition as is prescribed.

Penalty for an offence against this section: 400 dollars.

19. While carrying out work to which this Ordinance applies, a constructor shall keep a copy of this Ordinance (including the regulations made under this Ordinance) available for inspection by his workers at all reasonable times— Availability of copies of Ordinance and or Regulations

- (a) at his principal place of business in the Territory; and
- (b) where more than 20 workers are employed at any one time at a site on work to which this Ordinance applies—at the site of that work.

Penalty: 100 dollars.

20. A constructor shall not cause or permit a worker to be engaged in work to which this Ordinance applies involving the erection or dismantling of structural steel, plant, material or equipment (other than scaffolding) unless a person who holds a certificate as a rigger in respect of that class of work is in charge of the work. Requirement with regard to rigging

Penalty: 200 dollars.

21.(1) Where an accident occurs during the course of work to which this Ordinance applies that— Accidents to be notified to Inspector

- (a) causes loss of life;

- (b) incapacitates a person from work in the course of his ordinary employment for a period of 7 days; or
- (c) involves a person suffering an electric shock, or being overcome by gas, vapour or fumes,

the employer, in the case of a worker employed by him who is killed or injured, shocked or overcome, or the constructor, in any other case, shall, as soon as practicable after the accident or discovery that the person is likely to be incapacitated for at least 7 days, notify an Inspector of the accident and the details under sub-section (2).

(2) The person responsible for reporting the accident under sub-section (1) shall prepare a report in writing which shall show—

- (a) as far as is known, the cause of death, the cause and nature and extent of the injuries sustained, or the cause and effect of the electric shock or escape of gas, vapour or fumes;
- (b) the name and residential address of the person killed, injured or subjected to the shock, gas, vapour or fumes; and
- (c) such other particulars as are prescribed;

and forward the report to the Chief Inspector or the Inspector to whom the original report was made, as soon as possible after the accident.

(3) A copy of the written report prepared under sub-section (3) shall be kept by the employer or constructor, as the case may be, for a period of 3 years.

Penalty for an offence against this section: 200 dollars.

Accident
involving
damage to
scaffolding, etc.

22.(1) Where an accident occurs during the course of work to which this Ordinance applies in which a loadbearing part of a scaffolding, gear, hoisting-appliance or shoring is distorted, broken or otherwise damaged, the person who at the time of the accident was in control of the use of that scaffolding, gear, hoisting-appliance or shoring shall, within 24 hours after the accident or where this is not practicable, then as soon as circumstances reasonably permit, notify an Inspector of the accident.

Scaffolding, etc.
not to be
repaired without
permission of
Inspector

23. A person shall not, without the permission of an Inspector, use, remove, repair or alter the scaffolding, gear, hoisting appliance or shoring in connexion with which an accident referred to in section 21 or 22 occurred.

Penalty: 200 dollars

Inspector to
inquire and
report

24.(1) As soon as practicable after an Inspector receives a notice under sections 21 or 22, he, or another Inspector, shall—

- (a) go to the place where the accident occurred;
- (b) inquire there into the cause of the accident; and
- (c) report the result of his inquiry to the Chief Inspector.

(2) While making inquiries as required by sub-section (1), an Inspector may question—

- (a) the owner of the scaffolding, gear, hoisting appliance or shoring; and
- (b) persons employed in or about the place where the accident occurred.

25.(1) Where, during the course of work to which this Ordinance applies, an accident occurs that causes a person serious bodily injury, the Administrator may direct that an inquiry be held by a Magistrate assisted, if the Administrator thinks fit, by a person appearing to the Administrator to be skilled in the construction and use of scaffolding, rigging, gear, hoisting appliances, power-driven equipment or shoring, as the case requires.

Inquiry by
Magistrate into
cause of accident
involving
personal injury

(2) A Magistrate so directed shall—

- (a) hold the inquiry at such time and place as is convenient; and
- (b) as soon as practicable after completing the inquiry, report in writing to the Administrator as to the cause of the accident.

(3) In an inquiry under this section, a Magistrate has the powers with respect to—

- (a) summoning and attendance of witnesses and the production of documents; and
- (b) the examination of witnesses upon oath or affirmation,

that he would have under the *Justices Ordinance* with respect to a case within his jurisdiction.

26. A document required or authorized by this Ordinance to be served on, sent or given to, or lodged with, a person may be so served, sent, given or lodged—

Service of
documents

- (a) by delivering it to that person; or
- (b) by forwarding it to that person at his usual or last known place of abode or business—
 - (i) by registered post; or
 - (ii) certified mail,

in accordance with the *Post and Telegraph Act 1901-1975*.

27. Unless instituted by the Attorney-General, a prosecution for an offence against this Ordinance shall not be brought without the consent in writing of the Chief Inspector.

Prosecu-
tions

28.(1) The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters that this Ordinance requires or permits to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and, in particular, prescribing—

Regulations

- (a) the qualifications required of an applicant for a certificate as a rigger or scaffolder;
- (b) the certificate, or classes of certificate, as a rigger or scaffolder;
- (c) the conditions under which such a certificate or a provisional certificate may be granted and issued, amended, extended, renewed, replaced, suspended or revoked, and the fees payable;
- (d) standards of, and standards of use of, rigging, scaffolding, gear, hoisting appliances, power-driven equipment and shoring to be used in work to which this Ordinance applies;
- (e) the qualifications of drivers of hoisting appliances;
- (f) the qualifications of operators of power-driven equipment and the licensing of such operators;
- (g) the provision of and standards of protective equipment and protective or safety measures for workers;

- (h) the provision of and standards of artificial lighting for use on a work site;
 - (i) the standards, quantity and condition of things to be provided as required by section 18 and the number of workers for the purpose of that section;
 - (j) additional powers and duties of Inspectors, safety supervisors and riggers;
 - (k) the forms to be used under this Ordinance;
 - (l) the fees payable for a test, examination, inspection or other thing required or permitted to be done under this Ordinance; and
 - (m) penalties not exceeding a fine of 200 dollars for offences against the regulations; and
 - (n) the records to be kept in connexion with the use and inspection of hoisting appliances and machinery.
- (2) The regulations may prescribe standards by reference to standards as prepared and published by the Standards Association of Australia, with or without modification.
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THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To make Provision for the Payment of
Compensation to persons who have suffered Injury
as a result of Criminal Offences

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

1. This Ordinance may be cited as the *Criminal Injuries (Compensation) Ordinance 1975*. Short title

2. In this Ordinance, unless the contrary intention appears—

Interpretation

“aggrieved person” means a person who has suffered injury as a result
of a criminal offence;

“injury” means bodily harm and includes pregnancy, mental shock
and nervous shock;

3. Where a person is convicted of an offence which has resulted in
injury to an aggrieved person, the court in which the first named person is
convicted may, upon the occasion of the conviction or thereafter, order that
a sum, not exceeding 4,000 dollars, be paid to the aggrieved person out of
the property or earnings of the person convicted, by way of compensation
for the injury sustained by reason of the offence.

Power to order
compensation to
be paid

4. In determining whether or not to make an order under this Ordinance and in fixing the amount of any such order, the court shall have regard to any behaviour of the aggrieved person which directly or indirectly contributed to the injury sustained by him and to such other circumstances as it considers relevant (including whether the aggrieved person is or was a relative of the convicted person or was at the time of the commission of the offence living with the convicted person as his wife or her husband or as a member of the convicted person's household).

Matters to be
considered in
making order

5. Where, in an order made under section 3, a court has specified a sum exceeding 100 dollars as the sum to be paid, the person in whose favour the order was made may apply to the Administrator for payment of the sum so specified.

Person may
apply to the
Administrator
for payment

6.(1) Where a person has applied to the Administrator under section 5, the Administrator may make payment to that person of a sum not exceeding the amount specified in the order.

Administrator
may make
payments

(2) In determining whether any and, if so, what sum shall be paid to a person who has applied under section 5, the Administrator shall have regard to—

- (a) any amount that the applicant has received as a result of or under the order; and
- (b) the amount that the Administrator considers the applicant will be able to recover under the order.

Saving of right to
sue in civil action

7.(1) Nothing in this Ordinance affects the right of an aggrieved person to sue a person for recovery of compensation for loss, damage or injury, but any judgment given in such a suit shall be recoverable only to the extent to which the amount of the judgment exceeds any payment made to, and any amount recovered by, the aggrieved person under this Ordinance.

(2) Upon a judgment being entered in any suit brought by an aggrieved person for compensation for injury in respect of which an order has been made under this Ordinance, the order is vacated except to the extent to which any payment has been already made or money has been recovered under this Ordinance.

Administrator
may recover
payment

8. Where a payment is made under section 6 pursuant to an order made under section 3, the Administrator has all the rights of the aggrieved person to whom payment is made to recover from the convicted person, under and in accordance with the order and this Ordinance, the amount of the payment.

Order may be
enforced as
warrant

9. Where an order is made under section 3, the order—

- (a) may be enforced as though it were a warrant of execution or of *feri facias* authorizing the execution of the order against the property of the convicted person; and
- (b) may be registered under the *Real Property Act and Ordinance* against any interest in land held by the convicted person.

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the *Crown Lands 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 *Crown Lands Ordinance* 1975. Short title
2. The *Crown Lands Ordinance* 1931 as amended is in this Ordinance
referred to as the Principal Ordinance. Principal
Ordinance
3. Section 68HB(2) of the Principal Ordinance is amended—
(a) by omitting from paragraph (b) “or”; and
(b) by adding at the end the following:
“; (d) between spouses; or
(e) between the parties to a dissolved marriage.” Restrictions on
transfer, etc., of
lease where
reserve price not
paid in full
4. Section 68K(3) of the Principal Ordinance is amended by adding at
the end the following: Restrictions on
transfer, etc., of
certain leases
“; or (j) the transfer or assignment—
(i) between spouses; or
(ii) between the parties to a dissolved marriage
of a lease or an interest in a lease the right to which was acquired
before or during the marriage.”

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the *Darwin Town Area
Leases Ordinance 1947* as amended

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

1. This Ordinance may be cited as the *Darwin Town Area Leases Ordinance 1975*. Short title

2. The *Darwin Town Area Leases Ordinance 1947* as amended is in this Ordinance referred to as the Principal Ordinance. Principal Ordinance

3. Section 28A (3) (b) of the Principal Ordinance is amended—

(a) by omitting from sub-paragraph

(ii) “or”; and

(b) by adding at the end the following:

“; (iv) between spouses; or

(v) between the parties to a dissolved marriage.”.

4. Section 28B(3) of the Principal Ordinance is amended—

(a) by omitting from the end of paragraph (g) “or”; and

(b) by adding at the end the following:

“; or (j) the transfer or assignment—

(i) between spouses; or

(ii) between the parties to a dissolved marriage

of a lease or an interest in a lease the right to which was acquired before or during the marriage.”.

Restrictions on
transfer etc., of
certain leases

5. Section 28D(2) of the Principal Ordinance is amended—

(a) by omitting from paragraph (b) “or”; and

(b) by adding at the end the following:

“; (d) between spouses; or

(e) between the parties to a dissolved marriage.”

Restrictions on
transfer, etc., of
leases where
reserve price not
paid in full

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THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

Relating to the Prevention of Nuisance and the Protection of the Environment

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

1. This Ordinance may be cited as the *Environment Ordinance 1975*. Short title

PART 1—PRELIMINARY

2. In this Ordinance unless the contrary intention appears—

Definitions

“aggrieved person” means any person whose enjoyment of life is or is likely to be substantially and unreasonably adversely affected by a private nuisance or whose use or enjoyment of land, or some right over or in connexion with land is, or is likely to be substantially or unreasonably interfered with by reason of a private nuisance;

“Beneficial use” means a use of the environment of any part thereof that is conducive to human safety, welfare, benefit or health, but does not include a use that is conducive to the benefit of a particular person or group of persons where that use is likely to affect adversely the welfare, safety or health of human beings generally;

“Board” means the Environment Protection Board appointed under section 9;

“Court” means a Local Court established under the *Local Court Ordinance*;

“dangerous substance” means any liquid, gas, powder or other substance which is likely to poison or adversely affect the health of human beings, animals or plants;

“Director” means the Director of the Environment appointed under section 5 and includes a person appointed as Acting Director of the Environment under that section;

“emit” includes deposit and discharge;

“environment” means the biosphere so far as it is a part of the Northern Territory of Australia;

“environment officer” means a person appointed by the Administrator in Council to be an environment officer for the purposes of this Ordinance and includes the Director;

“environmental protection order” means an environmental protection order made under this Ordinance by the Administrator in Council or by the Director;

“land” includes buildings and structures on land and parts of such buildings and structures;

“noise” includes infrasonic and ultrasonic vibrations;

“pollution” means any direct or indirect contamination or alteration of any part of the environment so as—

- (a) to affect adversely any beneficial use of land; or
- (b) to cause a condition that is detrimental or hazardous or is likely to be detrimental or hazardous to human health, safety or welfare, or the health or subsistence of animals or plants;

“waste” means a substance produced in the course of a trade, manufacture, mining or of farming, or use of land, not being a substance which is a commodity for sale or use.

(2) Except by an environmental protection order this Ordinance shall not prohibit or restrict the control or destruction of plants or animals (including fungal, viral or bacterial life) which are inimical to the health, safety, comfort or welfare of human beings or tend to adversely affect or limit the production of food.

Saving of other Ordinances

3. This Ordinance shall be read and construed as being in addition to and not in derogation of a substitution for any other Ordinance.

Ordinance binds the Crown

4. This Ordinance binds the Crown.

PART II—ADMINISTRATION

Appointment of Director

5.(1) The Administrator in Council shall appoint a Director of the Environment who, subject to the directions of the Administrator in Council, shall be responsible for the administration of this Ordinance.

(2) In the event of—

- (a) the illness of the Director;
- (b) the temporary inability of the Director to perform the duties of his office; or
- (c) the absence of the Director from the Territory,

the Administrator in Council may appoint a person to be the Acting Director of the Environment during that illness, temporary inability, or absence.

(3) An acting Director while acting in the office of Director has all the powers and shall perform all the duties and functions of the Director.

Delegation

6.(1) The Director, may, either generally or in relation to a matter or class of matters and either in relation to the whole or a part of the Territory, by writing under his hand, delegate all or any of his powers and functions under this Ordinance, 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 Director.

7.(1) It is the duty of the Director to use his best endeavours in accordance with this Ordinance—

Duties and
functions of
Director

- (a) to protect the environment;
- (b) to control or prevent any act or omission which causes or is likely to cause a public or private nuisance or pollution; and
- (c) to coordinate all activities, by whomsoever directed or performed, as are necessary to protect or restore the environment of the Territory.

(2) Without derogating from any other provision of this Ordinance the Director has the following functions:

- (a) to initiate action for the protection of the environment and to prevent, control, abate and mitigate public or private nuisances or pollution over which he has power by virtue of this Ordinance;
- (b) to investigate ways and means of protecting the environment;
- (c) to obtain the advice of and consult with persons having special knowledge, experience or responsibility in regard to the protection of the environment;
- (d) to keep under review the progress made in the attainment of the objects and purposes of this Ordinance;
- (e) to publish reports and provide information on the administration of this Ordinance;
- (f) to advise on standards and criteria to be observed for the use of any substance or any manufacturing, industrial or mining process and methods of sampling, testing and analysis to be used under this Ordinance;
- (g) to promote, encourage, coordinate and carry out planning and projects related to the protection of the environment; and
- (h) to administer and give effect to the provision of this Ordinance and to carry out such other functions as may be prescribed.

8.(1) The Administrator in Council may appoint such environment officers as he thinks necessary for the purposes of this Ordinance.

Environment
Officers

(2) An environment officer may at any time enter any land, place, vehicle or vessel where he has reasonable cause to believe a private nuisance exists or is likely to exist or a provision of this Ordinance is being breached or is likely to be breached and may there—

- (a) examine and inspect any equipment, machinery or industrial or commercial plant or substance;
- (b) take and remove samples of any substance on or in, or which have been on or in, the land, place, vehicle or vessel, or emitted therefrom; and
- (c) make such examination or inquiry, conduct such tests and trials and make such measurements as he considers necessary to ascertain whether the provisions of this Ordinance are being observed.

(3) In the course of his duties an environment officer may take such photographs in or on any land, place, vehicle or vessel as he considers necessary.

- (4) An environment officer may—
- (a) by notice in writing, require the occupier or person in charge of any land, place, vehicle or vessel or any other person to produce to the environment officer writings, reports, books, plans, maps or other recorded information relating to—
 - (i) pollution or noise coming or emitted from that land, place, vehicle or vessel; or
 - (ii) any manufacturing, industrial or trade process carried on on that land or in that place, vehicle or vessel;
 - (b) use or install equipment for sampling, measuring or analysing any substance, noise or waste found on the premises or being emitted from the premises; and
 - (c) reproduce or copy any writings, reports, books, plans, maps or other recorded information produced under paragraph (a) of this sub-section.
- (5) An environment officer may, with respect to matters arising under this Ordinance—
- (a) question a person whom he finds on any land, place, vehicle or vessel entered by him under this section and require him to sign a declaration of the truth of his answers; and
 - (b) require any such person to give such information as it is within his power to give as to the name and address of the occupier or owner of the land, place, vehicle or vessel.
 - (6) Except in the course of his duty under this Ordinance, an officer shall not disclose or make available to a person any recorded information or document coming into his possession in pursuance of a notice requiring information of the kind specified in sub-section (4) (a) (ii).
 - (7) The Administrator shall cause to be issued to every environment officer an authority in writing bearing a photograph of the officer and, on applying for admission to any land, place, vehicle or vessel which he is empowered by this Ordinance to enter, the authorized officer shall, if so requested, produce the authority to the occupier or person in charge of that land, place, vehicle or vessel.

Environ-
ment Protection
Board

9.(1) There shall be an Environment Protection Board.

(2) The Board shall consist of 3 members, appointed by the Administrator in Council, one of whom shall be a legal practitioner within the meaning of the *Legal Practitioners Ordinance* of at least 5 years standing, and another of whom shall be a qualified engineer.

(3) The Board shall elect one of its members to be Chairman.

Term and
conditions of
office

10.(1) Subject to this section a member of the Board—

- (a) holds office for 3 years but is eligible for re-appointment;
- (b) may resign his office by writing under his hand addressed to the Administrator;
- (c) shall be paid such fees and allowances as are prescribed; and
- (d) is liable to have his appointment terminated by the Administrator in Council for inability, inefficiency, misbehaviour or physical or mental incapacity.

(2) Where a member of the Board is or is expected to be unable to attend a meeting of the Board, or there is a vacancy in the office of a member, the Administrator may appoint a person to act in the place of that member during that inability or until the filling of the vacancy.

11.(1) The functions of the Board are—

Functions of the Board

- (a) to advise the Administrator in Council upon measures to be taken for the control of pollution of the environment and upon machinery and equipment available or suitable for such control;
- (b) to review the operation and administration of this Ordinance and to report to the Administrator in Council thereon and on any amendments to this Ordinance which it considers necessary or desirable;
- (c) to recommend to the Administrator in Council the making of particular environmental protection orders; and
- (d) to hear and determine applications for the cancellation of environmental protection orders made by the Director.

(2) In addition to meetings held to hear and determine applications for the cancellation of environmental protection orders made by the Director, the Board shall meet at least 4 times in each year.

12.(1) Where the Director delivers an environmental protection order to a person, the notice containing the order shall contain a statement that the person to whom it is delivered may, within 7 days, apply to the Board for a cancellation of the order.

Person may apply for cancellation of environmental protection order

(2) A person may not apply for a cancellation of an environmental protection order under this section if he has, since the delivery to him of the order, done any act contrary to the terms of the order or, where the order relates to the use of machinery or a manufacturing, industrial or mining process, he has continued the use of the machinery or that process.

(3) Where a person applies to the Board for cancellation of an environmental protection order he shall not, unless and until the Board cancels the order, do any act contrary to the terms of the order and, where the order relates to the use of machinery or a manufacturing, industrial or mining process, he shall not until such cancellation, use the machinery or continue the use of the process.

(4) Upon an application to the Board under this section the Board may confirm, cancel or amend the environmental protection order.

PART III—PRIVATE NUISANCES

13.(1) Subject to the provisions of sub-section (2) a private nuisance exists when a person does any act or causes or permits a state of affairs to exist on land (whether public or private) which substantially and unreasonably affects or interferes with or is likely substantially and unreasonably to affect or interfere with the enjoyment or use by another person of other land or of any right with respect to other land.

Meaning of private nuisance

(2) Without derogating from the provisions of sub-section (1) the following acts, omissions and conditions existing on land (whether public or private) are private nuisances:

- (a) premises in such a condition that they are or are likely to be injurious or prejudicial to the health of any person not occupying the premises;
- (b) the existence of a swamp, pool, ditch, gutter, water course, sanitary convenience, or other accumulation of water, or a receptacle holding water, in such a state that it is a breeding ground for insect life which is or may be injurious or prejudicial to the health of any person;
- (c) an animal or bird kept or held in such a manner or under such conditions as to be or be likely to be injurious or prejudicial to the ordinary enjoyment of life of a person occupying adjoining land or land in the vicinity of the place where the animal or bird is so kept;
- (d) an accumulation or deposit of materials including solid or liquid waste, litter and garbage, which is or is likely to be injurious or prejudicial to the health of any person;
- (e) the infestation by rats, mice or other vermin, or by any form of insect life to an extent that causes or is likely to cause injury to the health of a person;
- (f) land maintained in such a condition as to be likely, by reason of its condition, to cause any injury or damage by fire to persons or to other land;
- (g) the pollution of water, whether saltwater or fresh, by any matter or waste, whether solid, liquid or gaseous;
- (h) the pollution of air, by any matter or waste, whether solid, liquid, gaseous or molecular;
- (i) the pollution of soil by any matter or waste, whether solid, liquid or gaseous;
- (j) the use of pesticides or weedicides in such a way as to be or to be likely to be injurious or prejudicial to health;
- (k) the emission of noise of a volume, intensity or quality that is, or is likely to be, harmful or unduly offensive to a person; and
- (l) the emission of odours which, by virtue of their nature, concentration, volume or extent, are obnoxious or unduly offensive to a person.

(3) In order that an act or state of affairs should constitute a private nuisance under sub-section (2), it is not necessary (except where otherwise stated in that sub-section) that the act or state of affairs should be shown to have affected or interfered with or to be likely to affect or interfere with the reasonable enjoyment or use by an aggrieved person of land or of a right with respect to land, but it is necessary to prove that the act or state of affairs complained of has adversely affected or interfered with or is likely to adversely affect or interfere with the reasonable enjoyment of life by an aggrieved person.

14. The provisions of this Ordinance do not affect the common law as to nuisance or any remedy or form of action available to punish or restrain the commission or continuance of a nuisance or to compensate a person for any injury or damage sustained by reason of the commission or continuance of a nuisance.

15.(1) A person aggrieved by a private nuisance may institute proceedings in a Local Court established under the *Local Courts Ordinance*.

Action to be brought in Local Court

(2) Subject to this Ordinance the procedures and forms to be used in such proceedings shall be the procedures and forms prescribed by or under the *Local Courts Ordinance* and all such proceedings shall be commenced by the issue of a summons in the form appropriate to that Ordinance.

16. If, upon a summons issued under section 15, the Court is satisfied that a private nuisance exists, and that the plaintiff is a person aggrieved by that private nuisance, it may make an order—

Court may order abatement of nuisance

- (a) requiring the person by whose act, default or neglect the nuisance arose, arises or continues, or if no such person can be found, the occupier or owner of the land on which the nuisance exists, to abate the nuisance within a time specified in the order and to do all things that are necessary for that purpose;
- (b) prohibiting the recurrence or continuance of the nuisance, and directing a defendant to carry out any works necessary to prevent the recurrence or continuance of the nuisance; or
- (c) both requiring abatement and prohibiting the recurrence or continuance of the nuisance.

17.(1) The Court, in addition to an order under section 16 may, if it considers that it is appropriate, in the proceeding—

Court may order payment of damages

- (a) order a defendant to pay to the plaintiff a sum by way of damages or recompense; or
- (b) order a defendant to pay to the Court a sum, by way of penalty, not exceeding 200 dollars.

(2) The Court shall not make an order under this section for the payment of a sum of money by way of penalty unless the Court is satisfied beyond reasonable doubt—

- (a) that a private nuisance has been proved by the plaintiff to exist; and
- (b) that the defendant to be required to pay the penalty was or is a person responsible for the creation or continuance of the private nuisance.

(3) A person may not be required by an order made under section 16 or 17 to do any act or to pay any money unless he has had due notice of the proceedings under this Ordinance in which the order was made, and has had a reasonable opportunity to appear in those proceedings and to object to the making of an order against him in those proceedings.

18. An act or state of affairs which would otherwise be a private nuisance under this Ordinance is not a private nuisance if the Court is satisfied that—

Defence to action for private nuisance

- (a) a standard prescribed with respect to and applicable to the action or the use of the thing about which the complaint is made has been and is being complied with; or
- (b) if no such standard has been prescribed the person to whom the action or state of affairs about which the summons was issued is attributable has used the best practicable means in current use to

prevent any private nuisance, and the act done was reasonably done or the state of affairs reasonably existed or exists in the normal and ordinary course of living or enjoyment of the use of land.

Director may
give notice to
abate nuisance

19.(1) If the Director is satisfied of the existence of a private nuisance, he may, upon complaint by a person aggrieved, give notice to the person by whose act, default or sufferance the nuisance, in the opinion of the Director, arises or continues, to abate or remedy the nuisance within a time specified in the notice.

(2) If a private nuisance, the subject of a notice under this section, is not abated or remedied within the time specified in the notice, the Director may institute proceedings for an order under section 16 and such proceedings shall be conducted as though the proceedings were instituted upon a summons issued by an aggrieved person.

(3) Where the Director is satisfied of the existence of a private nuisance but the person by whose act, default or sufferance the private nuisance arises or continues is not known or cannot be found, the Director may enter upon the land from or with respect to which the private nuisance arises and abate or remedy the nuisance.

(4) The Director shall not be liable for any damage or injury caused by reason of an act necessarily and reasonably done in pursuance of sub-section (3).

(5) Where the Director has taken action under sub-section (3) he may, at any time, serve on the person by whose act, default or sufferance the private nuisance arose a notice requiring that person to pay the cost and expense incurred by the Director in the abatement of the private nuisance, and upon service of that notice the sum of money stated in the notice to be the amount of those costs and expenses becomes a debt payable to the Director by the person served with the notice.

(6) Where a person served with a notice under sub-section (5) fails within 14 days to pay the amount stated in the notice, the Director may institute proceedings in a court of competent jurisdiction for the recovery of that amount.

PART IV—CONTROL OF INDUSTRY

Use of dangerous
substances

20.(1) The Administrator in Council may, by an environmental protection order published in the *Gazette*—

- (a) prohibit the use of a dangerous substance either generally or in a specified area;
- (b) direct that a dangerous substance be not used except in a mixture with another specified substance at or not above a specified concentration;
- (c) direct that a dangerous substance be used only in a specified form or in a specified manner or at a specified time of the day or year;
- (d) direct that a dangerous substance be used only in conjunction with such safety equipment as is specified or after the taking of, or in conjunction with, such measures as are specified for the safety of the user or other persons;
- (e) prohibit the sale or possession in the Northern Territory of a specified dangerous substance; or

(f) prohibit or regulate the transport of dangerous substances within the Territory.

(2) The Director may, by an environmental protection order in writing under his hand delivered to a person—

- (a) give to that person any direction that may be given by the Administrator in Council by notice in the *Gazette* under sub-section (1); or
- (b) prohibit that person from doing any act that may be prohibited by the Administrator in Council by notice in the *Gazette* under sub-section (1).

(3) Where an environmental protection order given under this section refers to a substance as being a dangerous substance the production of the order is *prima facie* proof that the substance referred to is a dangerous substance.

21.(1) The Administrator in Council, for the purpose of preventing or minimising pollution of the environment, may, by an environmental protection order published in the *Gazette*, prohibit the use of specified machinery or of a manufacturing, industrial or mining process or method—

Use of certain machinery or processes may be prohibited

- (a) in a specified area;
- (b) unless specified modifications are made to the machinery or in the process;
- (c) unless specified equipment for the prevention of pollution is fitted or incorporated in the machinery or used in the process; or
- (d) unless the process or method is altered to use specified substances less likely to cause pollution than a substance proposed to be used in the process or method.

(2) The Director may, by an environmental protection order in writing under his hand delivered to a person, prohibit that person from doing any act that may under sub-section (1) be prohibited by the Administrator in Council by an environmental protection order published in the *Gazette*.

22.(1) The Administrator in Council may, by notice in the *Gazette*, establish or proclaim upon public or private land for the purposes of this Ordinance, such dumps and dangerous waste disposal areas as he may think fit and may specify the conditions and occasions upon which such dumps or dangerous waste disposal areas may be used.

Establishment of dumps and dangerous waste disposal areas

(2) Except in pursuance of a notice given under this section or by the authority of the Director, a person shall not go upon a dump or dangerous waste disposal area established under sub-section (1).

Penalty: 500 dollars.

(3) The Administrator in Council, by notice published in the *Gazette*, may require waste of a specified kind to be dumped in the specified dump or dangerous waste disposal area, and in a specified manner.

(4) The Director may by an environmental protection order in writing under his hand delivered to a person, require that person to deliver waste of a specified kind to a specified dump or dangerous disposal area.

(5) A notice or order under sub-sections (3) or (4) may require waste to be treated in a specified manner before it is dumped or delivered.

(6) The Administrator in Council shall not establish a dump or dangerous waste disposal area on private land without the consent of the owner or lessee of that land.

(7) A person, (not being the owner or lessee of land on which a dump or dangerous waste disposal area is established) shall pay such fees as are prescribed for the dumping of material upon a dump or dangerous waste disposal area established under this section.

(8) Nothing in this section shall prevent the establishment and management by the council of a municipality of a garbage dump for domestic or industrial waste that is not normally dangerous to human health or well-being.

Penalty

23. A person shall not contravene or fail to comply with the terms of a notice or order given under Sections 20, 21 or 22 which is applicable to him.

Penalty: 2,000 dollars.

Daily penalty: 100 dollars.

PART V—POLLUTION OF AIR WATER AND SOIL

Division 1—Definitions

Definitions

24. In this Part—

“deleterious substance” means any substance whether solid, liquid, gaseous or in molecular form which adversely affects or is likely to adversely affect air, water or soil to the detriment of the health or well-being of human beings or the health or subsistence of animals or plants.

“waters” includes—

- (a) the sea or any arm or creek of the sea; and
- (b) a lake, river, stream, watercourse, billabong, marsh or swamp whether permanently, temporarily or occasionally flowing or filled with water, whether fresh or salt.

Division 2—Clean Water

Person not to
pollute water

25. A person shall not—

- (a) discharge or place a deleterious substance into or on any waters or on or at a place from which the deleterious substance is likely to find its way into waters whether by falling, draining, blowing, percolating, evaporation or washing;
- (b) place any deleterious substance in the dry bed of any waters; or
- (c) raise the temperature of waters beyond the prescribed margin of temperature.

Penalty: 5,000 dollars.

Daily penalty: 500 dollars.

Director may
require person to
avoid pollution
of water

26.(1) The Director may, by an environmental protection order in writing under his hand delivered to a person, require that person—

- (a) to cease the discharge of a specified deleterious substance or waste into any waters;

- (b) to treat waste in a specified way before it is discharged into any waters; or
- (c) to limit the discharge of waste or a specified substance into waters to an extent specified in the notice.

(2) A person shall comply with the requirements of an order delivered to him under this section.

Penalty: 5,000 dollars.

Daily penalty: 500 dollars.

27.(1) Where a contravention, or a failure to comply with a provision of this Division has caused damage to the environment, the Director may, by notice in writing under his hand delivered to the person responsible for that damage, direct that person to repair the damage within a time specified, and in default of that person repairing the damage within the time specified, may repair the damage himself and may sue for and recover in any court of competent jurisdiction the cost of that repair from the person responsible for the damage.

Director may
direct repair of
damage

(2) Upon a prosecution for an offence against section 26, the Court may, upon the conviction of the defendant, in addition to any penalty imposed under that section, order the defendant to pay to the Director a sum of money for the purpose of making good any damage occasioned by the commission of the offence or for the reimbursement of the Director for any cost incurred by the Director in pursuance of sub-section (1) of this section.

Division 3—Clean Air

28. A person shall not—

- (a) discharge, release or emit into the atmosphere any deleterious substance;
- (b) establish, otherwise than in accordance with this Ordinance or another law of the Territory, a refuse dump, garbage tip, sludge deposit site or waste injection well so that the land becomes obnoxious or offensive to the senses of human beings;
- (c) discharge or emit odours into the atmosphere which, by virtue of their nature, concentration, volume or extent are obnoxious or offensive to the senses of human beings;
- (d) use an internal combustion engine not equipped with a prescribed device to be fitted to that engine for the prevention of pollution.

Person shall not
pollute
atmosphere

Penalty: 2,000 dollars.

Daily penalty: 100 dollars.

29.(1) The Director may, by an environmental protection order in writing under his hand delivered to a person, specify a use of machinery or premises which, in his opinion, is a contravention of this Division, and may require that person to fit to machinery or install on premises such equipment as is specified in the order for the purpose of preventing or minimising the discharge or emission into the atmosphere of a deleterious substance.

Director may
require
equipment to be
attached to
machinery to
prevent pollution

(2) A person to whom an order made under this section is delivered shall comply with the requirement of the order.

Penalty: 2,000 dollars.

Daily penalty: 100 dollars.

Division 4—Soil and Underground Water Pollution

Person not to
pollute soil

30. A person shall not—

- (a) place in or on soil or in or at any place from which it may gain access to any soil, any deleterious substance;
- (b) use land or premises in such a way as to adversely affect or be likely to adversely affect the quality of underground water;
- (c) leave a well or borehole in such a condition that it is likely that the quality of underground water will be adversely affected.

Penalty: 2,000 dollars.

Daily penalty: 100 dollars.

Person not to
allow
mineralised
water to escape
into usable water

31. A person who by a well or borehole, taps or exposes an aquifer the water in which, by reason of the amount of mineral salts dissolved in it, is unuseable for humans, animals or plants shall take all reasonable steps to ensure that that water does not escape into any adjoining aquifer containing potable or useable water.

Penalty: 2,000 dollars.

Division 5—Control of Noise

Person not to
emit noise from
land

32.(1) A person shall not emit or cause or permit to be emitted from any land or premises noise of a volume intensity or quality that is harmful or offensive to the senses of human beings.

Penalty: 2,000 dollars.

Daily penalty: 100 dollars.

(2) A prosecution for an offence against this section may be instituted by the Director or by any person who alleges that the emission of the noise complained of has been harmful or offensive to him on 3 or more occasions within a period of 3 months.

Use of noisy
machinery may
be prohibited at
certain times

33.(1) The Administrator in Council may, by notice in the *Gazette* make an environmental order prohibiting—

- (a) the use of a specified machine either generally or on specified days or during specified hours; or
- (b) the use of a specified machine unless it is fitted with a device eliminating or limiting the volume or intensity of noise.

(2) A person who uses a machine in contravention of an environmental order made under this section is guilty of an offence.

Penalty: 2,000 dollars.

Daily penalty: 200 dollars.

Director may
order
suppression of
noise

34.(1) The Director may by an environmental protection order in writing under his hand delivered to a person, require that person—

- (a) to cease the emission of noise from specified premises either generally or during specified times;
- (b) to cease to carry on a specified noisy trade, occupation, manufacture or process on specified premises;
- (c) to fit or install specified equipment, fittings or baffles for the reduction or minimising of noise whether on premises or on mobile machinery or a vehicle; or

(d) to limit the emission of noise from premises to an extent specified in the order.

(2) A person shall comply with the terms of an order delivered to him under this section.

Penalty: 2,000 dollars.

Daily penalty: 200 dollars.

PART VI—CONTROL OF ROADSIDE ADVERTISING

35.(1) A person shall not without the consent of the Director erect or exhibit or cause to be erected or exhibited any sign, placard, poster, or hoarding or any device whatsoever designed to be an advertisement, on any public road, beach, or waterway or on any place or thing which is visible from such road, beach, or waterway.

Consent to erection of hoarding etc. required

Penalty: 500 dollars.

Daily penalty: 25 dollars.

(2) The Director may consent to the erection or exhibition of a sign, poster, placard or hoarding, or may refuse that consent on the ground that the erection or exhibition would injuriously affect the amenity of the area in which the erection or exhibition is proposed, or would jeopardize the safety of the public, but where a sign, poster, placard or hoarding is proposed to be erected on land owned or leased by a person, the Director shall have regard in giving or withholding his assent only to the safety of members of the public.

(3) A consent given by the Director in pursuance of this section does not authorize the erection or exhibition of a sign, poster, placard or hoarding in a place where otherwise the erection or exhibition would be unlawful.

(4) Notwithstanding sub-section (1) a person may display upon premises (including a vehicle or vessel) upon or in which a business calling, trade or profession is being carried on, a sign, poster, placard or hoarding relating to that business, calling, trade or profession unless that sign, poster, placard or hoarding constitutes a danger to persons using a public place or the place upon which that sign, poster, placard or hoarding is erected or exhibited.

PART VII—GENERAL

36.(1) It is a defence to a prosecution under this Ordinance for any offence relating to the pollution of waters, air or soil or to the emission of noise if the defendant proves that—

Defence to prosecution for pollution

- (a) a standard relating to the emission of the noise or of the substance alleged to have been emitted which has resulted in the pollution charged has been prescribed and the defendant has complied with the standard so prescribed; or
- (b) where no standard relating to the emission of the noise or of the substance has been prescribed, that the defendant has used the best known practicable means to prevent or minimize the noise or the pollution.

Penalty for
continuing
offences

37.(1) Where in or at the foot of any section or sub-section of a section there appears the expression "Daily penalty", it indicates that a person who is convicted of an offence against this Ordinance in relation to that section is guilty of a further offence against this Ordinance on each day during which the act or state of affairs continues after he is so convicted, and that for each such further offence he is liable to an additional penalty for each day during which the offence continues of the amount expressed in the section or sub-section as the amount of the daily penalty.

(2) A prosecution for a further offence in respect of which a daily penalty is fixed may be instituted by one complaint made in respect of any number of days during which the further offence is alleged to have been committed.

Regulations

38. The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters which 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 in particular—

- (a) prescribing the duties and regulating the exercise and discharge of all or any of the powers or functions of the Director and other officers appointed or employed under this Ordinance;
 - (b) prohibiting or regulating the emission of pollutants or dangerous or deleterious substances;
 - (c) prescribing standards to be complied with in the use of any substances that contain or may contain pollutants or dangerous or deleterious substances;
 - (d) prescribing methods of analysis and testing and sampling;
 - (e) prohibiting or regulating the sale, manufacture, supply, receiving, possession or disposal of things that are or contain or may contain pollutants or dangerous or deleterious substances or that will or may cause or increase pollution of the environment;
 - (f) relating to the making or emission of noise;
 - (g) prohibiting or regulating the disposal of—
 - (i) waste; and
 - (ii) domestic, commercial or industrial garbage or rubbish;
 - (h) prohibiting or regulating the burning of specified kinds of fuel;
 - (i) regulating the burning of rubbish, grass, weeds, undergrowth and trees, whether standing or fallen; and
 - (j) requiring the fitting of engines and other machinery with devices to prevent or reduce pollution or noise.
-

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the *Firearms Ordinance* 1956 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 *Firearms Ordinance* 1975. Short title
2. The *Firearms Ordinance* 1956 as amended 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*. Commence-
ment
4. Section 6 of the Principal Ordinance is amended by omitting the de- Definitions
finition of "firearm" and substituting the following:
 " 'firearm' includes—
 - (a) a firearm of any description;
 - (b) an airgun or other kind of gun from which any kind of shot,
bullet or other missile can be discharged; and
 - (c) a device from which, for the time being, a shot, bullet or
other missile cannot be discharged because of—
 - (i) the absence or defect of one or more of its parts; or
 - (ii) some obstruction in the device,but from which, if the part or parts were replaced, renewed
or repaired, or the obstruction removed, a shot, bullet or
other missile could be discharged,but does not include an explosive-powered tool within the mean-
ing of the *Construction Safety Ordinance*;"

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the *Housing Ordinance* 1959 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 *Housing Ordinance* 1975. Short title
2. The *Housing Ordinance* 1959 as amended is in this Ordinance
referred to as the Principal Ordinance. Principal
Ordinance
3. Section 12 of the Principal Ordinance is amended by— Function of the
Commission
 - (a) omitting from paragraph (c) of sub-section (2) “acquired by the
Commission” and substituting “either acquired by the Com-
mission or held by a private person”; and
 - (b) inserting at the end, the following sub-section—
“(3) For the purposes of this section and of section 13AA
‘private person’ shall be construed so as not to include a
corporation.”.
4. Section 13(3) of the Principal Ordinance is amended by omitting Powers of
Commission
“the next succeeding section” and substituting “sections 13A or 13AA,”.
5. After section 13A of the Principal Ordinance the following section is Building for
private person
inserted:
“13AA. The Commission may enter into a contract with a private per-
son who is the holder of land, whether freehold or leasehold, for the
building of a dwelling on that land, on such terms as shall be agreed upon
between the Commission and the private person.”.

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the *Housing Loans Ordinance* 1949 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 *Housing Loans Ordinance* 1975. Short title
 2. The *Housing Loans Ordinance* 1949 as amended is in this Ordinance referred to as the Principal Ordinance. Principal Ordinance
 3. Section 8 of the Principal Ordinance is amended by inserting after paragraph (d) the following paragraphs: Powers of Trustee
 - “(da) to repair a damaged dwelling house owned by him;
 - (db) to modify a dwelling house owned by him;
 - (dc) to purchase land or a lease of land on which is situated a partially erected or damaged dwelling house and complete the erection of or repair that dwelling house;”.
-

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the *Inspection of Machinery Ordinance*
1941 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 *Inspection of Machinery Ordinance* 1975. Short title

2. The *Inspection of Machinery Ordinance* 1941 as amended is in this Ordinance referred to as the Principal Ordinance. Principal Ordinance

3. Section 14(1) (b) and (c) of the Principal Ordinance is amended by omitting "male". Young persons
not to be
employed in
certain cases

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* 1975. Short title
 2. The *Interpretation Ordinance* 1931 as amended is in this Ordinance
referred to as the Principal Ordinance. Principal
Ordinance
 3. This Ordinance shall come into operation on the date on which the
Transfer of Executive Powers Ordinance 1975 comes into operation. Commence-
ment
 4. Section 5 of the Principal Ordinance is amended by inserting after
the definition of "The Administrator" the following definition: Definitions
 "'The Executive Member' means the executive member appointed
 under the *Transfer of Executive Powers Ordinance* and for the
 time being administering that Ordinance;".
-

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the *Landlord and Tenant (Control of Rents) Ordinance 1949* 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 *Landlord and Tenant (Control of Rents) Ordinance 1975*. Short title
 2. The *Landlord and Tenant (Control of Rents) Ordinance 1949* as amended 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 published in the *Gazette*. Commencement
 4. Section 32(2) of the Principal Ordinance is amended by omitting "12 months" and substituting "6 months". Variation of determination
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THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To make provision for the Acquisition by
Australia of Land required for Public Purposes
and for dealing with Land so acquired, 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 *Lands Acquisition Ordinance* Short title
1975.
2. This Ordinance shall come into operation on a date to be fixed by Commence-
the Administrator by notice in the *Gazette*. ment
- 3.(1) In this Ordinance, unless the contrary intention appears— Interpreta-
“Administrator in Council” means the Administrator, having received, tion
and acting in accordance with, the advice of the Administrator’s
Council;
“claimant” means a person who has made a claim for compensation
under this Ordinance;
“court of competent jurisdiction”, in relation to a cause, means a court
having jurisdiction in that cause by virtue of the Constitution and
Acts of Australia;

“interest”, in relation to land, means—

- (a) a legal or equitable estate or interest in the land; or
- (b) a right, power or privilege over, or in connexion with, the land;

“land” includes an interest in land;

“lease” includes an agreement for a lease;

“member of the Police Force” means a member of the Police Force of the Northern Territory established under the *Police and Police Offences Ordinance*;

“mortgagee”, in relation to a mortgage, means the person for the time being entitled to the moneys secured by the mortgage;

“mortgagor”, in relation to a mortgage, means the owner for the time being of the land which is subject to the mortgage;

“notice to treat” means a notice to treat for the sale of land to the Administrator given under section 6;

“public purpose” means any purpose in relation to the Territory;

“the date of acquisition”, in relation to land acquired by compulsory process under this Ordinance, means the date on which the notice under section 7 in respect of that land is published in the *Gazette*;

“the Supreme Court”, in relation to proceedings in respect of land, means the Supreme Court of the Territory.

(2) A reference in this Ordinance to the acquisition of land or of an interest in land includes a reference to the extinction of an interest in land by virtue of section 7(4).

PART II—ACQUISITION OF LAND

Division 1—Modes of Acquisition

Modes of
acquisition

4. The Administrator, out of moneys provided for the purpose, may, on behalf of Australia, acquire land for a public purpose—

- (a) by agreement; or
- (b) by compulsory process.

Division 2—Acquisition by Agreement

Acquisi-
tion by agree-
ment

5.(1) The Administrator in Council may authorize the acquisition of land by the Administrator on behalf of Australia by agreement for a public purpose approved by the Administrator in Council.

(2) The land acquired under this section may be an easement, right, power, privilege or other interest that did not previously exist as such, in, over or in connexion with land.

(3) Where the acquisition of land is authorized by the Administrator in Council under sub-section (1), the Administrator shall forward to the Legislative Assembly for tabling within 10 sitting days after the giving of the authorization, a statement describing the land and stating that the acquisition of the land has been authorized under that sub-section for the public purpose specified in the statement.

Division 3—Acquisition by Compulsory Process

6.(1) The Administrator's Council shall not recommend to the Administrator the acquisition by the Administrator of land by compulsory process unless the Administrator has first caused to be served upon each of the owners of the land, or such of them as can, after diligent inquiry, be ascertained, a notice inviting the person on whom the notice is served to treat with the Administrator for the sale to the Administrator of the interest of that person in the land. Notice to treat

(2) Where service on an owner cannot be effected under sub-section (1) in accordance with section 59, service on that owner may be effected by causing a copy of the notice to treat to be published in a newspaper circulating in the district in which the land is situated and—

- (a) if the land is occupied—leaving a copy of the notice to treat with the occupier; or
- (b) if the land is not occupied—affixing, if practicable, a copy of the notice to treat to a conspicuous part of the land,

and the notice to treat shall be deemed to have been so served on the day on which the copy is so published, is so left with the occupier or is so affixed, whichever last occurs.

(3) A person served with a notice to treat in respect of land may, not later than 28 days after the service of the notice, furnish to the Administrator particulars of—

- (a) the interest claimed by him in the land;
- (b) the amount for which he is agreeable to sell to the Administrator his interest in the land; and
- (c) the name and address of any other person known to him to have an interest in the land and the nature of that interest.

(4) Upon receipt of the particulars referred to in sub-section (3) the Administrator may treat with the person furnishing the particulars for the acquisition of the interest of that person in the land by the Administrator by agreement and may enter into an agreement with that person for that acquisition.

(5) The Administrator may, by notice in writing to a person served with a notice to treat, withdraw the notice to treat.

(6) Where the owner of an interest in land, being a person who has furnished the particulars referred to in sub-section (3), suffers loss by reason of the notice to treat in respect of the land having been given and withdrawn, the Administrator is liable to pay to him such compensation as is determined by agreement between the owner and the Administrator or, in the absence of agreement, by action by the owner against the Administrator in a court of competent jurisdiction.

7.(1) Without prejudice to the liability of the Administrator under any contract for the acquisition of land by agreement, where a period of 28 days has expired after the service of a notice to treat, or of notices to treat, in relation to land, the Administrator's Council may recommend to the Administrator that the land or any interest in the land (not including an interest in respect of which a notice to treat has been withdrawn) be acquired by the Administrator by compulsory process. Compulsory acquisition

(2) The Administrator may, on the recommendation of the Administrator's Council under sub-section (1), authorize the acquisition of land by compulsory process for a public purpose approved by the Administrator in Council.

(3) The Administrator may cause to be published in the *Gazette* notice of the authorization by the Administrator and, in the notice, declare that the land is acquired under this Ordinance for the public purpose approved by the Administrator in Council.

(4) Upon the publication of the notice in the *Gazette*, the land to which the notice applies is, by force of this Ordinance, but subject to this Ordinance—

(a) vested in Australia; and

(b) freed and discharged from all interests, trusts, restrictions, dedications, reservations, obligations, contracts, licences, charges and rates,

to the intent that the legal estate in the land and all rights and powers incident to that legal estate or conferred by this Ordinance are, subject to this Ordinance, vested in Australia.

(5) The land acquired under this section may be an easement, right, power, privilege or other interest, which did not previously exist as such, in, over or in connexion with land.

Conversion of
estates and
interests into
claims for
compensation

8.(1) Subject to sub-section (2), the interest of every person in the land to which a notice under section 7 applies is, on the date of acquisition of the land, converted into a right to compensation under this Ordinance.

(2) Where, in accordance with section 7(5), an easement, right, power, privilege or other interest in, over or in connexion with land is acquired, the interest of every person in that land is, on the date of the acquisition, and to the extent to which that interest is affected by the acquisition, converted into a right to compensation under this Ordinance.

Powers of
Legislative
Assembly to
avoid
acquisitions

9.(1) The Administrator shall cause a copy of every notice published under section 7(3) to be forwarded to the Legislative Assembly for tabling within 10 sitting days after the date of publication.

(2) The Legislative Assembly may, within 10 sitting days after a copy of a notice has been laid before it in pursuance of sub-section (1), pass a resolution that the notice shall be void and of no effect, and thereupon the notice shall be void and of no effect, and the land shall be deemed not to have been vested in Australia.

(3) Where the owner of land described in a notice in relation to which a resolution is passed under sub-section (2) has suffered loss or damage by reason of the notice or of the exercise of powers of the Administrator in consequence of the notice, the Administrator is liable to pay to him such compensation as is determined by agreement between the owner and the Administrator or, in the absence of agreement, by action by the owner against the Administrator in a court of competent jurisdiction.

High Court or
Supreme Court
may adjust rights
and determine
basis of
compensation

10.(1) Notwithstanding anything contained in this Ordinance, where land is acquired under this Division, the High Court or the Supreme Court, acting in pursuance of its federal jurisdiction, may upon the application of the Administrator or any other person interested, make such orders as it thinks proper for declaring or adjusting rights and liabilities in connexion

with the land or with transactions in relation to the land or otherwise affected by the acquisition.

(2) Without limiting the generality of the powers conferred by sub-section (1), the orders which may be made under that sub-section include—

- (a) an order for the payment or repayment of moneys;
- (b) an order discharging a person from an obligation to pay moneys;
- (c) where there was a subsisting contract of sale of the land—an order with respect to the rights and liabilities of the parties to that contract; and
- (d) where there was a rent charge or other charge or encumbrance over the land—
 - (i) an order releasing a person in whole or in part from a personal covenant or obligation in relation to the charge or encumbrance; and
 - (ii) an order apportioning the charge or encumbrance between the land acquired and other land subject to the charge or encumbrance.

(3) Notwithstanding anything contained in this Ordinance, the High Court or the Supreme Court may, in proceedings under this section or upon the application of the Administrator or a claimant, make such order as it thinks just in the special circumstances of a particular case declaring the basis upon which compensation in respect of the acquisition of any land acquired under this Ordinance by compulsory process is to be determined, and the compensation shall be determined accordingly.

(4) Where a court has made an order under sub-section (1) in relation to any land, compensation in relation to that land shall, subject to any order made under sub-section (3) but notwithstanding any other provision of this Ordinance, be determined having regard to the effect of the first-mentioned order.

(5) Where the Administrator is not a party to proceedings under this section, the court may order the Administrator to be joined as a party if the court thinks it desirable to do so either in relation to the making of an order as to costs or otherwise.

11.(1) Where land is acquired under this Division, the Administrator shall, as soon as practicable after the date of acquisition of the land, cause a copy of the notice of acquisition of the land to be served upon the owners of the land, or such of them as can, after diligent inquiry, be ascertained. Notice to owner

(2) Where—

- (a) the Administrator is unable, after diligent inquiry, to ascertain the identity of an owner; or
- (b) service on an owner cannot be effected under sub-section (1) in accordance with section 59,

service on that owner may be effected by causing a copy of the notice of acquisition to be published in a newspaper circulating in the district in which the land is situated and—

- (c) if the land is occupied—leaving a copy of the notice of acquisition with the occupier; or
- (d) if the land is not occupied—affixing, if practicable, a copy of the notice of acquisition to a conspicuous part of the land.

Registra-
tion of
notifica-
tion

12.(1) Where land has been acquired under this Division, the Administrator may lodge with the Registrar-General a copy of the notice of acquisition of the land, certified under the hand of the Administrator or of an officer of the Attorney-General's Department authorized by the Administrator to certify such copies.

(2) The officer with whom the copy of a notice of acquisition is lodged in pursuance of sub-section (1) may register the acquisition in the manner as nearly as may be in which dealings with land are registered, and may deal with and give effect to the copy of the notice of acquisition as if it were a grant, conveyance, memorandum or instrument of transfer of the land to Australia duly executed under the laws in force in the Territory.

PART III—POWERS IN RELATION TO LAND

Power to
examine lands

13.(1) A person authorized in writing by the Administrator to act under this section may, for the purpose of ascertaining whether land is suitable for a public purpose or of surveying or obtaining information in relation to land which he considers suitable for such a purpose—

- (a) enter upon the land, or upon adjoining land, with such persons, vehicles and things as he thinks fit; and
- (b) make surveys, take levels, sink pits, examine the soil and do any other thing in relation to the land.

(2) If a person hinders or obstructs a person authorized under this section to enter on land in the exercise of any of his powers under this section in relation to that land, a court of summary jurisdiction may, on the application of the person so authorized, grant a warrant authorising a member of the Police Force or other person named in the warrant to enforce the entry upon the land, and to prevent hindrance or obstruction to the exercise of any power under this section in relation to the land, and the entry upon, and the examination of, the land may be enforced in accordance with the warrant.

Power to occupy
lands temporarily

14. Where land is vested in Australia, a person authorized by the Administrator may, with such other persons as he thinks necessary, enter land—

- (a) being within a distance of 200 metres from the nearest boundary of the land vested in Australia;
- (b) not being a garden, orchard or plantation attached or belonging, to a house, or a park, planted walk or avenue, or ground ornamentally planted; and
- (c) not being nearer than 500 metres to the dwelling house of the occupier of the land,

and may occupy the land so entered for so long as is necessary for the purposes of any works connected with the carrying out of a public purpose.

Power to take
materials, make
roads, &c., on or
from adjacent
lands

15.(1) A person authorized by the Administrator under section 14 to enter land may—

- (a) in connexion with the carrying out of a public purpose, on or from that land—
 - (i) construct, build or place any plant, machinery, equipment or goods;

- (ii) take or deposit sand, clay, stone, earth, gravel, timber, wood or other materials or goods;
- (iii) make roads, cuttings or excavations;
- (iv) erect workshops, sheds and other buildings of a temporary character; and
- (v) manufacture and work materials of any kind; and
- (b) demolish, destroy or remove any plant, machinery, equipment, goods or buildings constructed, built, placed or erected on land in pursuance of paragraph (a).

(2) The power to take clay, stone or earth shall not be exercised in respect of a stone or slate quarry, brickfield or other like place commonly worked or used for getting materials for the purposes of sale or disposal.

16. Where the owner of an interest in land suffers loss or damage by reason of the exercise, in relation to the land, of the powers conferred by this Part, the Administrator is liable to pay to him such compensation as is determined by agreement between the owner and the Administrator or, in the absence of agreement, by action by the owner against the Administrator in a court of competent jurisdiction.

Compensation for damage to land

PART IV—COMPENSATION FOR ACQUISITION BY COMPULSORY PROCESS

Division 1—Claims for Compensation

17.(1) A person who has a right to compensation under section 8 may make a claim for compensation stating the amount of compensation claimed.

Making, acceptance and rejection of claims

(2) Compensation is not payable to a person in respect of an interest in land acquired under this Ordinance by compulsory process if—

- (a) a claim for compensation in accordance with sub-section (1) is not served on the Administrator by that person in respect of that interest within 120 days after the date of acquisition or within such further time as the Administrator allows; and
- (b) the interest is inconsistent with an interest claimed by another person in respect of which the Administrator has, in good faith, paid or agreed to pay compensation.

(3) Where a claim for compensation is made, the Administrator shall, except where compensation is not payable by reason of the operation of sub-section (2), consider the claim and, if satisfied that the claimant has produced *prima facie* evidence that he had, immediately before the date of acquisition of the land, the interest claimed by him in the land, the Administrator shall accept the claim for determination, but, if not so satisfied, the Administrator shall reject the claim.

(4) For the purposes of considering a claim under sub-section (3), the Administrator may request the claimant to furnish further particulars of the claim, and the Administrator may defer consideration of the claim until the claimant finally replies to the request.

(5) The Administrator shall, within 3 months after a claim for compensation is made, or within 3 months after the claimant finally replies to a request made under sub-section (4), notify the claimant whether he accepts

the claim for determination or rejects the claim and, if the Administrator fails to notify the claimant accordingly, the Administrator shall be deemed to have accepted the claim for determination.

(6) The acceptance of a claim for determination under this section does not entitle the claimant to payment of compensation otherwise than in accordance with Division 5.

Proceedings
where claim
rejected

18.(1) Where a claim for compensation has been rejected by the Administrator, the claimant may bring an action against the Administrator in the High Court or the Supreme Court, acting in pursuance of its federal jurisdiction, claiming a declaration that he was, immediately before the date of acquisition of the land, entitled to the interest specified in the claim made to the Administrator.

(2) The court, after notice to such persons as it directs, shall hear the action and may declare that the claimant was entitled to the interest specified in his claim to the Administrator or to some other interest, or may dismiss the action.

(3) For the purposes of this Ordinance an order of a court under this section is binding on the Administrator and on Australia and on all persons who had interests in the land immediately before the date of acquisition of the land, whether or not they were represented before the court on the hearing of the action.

(4) Where a court, in pursuance of this section, declares that a claimant had an interest in land, compensation in respect of that interest shall be determined in accordance with this Ordinance as if the claim had been accepted by the Administrator and, if the interest declared by the court differs from the interest specified in the claim to the Administrator, the claim shall be deemed to be amended accordingly.

(5) Where, in relation to a claim for compensation that has been rejected by the Administrator—

- (a) the claimant does not, within 30 days after service on him of the notice of rejection of the claim or within such further time as the Administrator allows, institute an action under this section in relation to the claim; or
- (b) the claimant has so instituted an action and—
 - (i) the action has been dismissed, either by the court of first instance or as a result of an appeal; and
 - (ii) a period of not less than 30 days has elapsed since the dismissal of the action and no appeal or further appeal by the plaintiff (including an application for leave to appeal) is pending,

the Administrator may pay compensation in respect of the acquisition on the basis that the claimant was not, at the date of acquisition, entitled to the interest the subject of the claim and, where compensation is paid in respect of an interest which is inconsistent with the interest the subject of the claim, no compensation is payable in respect of that last-mentioned interest.

(6) A court in which an action is instituted under this section may, upon the application of the Administrator, the claimant or any other person appearing to the court to have a sufficient interest to justify the application (which application may be made at any time after the issue of the writ in the action, whether before or after the making of any declaration

under sub-section (2)), order that the action shall be treated as including proceedings duly instituted under section 22 for determination of the amount of compensation under this Ordinance in respect of the interest (if any) which the court delares the claimant to have had.

(7) The provisions of section 22 (other than sub-sections (1), (2) and (5)) apply to and in relation to proceedings consequent upon the making of an order under sub-section (6).

Division 2—Principles upon which Compensation is to Assessed

19.(1) In the determination of the amount of compensation payable in respect of land compulsorily acquired under this Ordinance, regard shall be had to—

Matters to be considered in determining compensation

- (a) the value of the land at the date of acquisition;
- (b) the damage (if any) caused by the severance of the land from other land in which the claimant had an interest at the date of acquisition; and
- (c) the enhancement or depreciation in value of the interest of the claimant, at the date of acquisition, in other land adjoining or severed from the acquired land by reason of the carrying out of or the proposal to carry out the public purpose for which the land was acquired.

(2) In determining the value of land acquired under this Ordinance, regard shall not be had to any increase in the value of the land arising from the carrying out of or the proposal to carry out the public purpose for which the land was acquired.

(3) Where the value of the interest of the claimant in other land adjoining the land acquired is enhanced or depreciated by reason of the carrying out of or the proposal to carry out the public purpose for which the land was acquired, the enhancement or depreciation shall be set off against, or added to, as the case requires, the amount of the compensation otherwise payable to the claimant.

Division 3—Determination of Compensation by Agreement

20.(1) The Administrator may, on behalf of Australia, enter into an agreement with the owner of land as to the amount of compensation to which the owner will be entitled if the land is compulsorily acquired under this Ordinance within a time specified in the agreement.

Agreement as to amount of compensation before acquisition

(2) If the land is compulsorily acquired under this Ordinance within the time specified in the agreement and while the owner who made the agreement is still the owner of the land, the compensation payable to the owner in respect of the acquisition shall be deemed to have been determined by agreement at the amount specified in the agreement.

21. Where a claim for compensation is accepted for determination under section 17, the amount of compensation to be paid may be determined by agreement between the Administrator and the claimant.

Determination of compensation by agreement after acquisition

Division 4—Determination of compensation by a Court

Proceedings for
determination of
compensation

22.(1) Where, in the case of a claim for compensation which has been accepted by the Administrator—

- (a) a period of 3 months has elapsed since the claim was made, but the compensation has not been determined by agreement; or
- (b) before that period has elapsed, the Administrator has made an offer in writing to the claimant of an amount as compensation but the claimant has not accepted that amount or any other amount offered by the Administrator,

the claimant may institute proceedings against the Administrator in a court of competent jurisdiction for determination of the amount of compensation under this Ordinance in respect of the interest the subject of the claim.

(2) If the court is of opinion that the proceedings might have been brought in a lower court, or might have been brought in a lower court if the amount of compensation claimed had not been grossly excessive, costs, if awarded to the claimant, shall only be allowed on the scale of costs applicable in that other court, unless the first-mentioned court certifies that special circumstances existed which made it proper to institute the proceedings in that court.

(3) Where proceedings under this section have been instituted in relation to an interest in land, the court may, on the application of the Administrator, by order direct any other person who has claimed compensation arising out of the acquisition of that interest or of another interest in that land acquired at the same time, or who appears or claims to have had, immediately before the date of acquisition, an interest in that land that has been acquired at the same time, to join as a plaintiff in the proceedings within a time specified in the order.

(4) If a person so directed fails to join as a plaintiff within the time specified in the order, he is absolutely debarred from thereafter instituting an action against the Administrator for determination or recovery of compensation arising out of the acquisition of the interest that was the original subject of the proceedings or any other interest in the same land that was acquired at the same time.

(5) When, by reason of the joinder of a new plaintiff or otherwise, the total compensation claimed in proceedings under this section exceeds the amount up to which the court has jurisdiction, the Administrator shall forthwith apply to the High Court or to the Supreme Court for the removal of the proceedings into that court, and, if the court to which the application is made is satisfied that the application is properly made, it shall order the removal of the proceedings accordingly, and the proceedings shall be continued in the court to which they are removed as if they had been instituted in that court.

Determina-
tion of
compensa-
tion on the
application of
the
Administrator

23.(1) Where—

- (a) a period of 6 months has elapsed since the date of acquisition of land and a claim for compensation has not been made in respect of an interest in the land; or
- (b) the Administrator has made an offer in writing to the claimant of an amount of compensation in respect of an interest claimed by the claimant in the land and—
 - (i) the compensation has not, within 60 days after the making

of the offer or within such further time as the Administrator, on the application of the claimant, has allowed, been determined by agreement or by a court; and

- (ii) proceedings in which the claimant is a plaintiff for determination of compensation under section 22, or proceedings in an arbitration in respect of the claim, are not pending,

the Administrator may apply to such court of competent jurisdiction as he considers appropriate, having regard to the value and locality of the land, for a determination under this section in respect of the interest concerned.

(2) The court, after notice to such persons as it directs, shall hear the application and determine the amount of compensation payable in respect of the interest the subject of the application.

(3) The Administrator may, in an application under this section arising out of sub-section (1)(a), request the court to determine the person or persons who, immediately before the date of acquisition, had an interest or interests in the land, and the nature of the interest or interests, and the court shall, after notice to such persons as it directs, determine those matters accordingly.

(4) A determination of a court under this section is binding on the Administrator, Australia and the claimant and on all persons who had interests in the land at the date of acquisition of the land whether or not they were represented before the court on the hearing of the application.

24. Nothing in this Part, or in a determination of a court, or an award upon an arbitration, under this Part, entitles a person to receive payment of compensation otherwise than in accordance with Division 5. Payment of compensation determined

25.(1) Where a court having jurisdiction for the purposes of this section is of opinion that the application of any of the provisions of this Ordinance would result in an acquisition having been made otherwise than on just terms, the court may determine such compensation or make such order (whether against the Administrator or against another person) as, in its opinion, is necessary to ensure that the acquisition has been made on just terms. Court to ensure that acquisition is made on just terms

- (2) Jurisdiction for the purposes of this section may be exercised—
 - (a) by a court before which proceedings are instituted under another provision of this Division; or
 - (b) by the Supreme Court or the High Court.

Division 5—Payment of Compensation and Interest

26.(1) When the amount of compensation to which a person is entitled under section 8 has been determined, that amount shall be paid to that person when he has— Payment of compensation

- (a) made out, to the satisfaction of the Administrator, a title, as at the date of the acquisition, to the interest in respect of which the compensation is payable;
- (b) produced or surrendered all deeds and documents relating to, or evidencing, that title which the Administrator reasonably requires to be produced or surrendered, as the case may be; and

(c) executed such documents as the Administrator reasonably requires.

(2) Sub-section (1) (a) does not apply where a court has, under section 18, 23 or 29, declared or determined that the claimant had, immediately before the date of acquisition of the land, the interest in respect of which the compensation is payable.

Deposit of
compensation in
the Treasury

27.(1) If, at the expiration of 3 months after the determination of the amount of any compensation, the person entitled to the compensation has not, by reason of some default or delay on his part, received payment of the compensation, the Administrator may, by agreement with Australia, deposit the amount of compensation in the treasury.

(2) If, before the amount of compensation is deposited in the Treasury, the Administrator has notice of any rates, taxes or assessments charged upon the land and due at the date of acquisition, he may pay the amount of those rates, taxes or assessments out of the amount of compensation, and deposit the balance in the Treasury.

Payment out of
Treasury

28. An amount of compensation deposited in the Treasury under section 27 may be paid, on the direction of the Administrator, to a person who complies with the requirements of section 26.

Order that
claimant is
entitled to
compensation

29.(1) Notwithstanding the provisions of sections 26, 27 and 28 where a person claims to be entitled to an amount of compensation determined in respect of any land by agreement or by a court (including an amount which has been deposited in the Treasury), the High Court or the Supreme Court may, upon the application of that person and upon proof, to the satisfaction of the court, of his title, immediately before the date of the acquisition, to the interest in land in respect of which the compensation was payable, declare that that person is entitled to the compensation, and may order the payment of the compensation to that person, subject to such conditions as it thinks fit.

(2) Where the court orders payment to a claimant of an amount of compensation which has been deposited in the Treasury, the court may, if it sees fit, order payment of interest in respect of the whole or any part of the period from the date of that deposit to the date of payment at a rate not exceeding the rate that would have been applicable under section 30 if the amount of compensation had not been deposited in the Treasury.

Interest on
compensation

30.(1) Subject to this Division, an amount of compensation payable in respect of an acquisition by compulsory process under this Ordinance (other than an amount payable to a mortgagee upon which interest is payable under section 40) bears interest from the date of acquisition of the land to the date on which payment is made to the claimant or, where the amount is deposited in the Treasury in accordance with section 27, to the date upon which the amount is so deposited.

(2) The rate at which interest is payable under sub-section (1) is—

- (a) if the period for which the interest is payable is less than 3 years—the short term interest rate; and
- (b) in any other case—the long term interest rate.

(3) Where the amount of compensation determined by a court does not exceed an amount offered by the Administrator, interest is payable only up to the date upon which the offer of the Administrator was received by the claimant.

(4) Where compensation (not being compensation deposited in the Treasury) is determined, or ordered to be paid, by a court, interest continues to be payable under this section and not otherwise.

(5) In this section—

“loan” means a borrowing of moneys by Australia by public subscription in Australia under the authority of an Act and in accordance with a prospectus;

“long term interest rate”, in relation to an amount of compensation, means the rate of interest payable on the long term securities having a term nearest to 10 years offered in connexion with the last loan for which a prospectus relating to long term securities was issued before the date on which the acquisition concerned was effected;

“long term securities” means securities the term of which exceeds 6 years but does not exceed 15 years;

“public subscription” includes the conversion of securities into other securities;

“securities” means stock, bonds or other securities under the *Commonwealth Inscribed Stock Act 1911-1973*;

“short term interest rate”, in relation to an amount of compensation, means the rate of interest payable on the short term securities having a term nearest to 3 years offered in connexion with the last loan for which a prospectus relating to short term securities was issued before the date on which the acquisition concerned was effected;

“short term securities” means securities the term of which does not exceed 6 years;

“term”, in relation to securities included in a particular class of securities offered in connexion with a loan, means the period between—

(a) the date specified in the prospectus relating to the loan as—

(i) the date on and after which applications for securities included in that class will be received; or

(ii) if such a date is not so specified, the date on which conversion of other securities into securities included in that class will be effected; and

(b) the date specified in that prospectus as the date of maturity of securities included in that class.

(6) Where prospectuses were issued on the one day for 2 or more loans, those loans shall, for the purposes of sub-section (5), be deemed to be one loan.

PART V—PERSONS UNDER DISABILITY AND CERTAIN LIMITED OWNERS

31. A person seized or possessed of, or entitled to, land, or having the management of land on behalf of a person under a legal disability, particularly—

Powers of persons under disability and certain limited owners

(a) a corporation which has no power, or limited power only, to dispose of land;

(b) a tenant;

(c) a guardian;

- (d) a committee of a lunatic or idiot or a committee, administrator or the Public Trustee in respect of the estates of a mentally defective person within the meaning of the *Mental Defectives Ordinance*;
- (e) a trustee;
- (f) an executor or administrator;
- (g) a person for the time being entitled to the receipt of the rents and profits of land in possession; or
- (h) a lessee, may, by force of this Ordinance and notwithstanding anything to the contrary in any law, deed of settlement or other deed, will, memorandum or articles of association or instrument—
- (i) lease, sell, transfer or convey to Australia the land or an interest in the land;
- (j) if the land is acquired by Australia by compulsory process—
 - (i) subject to this Ordinance, make or join with another person in making a claim for compensation;
 - (ii) accept or not accept an offer of compensation by the Administrator; and
 - (iii) take any action authorized by this Ordinance to be taken by a claimant to determine a disputed claim for compensation; and
- (k) enter into an agreement incidental to the exercise of a power conferred by this section.

Extent of powers
under section 31

32.(1) The powers conferred by section 31 may be exercised—

- (a) by a person other than a lessee—not only on behalf of himself and his heirs, executors, administrators and successors, but also on behalf of every person entitled in reversion, remainder or expectancy after him, and in defeasance of the estate of every person so entitled;
- (b) by a guardian—on behalf of his ward, and to the extent to which the ward could exercise those powers if he were not under a disability;
- (c) by the committee of a lunatic or idiot—on behalf of the lunatic or idiot, and to the extent to which the lunatic or idiot could exercise those powers if he were not under a disability; and
- (d) by a trustee, executor or administrator—on behalf of his *cestui que trusts* (whether infants, issue infants, issue unborn, lunatics, idiots or other persons) to the same extent as the *cestui que trusts* could exercise those powers if they were not under a disability.

(2) The provisions of a law of the Territory making provision for the sale of settled land or authorizing a person specified in section 31 to sell land of which he is not the beneficial owner apply, by force of this Ordinance, in relation to land that has been acquired by compulsory process under this Ordinance as if an agreement to accept an amount of compensation in respect of the acquisition were a sale of the land to Australia at a price equal to that amount.

(3) Where a person specified in section 31 leases or sells land of which he is not the beneficial owner, or agrees to accept compensation in respect of the acquisition under this Ordinance of any such land, and that person was not empowered to grant the lease or to make the sale or agreement by

the law of the Territory (including such a law as applied by sub-section (2)), the lease, sale or agreement has no force or effect unless approved by the High Court or the Supreme Court.

33.(1) Where a lease, sale or agreement to which section 32 applies is made, the rent, purchase money or compensation (in this section referred to as "the moneys") shall be dealt with as provided by this section. Application of purchase money

(2) With the consent of all parties interested the moneys may be paid to a trustee subject to such trusts as are declared by a deed of trust approved by the Administrator.

(3) Where an infant, lunatic or idiot is interested in or entitled to receive the moneys, his consent to an application or disposition of the moneys may be given by a guardian, trustee, or committee on his behalf.

(4) The moneys may be paid to the Master of the Supreme Court, to be applied in accordance with an order of the Court.

(5) The High Court or the Supreme Court may, on the application of a person interested (including a trustee, executor or administrator), order the moneys to be applied as follows

- (a) in the discharge of a debt or encumbrance affecting the land, or affecting other land settled to the same or the like uses, trusts and purposes;
- (b) in the purchase of other land, or of securities of or guaranteed by the Government of Australia or of a State of Australia, to be conveyed, limited and settled upon and for the like uses, trusts and purposes, and in the same manner, as the land in respect of which the moneys were paid;
- (c) if the moneys have been paid in respect of any buildings acquired under the authority of this Ordinance, in replacing the buildings or substituting others in their stead;
- (d) in payment to a person becoming absolutely entitled to the moneys, or to such other person, and on such conditions, as the court directs; or
- (e) in such other manner as the court directs.

(6) If the owner of the land was a corporation, the moneys may be paid to the corporation.

(7) If the land was vested in a trustee, the moneys may be paid to the trustee to be dealt with by him as nearly as may be in accordance with the trusts upon which the land was held.

(8) If the land was vested in an executor or administrator, the moneys may be paid to the executor or administrator to be dealt with by him in accordance with his duties as executor or administrator.

(9) If the land was vested in or managed by the guardian of an infant or the committee of a lunatic or idiot, the moneys may be paid to the guardian or committee.

(10) In this section—

- (a) "compensation" includes interest payable on compensation;
- (b) "lunatic or idiot" includes a mentally defective person within the meaning of the *Mental Defective Ordinance*; and

- (c) “committee” in relation to a lunatic or idiot includes the committee of, or administrator or Public Trustee in relation to the estate of, a mentally defective person under the *Mental Defective Ordinance*.

PART VI—MORTGAGES OVER LAND ACQUIRED BY COMPULSORY PROCESS

Mortgage
moneys barred
by statutes of
limitations

34. For the purposes of this Part, moneys shall not be deemed to have been due to a mortgagee under a mortgage, or to have been secured by the mortgage, at the date of acquisition of land that was subject to the mortgage if the right of the mortgagee to recover those moneys was, at that date, barred by a statute relating to the limitation of actions unless the mortgagee had, at that date, a power of sale or other remedy exercisable in relation to that land.

Rights of
mortgagee on
acquisition of
land

35.(1) Where any land acquired under this Ordinance by compulsory process was, at the date of acquisition, subject to a mortgage, the mortgagee may either—

- (a) claim compensation under Division I of Part IV; or
- (b) by notice to the Administrator, waive his rights to compensation.

(2) If the mortgagee makes a claim for compensation, he shall set forth in his claim—

- (a) the amount of principal due under the mortgage at the date of acquisition of the land; and
- (b) the amount of interest, costs and charges due under the mortgage at that date.

(3) The Administrator may, by notice in writing served on a person who is or may be a mortgagee, require that person, at his option—

- (a) to make a claim under this Ordinance for compensation as mortgagee; or
- (b) to waive his rights to compensation.

(4) If the person fails to make a claim for compensation in accordance with this Ordinance within 30 days (or such further period as the Administrator in writing allows for that purpose) after the service of the notice, he shall be deemed to have waived his rights to compensation as mortgagee.

(5) Where a mortgagee claims compensation under this Ordinance the acquisition of the land shall, to the extent to which the compensation payable to the mortgagee under section 40(1) is sufficient to satisfy the mortgage debt, and interest, costs or charges due to the mortgagee under the mortgage, as at the date of acquisition, be deemed to have had the effect of extinguishing the liability of the mortgagor under the mortgage as from the date of acquisition.

(6) A mortgagee who waives his rights to compensation is absolutely debarred from claiming or recovering as mortgagee any compensation or other amount from Australia or from the Administrator.

(7) Waiver of his rights to compensation by a mortgagee, or failure by a mortgagee to claim compensation, does not affect his rights and remedies

against the mortgagor or in respect of land included in the mortgage other than the land acquired.

36.(1) The Administrator may, by notice in writing served upon the owner of the land, require the owner to furnish the following particulars:

Owner may be required to furnish particulars of mortgages

- (a) whether or not the land is subject to a mortgage; and
- (b) if the land is subject to a mortgage—
 - (i) the name and address of the mortgagee;
 - (ii) the amount of principal due under the mortgage at the date of acquisition; and
 - (iii) the amount of interest, costs and charges due to the mortgagee under the mortgage at that date.

(2) If the owner of the land fails to furnish the particulars to the Administrator within 30 days (or such further period as the Administrator in writing allows for that purpose) after the service of the notice, the Administrator may agree with any person claiming to be a mortgagee of the land as to the amounts due under the mortgage and the owner is absolutely debarred from disputing the correctness of any amounts so agreed upon.

37. Where an amount has been paid to or recovered by a mortgagee under a mortgage in respect of a liability which, upon the making of a claim by the mortgagee, is deemed to have been discharged as from the date of acquisition by virtue of section 35(5)—

Interest, &c., paid by mortgagor after date of acquisition

- (a) the mortgagee is liable to repay that amount to the person who paid it; and
- (b) the Administrator may deduct from the compensation payable to the mortgagee and pay to the person who paid that amount so much of that amount as has not been so repaid, and a payment so made by the Administrator shall be deemed to have been made in discharge of the obligation of the mortgagee under paragraph (a).

38.(1) Where any land acquired under this Ordinance by compulsory process was, at the date of acquisition, subject to a mortgage, and proceedings by the mortgagee in relation to the mortgage were pending at the date of acquisition or are commenced or proposed to be commenced after that date and before compensation has been paid in full to the mortgagor in respect of the acquisition, the High Court or the Supreme Court may, upon the application of the mortgagor and subject to such conditions as it thinks fit, order a stay of those proceedings or enjoin the mortgagee against commencing or continuing those proceedings and made such other orders as it thinks necessary.

Court may order stay of proceedings under mortgage

(2) In this section “proceedings” means any action to enforce the rights of the mortgagee under the mortgage, whether or not the proceedings are in a court, including action with a view to taking possession of or selling land or foreclosing.

39. Subject to section 22(8), section 23 and section 36(2), the rights of a mortgagor claiming compensation are not affected by a determination of the compensation payable to a mortgagee, and the rights of a mortgagee claiming compensation are not affected by a determination of the compensation payable to the mortgagor or another mortgagee, unless he was a

Separate rights of mortgagee and mortgagor to determination of compensation

party to the agreement or proceedings by which the compensation was determined.

Compensation to mortgagee

40.(1) The compensation payable to a mortgagee is an amount equal to the sum of—

- (a) the principal secured by the mortgage at the date of acquisition; and
- (b) any interest, costs or charges due to the mortgagee under the mortgage at that date,

but not exceeding the compensation payable to the mortgagor in respect of the land.

(2) For the purpose of sub-section (1), the compensation payable to the mortgagor shall be deemed to be—

- (a) if there was only one mortgage over the land—the compensation that would have been payable to the mortgagor if there had been no mortgage over the land; or
- (b) if there were more mortgages than one over the land—the compensation that would have been payable to the mortgagor if there had been no mortgage over the land, less the amount, or the sum of the amounts, of principal, interest, costs and charges due at the date of acquisition to a mortgagee or mortgagees in respect of a mortgage or mortgages having priority over the mortgage in respect of which the compensation is to be determined.

(3) In addition to the compensation mentioned in sub-section (1), the mortgagee is entitled to payment by the Administrator of the following amounts—

- (a) interest upon the amount of principal included in that compensation at the lowest rate (whether for prompt payment or otherwise) provided by the mortgage from the date of acquisition to the date of payment of compensation, or, where payment is delayed through a default of the mortgagee, the date when payment would have been made but for the default; and
- (b) if the principal was not repayable (with or without notice) at the date when interest ceases to be payable under this section—
 - (i) the costs of the mortgagee of re-investing the principal included in the compensation; and
 - (ii) should a loss of interest reasonably be expected, regard being had to the rate of interest secured by the mortgage and the rate of interest obtained or likely to be obtained on the re-investment—a reasonable allowance for loss of interest until the date on which the principal would have been repayable (with or without notice).

Deduction of mortgagee's compensation from mortgagor's compensation

41. The compensation payable to a mortgagee under section 40(1) shall be deducted from the compensation that would have been payable to the mortgagor if the mortgage did not exist, and interest under section 30 is payable to the mortgagor on the reduced amount only.

Execution of discharge

42. Upon payment or tender of the compensation to the mortgagee, he shall, if so required by the mortgagor and at the expense of the mortgagor, execute a discharge of the mortgage debt to the extent to which the mortgage debt is discharged by virtue of section 35(5).

43. Where a mortgagee does not claim compensation, the mortgagor is entitled to the same compensation as if the mortgage did not exist, and, in addition, to such amount, if any, as he should justly receive as compensation in respect of interest upon the mortgage debt accruing after the date of acquisition or in respect of any other liability to the mortgagee.

Rights of mortgagor where mortgagee does not claim compensation

44. Where land which is subject to a mortgage is acquired under this Ordinance by compulsory process and the whole or a part of the mortgage debt is not discharged by virtue of this Ordinance, the mortgagee retains, in respect of the whole or that part of the mortgage debt, as the case may be, his rights and remedies against the mortgagor (other than rights and remedies in relation to the land acquired) and in relation to any other land which is subject to the mortgage.

Preservation of certain rights of mortgagee

PART VII—DEALINGS IN LAND VESTED IN AUSTRALIA

45. Land vested in Australia may, if the Administrator thinks fit, and upon such terms as he directs, be transferred to and vested in a corporation incorporated by a law of Australia or of the Territory.

Vesting of lands in Australian authorities

46.(1) Where land vested in Australia is no longer required by Australia, or is not required for immediate use by Australia—

Disposal of land

- (a) the land may be disposed of; or
- (b) a lease of or a licence to occupy the land may be granted, under the authority of the Administrator.

(2) The Administrator may authorize the grant of easements, or other rights, powers or privileges (other than leases or occupation licenses), over or in connexion with, land vested in Australia.

(3) Where land has been acquired either by agreement or by compulsory process under this Ordinance and, within 7 years after the date of acquisition, it is proposed to dispose of the land in pursuance of sub-section (1)(a), regard shall be had to the general principle that, in such cases, the land should, where practicable, be first offered for sale to the former owner at a reasonable price.

(4) Sub-section (3) does not apply where Australia has, since the date of acquisition, made substantial improvements to the land.

(5) A person contracting or otherwise dealing with Australia is not concerned to inquire whether the requirements of this section have been complied with, and the title of such a person to land acquired from Australia is not affected by any failure to comply with those requirements.

(6) In this section “the former owner”, in relation to land means—

- (a) where only one person had an interest in the land at the date of acquisition and that person is still alive or, in the case of a company, in existence—that person; or
- (b) in any other case—such person or persons (if any) as the Administrator, in his absolute discretion, having regard to the interest that existed in the land at the date of acquisition, considers to be fairly entitled to the benefits of sub-section (3) in relation to the land.

47.(1) The Governor-General may, by Proclamation—

- (a) set apart for, or dedicate to, a public purpose land which is vested

Power to dedicate lands

- in Australia, or in an officer or person on behalf of Australia; and
- (b) revoke or alter the setting apart or dedication for or to a public purpose of land so vested in pursuance of this section.

(2) Land set apart for or dedicated to a public purpose in pursuance of sub-section (1) may be vested in trustees upon trust to carry out the purpose for which the land is so set apart or dedicated.

(3) If the setting apart or dedication of land is revoked or altered, the grant, conveyance or transfer of the land to trustees is deemed to be revoked or altered in the like manner, as the case may be, and the trustees shall, when required by the Administrator so to do, deliver to him, or to a person specified by him, all documents of title relating to the land for cancellation or amendment accordingly.

PART VIII—MISCELLANEOUS

Administrator
may pay rates,
&c.

48. Where land is acquired by compulsory process under this Ordinance, the Administrator may pay any rates, taxes or assessments charged upon the land and due at the date of acquisition, and the amount of a payment under this section shall be taken into account in determining the compensation payable in respect of the acquisition.

Terms and
conditions under
which persons
may remain in
possession of
acquired land

49. Where a person was in possession of land acquired by compulsory process under this Ordinance immediately before the date of acquisition of the land, the Administrator may, notwithstanding section 46, enter into an agreement with that person under which that person is permitted to remain in possession of the land on such terms and conditions as are specified in the agreement.

Warrants to
obtain possession
of land

50. If a person who is in possession of land vested in Australia, otherwise than by virtue of a subsisting lease or agreement, refuses or fails, when required by the Administrator so to do, to give up possession of the land, or hinders or obstructs the Administrator or a person authorized by the Administrator in taking possession of the land, a court of summary jurisdiction may, on the application of the Administrator, grant a warrant authorizing a member of the Police Force or other person named in the warrant to enter on the land and deliver up possession of the land to Australia and for those purposes to use such force and assistance as are necessary.

Costs of
producing
documents, &c.

51. Where land is acquired under this Ordinance by compulsory process, the Administrator shall pay the reasonable costs, charges and expenses of producing such documents, and making out and furnishing such abstracts and attested copies, as the administrator requires.

Payments to be a
good discharge

52. All payments and deposits made on behalf of Australia or the Administrator by virtue of this Ordinance are good and valid discharges to Australia or the Administrator, as the case may be, and Australia or the Administrator, as the case may be, is not bound to see to the application of the money paid or deposited, or to see to the performance of any trusts.

Execution of
documents for
and on behalf of
Australia

53. All instruments, receipts and documents relating to the acquisition of land or to land vested, or which has been vested, in Australia may be executed by the Administrator for and on behalf of Australia.

54. For the purposes of acquiring, holding and disposing of land and for all purposes of this Ordinance— Incorporation of Australia

- (a) Australia is a body corporate, by the name of “Australia”; and
- (b) the Administrator is a body corporate, by the name of “The Administrator of the Northern Territory”.

55. Jurisdiction is conferred on the Supreme Court with respect to all matters which, under this Ordinance, may be dealt with by that court. Jurisdiction of courts

56.(1) Subject to this section, the costs of and incidental to proceedings in a court under this Ordinance are in the discretion of the court. Costs

(2) A court shall not order payment by Australia or the Administrator of costs of an application under section 33(5).

57.(1) The Administrator may, in relation to a matter or class of matters by instrument published in the *Gazette*, delegate all or any of his powers or functions under this Ordinance (except this power of delegation), so that the delegated powers and functions may be exercised or performed by the delegate with respect to the matter or class of matters, specified in the instrument of delegation. Delegation

(2) A delegation under this section is revocable at will by instrument published in the *Gazette* and no delegation prevents the exercise or performance of a power or function by the Administrator.

(3) The powers and functions which may be exercised or performed by virtue of a delegation under this section may continue to be exercised or performed notwithstanding the fact that the Administrator who gave the delegation has ceased to hold office by death or otherwise, but the delegation may be revoked by the Administrator holding office for the time being.

58. Notice shall be taken of the signature, to an instrument relating to land, of the Administrator or of a person to whom a power or function of the Administrator has been delegated under section 57, if the signature purports to be witnessed by an officer of the Attorney-General’s Department and the Registrar-General may register such an instrument so signed and attested without further proof of the signature of the Administrator, delegate or witness, and notwithstanding that the signature is not attested in accordance with the law of the Territory. Notice of signatures

59. (1) A claim, notice or other document required or permitted by this Ordinance to be served on or given to the Administrator shall be served or given by post at such address as is prescribed. Service of notices, &c.

(2) A notice or other document required or permitted by this Ordinance to be served on or given to a person by or under the authority of the Administrator may be served or given by delivering it to that person personally or by sending it to that person by post at the address of that person last known to the Administrator or to a delegate of the Administrator.

(3) A notice or other document served or given by post in accordance with sub-section (2) shall, where practicable, be sent by registered post.

60. (1) Subject to sub-section (2) and except as otherwise approved by the Administrator, the acquisition, including acquisition by agreement, Statutory authorities

of land required for the purposes of a corporation incorporated by a law of Australia or of the Territory (whether made before or after the commencement of this Ordinance) shall be effected under this Ordinance.

(2) This section does not apply in relation to—

- (a) a corporation that is a company or an incorporated association, society or body of trustees; or
- (b) such other corporations as are specified by the Administrator by notice in the *Gazette* to be corporations in relation to which this section does not apply.

(3) Without prejudice to the obligation of corporations in relation to which this section applies not to acquire land otherwise than in accordance with this section, this section shall not be taken to invalidate an acquisition of land otherwise than in accordance with this section.

Regulations

61. The Administrator in Council may take 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, in particular, providing for the giving of evidence by affidavit or statutory declaration in proceedings arising out of this Ordinance.

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the *Local Courts Ordinance* 1941 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 *Local Courts Ordinance* 1975. Short title
2. The *Local Courts Ordinance* 1941 as amended 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 published in the *Gazette*. Commence-
ment
4. Section 116 of the Principal Ordinance is repealed and the following section inserted in its stead— Security for costs

“116.(1) A Judge or a Stipendiary Magistrate may, on application by a defendant in any action or matter pending before the Court, order that the plaintiff give security for the costs of the action or matter to such amount and in such manner as the Judge or Stipendiary Magistrate thinks proper, and may stay all proceedings in the action until the security is given.

“(2) No order pursuant to sub-section (1) shall be made unless the Judge or Stipendiary Magistrate is satisfied—

 - (a) that the plaintiff was not at the time of commencement of the action or matter within any State or other part of Australia;
 - (b) that, before judgment has been obtained, the plaintiff has left Australia; or
 - (c) that, for some other sufficient reason, an order should be made.”.

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the *Local Government Ordinance* 1954
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 *Local Government Ordinance* 1975. Short title

2. The *Local Government Ordinance* 1954 as amended is in this Ordinance referred to as the Principal Ordinance. Principal Ordinance

3. Section 354A(6) of the Principal Ordinance is amended by omitting from sub-paragraph (ii) of paragraph (g) "4 dollars" and substituting "5 dollars". Proof of parking offences

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the *Motor Vehicles Ordinance* 1949 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 *Motor Vehicles Ordinance* 1975. Short title
2. The *Motor Vehicles Ordinance* 1949 as amended 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) Section 10A(1) of the Principal Ordinance is amended by omitting paragraph (c) and substituting the following paragraph: Provisional licence
“(c) does not hold such a licence by reason of having had such a licence held by him cancelled or of having been disqualified from holding such a licence for a period of not less than 3 months,”.
- (2) Section 10A(2) of the Principal Ordinance is amended by omitting “2 years” and substituting “1 year”.
- (3) Section 10A(4) of the Principal Ordinance is amended by omitting “or (3A)”.
- (4) Section 10A(5) of the Principal Ordinance is amended by omitting “the licence shall, by force of the conviction, be cancelled” and substituting “the Court may order the cancellation of the licence, and, where it does so, the licence is, by force of the order, cancelled”.

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the *Nursing Ordinance* 1928-1974 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 *Nursing Ordinance* 1975.

Short title

2. The *Nursing Ordinance* 1928-1974 as amended 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 published in the *Gazette*.

Commencement

4. The long title of the Principal Ordinance is amended by adding at the end thereof "and Mothercraft Nurses".

Long title

5. Section 4 of the Principal Ordinance is repealed and the following section substituted:

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

Definitions

"Board" means the Nurses Board as constituted under section 5;

"Chairman" means the Chairman of the Board;

"Director of Health" means the person for the time being holding or occupying or performing the duties of the office, created under the *Public Service Act* 1922-1975, in the Department of Health, of Director of Health for the Northern Territory;

"enrolled" means enrolled under this Ordinance and "enrolment" has a corresponding meaning;

"institution" means any hospital (whether public or private) and any maternity or lying-in-hospital or home;

"Medical Superintendent" means the person for the time being holding or occupying or performing the duties of the office, created under the *Public Service Act* 1922-1975, in the Department of Health, of Medical Superintendent of the Darwin Hospital;

"Member" means a member of the Board;

"nurse" means a person registered as one or more of the following:

(a) a general nurse;

(b) a midwife;

(c) a child welfare nurse;

(d) a mental deficiency nurse; or

(e) a psychiatric nurse;

“Nurses Register” or “Register” means the register of general nurses, midwives, child welfare nurses, mental deficiency nurses and psychiatric nurses, being the register kept under this Ordinance;

“psychotropic drug” means a drug that acts on the mind of a person;

“registered” means registered under this Ordinance and “registration” has a corresponding meaning;

“Registrar” means the person appointed under section 7 to be the Registrar;

“Roll” means the roll of nursing aides and mothercraft nurses being the roll kept under this Ordinance;

“school of nursing” means any institution approved by the Board under this Ordinance for the education of general nurses, midwives, child welfare nurses, mental deficiency nurses or psychiatric nurses, whether for the whole, or for portion only of the prescribed educational course;

“Supreme Court” means the Supreme Court of the Northern Territory;

“training school” means any institution approved by the Board under this Ordinance for the training of mothercraft nurses or nursing aides, whether for the whole or for portion only of the prescribed course of training.

“(2) In this Ordinance, unless the contrary intention appears, words importing the feminine gender shall include males.”.

6. Section 5 of the Principal Ordinance is repealed and the following section substituted:

Constitution of
Nurses Board

“5. There shall be a Nurses Board of the Northern Territory which shall consist of the following members—

(a) the Director of Health;

(b) the Medical Superintendent;

(c) the person for the time being holding or performing the duties of, or acting in, the office, in the Department of Health in the Northern Territory, of Assistant Director (Nursing); and

(d) 3 persons appointed by the Administrator in Council, namely:

(i) a Matron of a school of nursing;

(ii) a nurse educator; and

(iii) a registered nurse nominated by the Royal Australian Nursing Federation.”.

Meetings of
Board

7.(1) Section 6(1) of the Principal Ordinance is amended by omitting “Chief Medical Officer” and substituting “Director of Health”.

(2) Section 6(4) of the Principal Ordinance is amended by omitting “2” and substituting “4”.

Powers and
duties of Board

8.(1) Section 8(d) of the Principal Ordinance is amended by inserting after “training school” the words “or school of nursing”.

(2) Section 8(e) of the Principal Ordinance is amended by inserting after “training schools” the words “or schools of nursing”.

9. Section 10 of the Principal Ordinance is repealed.

Repeal

10. The heading of Part III of the Principal Ordinance is omitted and the following heading substituted:

Heading to
Part III

“PART III—REGISTRATION”

11.(1) Section 11(1) of the Principal Ordinance is amended by omitting paragraph (d) and substituting the following paragraphs:

Register of
Nurses

- “(d) Mental deficiency nurses;
- (e) Psychiatric nurses.”

(2) Section 11(3) of the Principal Ordinance is amended by omitting “mental nurse” and substituting “mental deficiency nurse or psychiatric nurse”.

12.(1) Section 12 of the Principal Ordinance is amended by omitting “course of training” (wherever occurring) and substituting “course of studies”.

Qualifications
required for
registration as a
general nurse

(2) Section 12(b) of the Principal Ordinance is amended by omitting “certificate of training” and substituting “certificate of education”.

13.(1) Section 13 of the Principal Ordinance is amended by omitting “course of training” (wherever occurring) and substituting “course of studies”;

Qualifica-
tions required for
registration as a
midwife

(2) Section 13(b) of the Principal Ordinance is amended by omitting “certificate of training” and substituting “certificate of education”.

14.(1) Section 13A of the Principal Ordinance is amended by omitting “course of training” (wherever occurring) and substituting “course of studies”.

Qualifica-
tions for
registration as a
child welfare
nurse

(2) Section 13A(b) of the Principal Ordinance is amended by omitting “certificate of training” and substituting “certificate of education”.

15.(1) Section 14 of the Principal Ordinance is amended—

- (a) by omitting “course of training” (wherever occurring) and substituting “course of studies”; and
- (b) by omitting “mental” (wherever occurring) and substituting “mental deficiency”.

Qualifications
required for
registration as a
mental
deficiency nurse

(2) Section 14(b) is amended by omitting “certificate of training” and substituting “certificate of education”.

16. After section 14 of the Principal Ordinance the following section is inserted:

“14A. Subject to section 15, a person shall be qualified to be registered as a psychiatric nurse who proves to the satisfaction of the Board—

Qualifica-
tions required for
registration as a
psychiatric nurse

- (a) that she has passed such examinations with respect to psychiatric nursing and held from time to time by examiners appointed under this Ordinance as are prescribed, and has passed through such course of studies with respect to psychiatric nursing as is prescribed;

- (b) that she is the holder of a certificate of education as a psychiatric nurse, awarded by an institution or body approved by the Board, and has passed such examinations (if any) with respect to psychiatric nursing as the Board has directed her to pass and has passed through such course of studies (if any) with respect to psychiatric nursing as the Board has directed her to pass through; or
- (c) that she has—
 - (i) in some other part of Her Majesty's dominions or in some other country, passed examinations with respect to psychiatric nursing and passed through a course of studies with respect to psychiatric nursing; and
 - (ii) in the Territory or elsewhere passed such further examinations (if any) with respect to psychiatric nursing as the Board has directed her to pass and passed through such further course of studies (if any) with respect to psychiatric nursing as the Board has directed her to pass through."

General
qualifications for
registration as a
nurse

17.(1) Section 15(1) of the Principal Ordinance is amended—

- (a) by omitting "or 14" and substituting "14 or 14A"; and
 - (b) by omitting paragraph (a).
- (2) Section 15(2) of the Principal Ordinance is amended—
- (a) by omitting "of training" and substituting "of studies";
 - (b) by omitting "training school" (wherever occurring) and substituting "school of nursing"; and
 - (c) by omitting "or mental nurse" (wherever occurring) and substituting "mental deficiency nurse or psychiatric nurse".

Heading to Part
IV

18. The heading to Part IV of the Principal Ordinance is omitted and the following heading substituted:

"PART IV—ENROLMENT"

19. Section 15A of the Principal Ordinance is repealed and the following section substituted:

- (b) that she is the holder of a certificate awarded by an institution or body approved by the Board indicating—
 - (i) her satisfactory completion of a course of training; and
 - (ii) her passing of an examination or examinations with respect to mothercraft nursing; or
- (c) that she is eligible for the grant of such a certificate and has satisfactorily completed such additional training and passed such additional examinations as the Board requires.

Roll of nursing
aides and
mothercraft
nurses

"15A.(1) The Registrar shall keep a roll of nursing aides and mothercraft nurses.

"(2) Subject to sub-section (1) and except as prescribed, the Roll shall be in such form and contain such particulars as the Board from time to time directs.

"(3) A person shall be enrolled as a nursing aide or mothercraft nurse

by the entering in the Roll of the name of that person and the required particulars.”.

20. After section 15C of the Principal Ordinance the following sections are inserted in Part IV:

“15D. Subject to section 15E a person is qualified to be enrolled as a mothercraft nurse who proves to the satisfaction of the Board—

Qualifications as to training required for a mothercraft nurse

- (a) that she has completed the prescribed course of training for mothercraft nurses and has passed the prescribed examination held by examiners appointed under this Ordinance;

“15E.(1) Subject to sub-section (2), a person who is qualified under section 15D shall not be enrolled unless the Board is satisfied that she has the following additional qualifications:

Additional qualifications for a mothercraft nurse

- (a) she is of good character;
- (b) she is of sound health, or is of such a state of health that no danger would be involved to her patients; and
- (c) she is able to express herself adequately in the English language.

“(2) Where the Board is satisfied that a person, before she commences a course of training as a mothercraft nurse at a training school—

- (a) is of good character; or
- (b) is of sound health, or is of such a state of health that no danger would be involved to any patients at the training school,

the Board may, in its discretion, exempt that person from compliance with paragraph (a) or (b) of sub-section (1) as the case may be, with respect to her application for enrolment.”.

21.(1) Section 19(a) of the Principal Ordinance is amended by omitting “or mental nurse” and substituting “, mental deficiency nurse or psychiatric nurse”.

Certificate of registration or of enrolment

(2) Section 19(b) of the Principal Ordinance is amended by adding at the end thereof “or mothercraft nurse, as the case may be”.

22.(1) Section 20(1) of the Principal Ordinance is amended by—

Provisional registration or enrolment

- (a) omitting “or 14” and by substituting “, 14 or 14A”; and
- (b) omitting “or mental nurse” and substituting “, mental deficiency nurse or psychiatric nurse”.

(2) Section 20(2) is amended by—

- (a) adding “or 15D” after “15B”; and
- (b) adding at the end thereof “or mothercraft nurse, as the case may be”.

23.(1) Section 21(1) is amended by—

Suspension or cancellation of registration or enrolment

- (a) omitting “or 15B” and substituting “, 14A(b), 15B(b) or 15D(b)”;
- (b) by omitting from paragraph (e) “mental nurses or nursing aides” and substituting “mental deficiency nurses, psychiatric nurses, nursing aides or mothercraft nurses”.

(2) Section 21(3) of the Principal Ordinance is omitted and the following sub-section substituted:—

“(3) The Director of Health may investigate any charge of malpractice, negligence or misconduct on the part of any general nurse, midwife, child welfare nurse, mental deficiency nurse, psychiatric nurse, nursing aide or mothercraft nurse and shall report the results of the investigation to the Board.”.

Correction of
Register or Roll

24. Section 23(2) of the Principal Ordinance is amended by omitting “nurse or enrolled nursing aide” and substituting “registered or enrolled person”.

Recovery of fees

25. Section 25 of the Principal Ordinance is amended by omitting “mental nurse or nursing aide” and substituting “mental deficiency nurse, psychiatric nurse, nursing aide or mothercraft nurse”.

Persons
advertising or
holding
themselves out as
registered or
enrolled

26.(1) Section 28(a) of the Principal Ordinance is amended by omitting “or mental nurse” and substituting “, mental deficiency nurse or psychiatric nurse”.

(2) Section 28 of the Principal Ordinance is amended by omitting paragraphs (e) and (f) and substituting the following paragraphs:

- “(e) a registered mental deficiency nurse, unless she is registered as a mental deficiency nurse;
- “(f) a registered psychiatric nurse, unless she is registered as a psychiatric nurse;
- “(g) an enrolled nursing aide, unless she is enrolled as a nursing aide; or
- “(h) an enrolled mothercraft nurse, unless she is enrolled as a mothercraft nurse.”.

Regulations

27.(1) Section 35 of the Principal Ordinance is amended—

- (a) by inserting after “training” (wherever occurring) “or studies”; and
- (b) by inserting after “training school” (wherever occurring) “or school of nursing”.

(2) Section 35(k) of the Principal Ordinance is amended by omitting “mental nurses and nursing aides” and substituting “mental deficiency nurses, psychiatric nurses, nursing aides and mothercraft nurses”.

(3) Section 35(n) of the Principal Ordinance is amended by omitting “registered mental nurses and enrolled nursing aides”, and substituting “registered mental deficiency nurses, registered psychiatric nurses, enrolled nursing aides and enrolled mothercraft nurses”.

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for AN ORDINANCE

To amend the *Pharmacy Ordinance* 1936 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 *Pharmacy Ordinance* 1975. Short title
2. The *Pharmacy Ordinance* 1936 as amended 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*. Commence-
ment
4. Section 21 of the Principal Ordinance is amended by omitting "Any natural-born or naturalized British subject" and substituting "A person". Persons who may
apply for
registration.
5. Section 22 of the Principal Ordinance is amended by omitting paragraph (a). Registration of
applicant
6. Section 34 of the Principal Ordinance is repealed and the following section substituted:
"34. (1) The manager of a pharmacy shall—
(a) cause his name to be displayed conspicuously in front of his pharmacy; and
(b) forthwith after he becomes the manager, advise the Board—
(i) of the location of the pharmacy and that he is the manager of that pharmacy; and
(ii) of the name of the registered pharmacist who will act as manager of the pharmacy while he is absent from the premises.
(2) Where the manager of a pharmacy is expected to be continuously absent from the pharmacy for a period of more than 3 days, not including days on which the pharmacy will not be open for business, he shall, before the commencement of the period of absence or, if this is not practicable, as soon as practicable thereafter, advise the Board—
(a) that he is expected to be so absent and of the expected period of the absence; and

Name of
pharmacist to be
known

Pharmacy

(b) of the name of the registered pharmacist who will act as manager of the pharmacy during the absence.

Penalty for an offence against this section: 100 dollars.”.

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the *Police and Police Offences Ordinance 1923* 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 *Police and Police Offences Ordinance 1975*. Short title

2. The *Police and Police Offences Ordinance 1923* as amended 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 33A of the Principal Ordinance is amended—

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

Apprehension of
drunken persons
without warrant

“(1) Where a member of the Police Force has reasonable grounds for believing that a person is intoxicated with alcohol or a drug and that that person is—

(a) in a public place, or trespassing on private property; and

(b) because of his intoxicated condition, likely to—

(i) commit an offence;

(ii) use physical force against another person;

(iii) cause damage to the property of another person;

(iv) intimidate, alarm or cause substantial annoyance to another person;

(v) unreasonably disrupt the privacy of another person;

(vi) cause bodily harm to himself or expose himself to bodily harm;

(vii) expose himself to having an offence committed upon or against him; or

(viii) be unable to adequately care for himself and is not likely to be adequately cared for by any other person,

the member may, without warrant, apprehend and take that person into custody.

“(1A) For the purposes of carrying out his duties under sub-section (1), a member of the Police Force may, without warrant, enter upon private property.

“(1B) A member of the Police Force who takes a person into custody under sub-section (1) may—

- (a) search or cause to be searched that person; and
- (b) remove or cause to be removed from that person for safe keeping, until the person is released from custody, any money or valuables that are found on or about that person and any item on or about that person that is likely to cause harm to that person or any other person or that could be used by that person or any other person to cause harm to himself or another.

“(1C) For the purposes of sub-section (1B), the person of a woman shall not be searched except by a woman.

“(1D) All money or valuables taken from a person under sub-section (1B) shall be recorded in a register kept for that purpose and shall be returned to that person on receipt of a signature or other mark made by that person in the register.”;

- (b) by omitting from sub-section (2) “sub-sections (4) and (5)” and substituting “sub-sections (3A), (3B), (4) and (5)”;
- (c) by omitting from sub-section (3) “sub-section (4)”, and substituting “sub-sections (3A) or (4)”;
- (d) by inserting after sub-section (3) the following sub-sections:

“(3A) A person who has been taken into custody under this section and who is in custody after midnight and before half past 7 o’clock in the morning on any day, may be held in custody until half past 7 o’clock in the morning on that day, notwithstanding that the person is no longer intoxicated.

“(3B) The member of the Police Force in whose custody a person is held under this section may at any time, without any further or other authority than this sub-section, release that person or cause him to be released without his entering into a recognizance or bail, into the care of a person who the member reasonably believes is a person capable of taking adequate care of that person.”; and

- (e) by omitting from sub-section (5) “sub-section (3)” and substituting “sub-sections (3), (3A) or (3B)”.
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THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the *Prevention of Cruelty to Animals
Ordinance 1935* 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 *Prevention of Cruelty to Animals Ordinance 1975*. Short title

2. The *Prevention of Cruelty to Animals Ordinance 1935* as amended is in this Ordinance referred to as the Principal Ordinance. Principal Ordinance

3. Section 3 of the Principal Ordinance is amended— Definitions

(a) by omitting from paragraph (a) in the definition of “ill-treat” the word “cruelly”;

(b) by inserting after the definition of “information” the following definition:

“ ‘inspector’ means a person appointed under section 15 and includes a member of the Police Force of the Territory; ”;

(c) by inserting after the definition of “Justice” the following definition:

“ ‘medical practitioner’ means a person registered as a medical practitioner under the *Medical Practitioners Ordinance*; ”;

(d) by omitting the definition of “member of the Police Force”; and

(e) by adding at the end the following definition:

“ ‘veterinary surgeon’ means a person registered as a veterinary surgeon under the *Veterinary Surgeons Ordinance*. ”.

4.(1) Section 4(1) of the Principal Ordinance is amended— Ill-treating animals.

(a) by omitting from paragraph (b) “wantonly or negligently”;

(b) by omitting from paragraph (h) “knowingly or wantonly rides, drives, uses, conveys, carries or pack” and substituting “rides, drives, uses, conveys, carries or packs”;

(c) by omitting paragraph (j) and substituting the following:

“(j) being the owner or person in charge of a dog, including a bitch, that is tied up or kept in close confinement, fails to exercise or cause that dog to be exercised by releasing or

walking it for a period of not less than one hour in any period of 12 hours;”;

(d) by omitting from paragraph (k) “or”;

(e) by inserting after paragraph (l) the following paragraphs:

“(m) Confines an animal, other than poultry, in a cage or receptacle of such dimension as to deny it reasonable opportunity for exercise;

“(n) crops or causes to be cropped the ears of a dog, including a bitch; or

“(o) being the owner or person in charge of an animal of a species that is ordinarily kept in a state of confinement or for domestic purposes, abandons that animal.”; and

(f) by omitting “Penalty: 200 dollars or imprisonment for 6 months” and substituting the following:

“Penalty: For a first offence—250 dollars or imprisonment for 3 months;

For a second offence—500 dollars or imprisonment for 6 months; and

For a third or subsequent offence—1000 dollars or imprisonment for 12 months.”.

(2) Section 4 of the Principal Ordinance is amended by inserting after sub-section (1) the following sub-section:

“(1A) A person shall not be guilty of an offence under sub-section (1) if, in the opinion of the Court, he had a reasonable excuse for doing the act or failing to take the action that resulted in him being charged.”.

Power to
prohibit use of
animal unfit for
work

5. Section 7(3) of the Principal Ordinance is amended by omitting “10 dollars” and substituting “100 dollars”.

Repeal of section
13

6. Section 13 of the Principal Ordinance is repealed.

Powers of Police

7. After section 15 of the Principal Ordinance the following section is inserted:

“15A. A member of the Police Force of the Territory has all the powers of an inspector.”.

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

Killing of
animals

“16.(1) A veterinary surgeon, medical practitioner or inspector who kills an animal that he considers, on reasonable grounds, is—

(a) behaving in such a manner and in circumstances that is likely to cause death or bodily injury to a person;

(b) suffering from a disease and in circumstances that is likely to be a threat to the health of a person; or

(c) likely to suffer unnecessary pain or distress by reason of—

(i) being abandoned;

(ii) physical injury; or

(iii) disease,

shall not be subject to any civil or criminal proceedings in respect of the killing of that animal.”.

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

“17.(1) Subject to this section, where an inspector is satisfied that there are reasonable grounds for suspecting that an offence against this Ordinance has been, is being or is about to be committed, he may, without warrant and with such assistance as he thinks necessary—

- (a) enter, with such force as is reasonably necessary, at any time, any premises (not being premises that are principally residential premises), vehicle, vessel, aircraft or place and, for that purpose stop and detain any vehicle, vessel or aircraft in or on which he believes, on reasonable grounds, there is something that is evidence of, or otherwise related to, that offence;
- (b) search the premises, vehicle, vessel, aircraft or place;
- (c) break open and search any chest, trunk, box, cage, package or other receptacle, whether a fixture or not, in or on the premises, vehicle, vessel, aircraft or place; and
- (d) take such action as is reasonably necessary to prevent the commission of an offence against this Ordinance.

“(2) Before commencing any search under sub-section (1), if there is any person present who is or appears to be in charge of the premises, vehicle, vessel, aircraft or place, the inspector shall produce to that person a certificate of his appointment as an inspector or, if he is a member of the Police Force, his identification as a member.

“(3) Where an inspector has exercised a power under sub-section (1), he shall, as soon as is reasonably practicable, forward a report in writing to the Administrator of all the circumstances relating to the exercise of the power, including—

- (a) the date and time when, and place where, the power was exercised;
- (b) details of the grounds that he had for suspecting that an offence against this Ordinance had been, was being or was about to be committed;
- (c) a description of the action taken;
- (d) details of the grounds for the belief that he was required to have in the exercise of the power;
- (e) in the case of a search of a vehicle, vessel or aircraft—a description of the vehicle, vessel or aircraft, including, if it was registered at the time under a law of the Territory, particulars of the registration and the name of the person in whose name it was registered; and
- (f) if anything was broken open—particulars of any damage that was occasioned by the breaking open.

“(4) Evidence obtained by an inspector in the exercise by him of a power under sub-section (1) is not admissible in a prosecution under this Ordinance unless the required report referred to in sub-section (3) has been duly forwarded.

Person to stop
vehicle or vessel
when called
upon to do so

“17A. A person in control of a vehicle or vessel shall cause that vehicle or vessel to stop when called upon to do so by an inspector acting in pursuance of his power under section 17.

Penalty: 500 dollars or imprisonment for 3 months.”.

Exemptions

10. Section 21(1) of the Principal Ordinance is amended—

- (a) by omitting from paragraph (d) “or”; and
- (b) by adding at the end the following paragraphs:

“(f) in the confining of an animal while it is being conveyed from one place to another;

(g) in the confining of an animal while it is undergoing or is in preparation for undergoing veterinary examination or treatment; or

(h) in the confining of an animal for the purpose of dehorning, branding, shearing, sale or slaughter.”.

11. Section 22 of the Principal Ordinance is repealed and the following sections substituted:

Power of Court
to deprive
convicted person
of ownership of
animal

“22. Where the owner of an animal is convicted of an offence against this Ordinance in respect of that animal, the Court may, in addition to any other penalty, confiscate the animal and make such order as to its disposal as the Court thinks fit.

“22A.(1) Where a person is convicted of an offence against this Ordinance in respect of an animal, the Court may, in addition to any other penalty, by order, prohibit that person from having the custody of an animal of such kind and for such period as specified in the order.

“(2) The Court shall not make an order under sub-section (1) unless—

- (a) there is evidence produced to satisfy the Court that an animal in the custody of that person is likely to be ill-treated; and
- (b) it is stated in the complaint upon which the conviction is made that it is the intention of the complainant, upon the conviction, to request such an order.

“(3) A person shall not have custody of an animal in contravention of an order made under this section.

Penalty: 500 dollars or imprisonment for 6 months or both.”.

12. Section 25 of the Principal Ordinance is repealed and the following sections substituted:

Inspector may
direct person to
mitigate suffering
of animal

“24.(1) Where an inspector believes, upon reasonable grounds, that undue suffering is being caused to an animal by overcrowding, or the lack of water, food or shelter, or insanitary conditions, the inspector may—

- (a) require the owner of or person apparently in charge of that animal to take such reasonable steps as the inspector directs to mitigate the suffering of the animal; or
- (b) take such steps as he considers necessary to mitigate the suffering of the animal.

“(2) Where an inspector acts under sub-section (1) (b) he may expend money up to but not exceeding, 50 dollars in carrying out his duties under this section, and the owner of the animal shall be liable to reimburse that

inspector for that expenditure and the inspector may recover the amount as a debt.

“(3) A person shall not, without reasonable excuse, fail to comply with a requirement of an inspector made under this section.

Penalty: 200 dollars.

“25.(1) A person may make an application to the Administrator for a permit to conduct a private zoo. Private zoos

“(2) An application made under sub-section (1) shall specify—

- (a) the location and plan of the place where it is proposed to conduct the zoo;
- (b) the types and numbers of animals proposed to be kept;
- (c) the facilities proposed to be provided;
- (d) the staff proposed to be employed; and
- (e) such other information as the Administrator may require.

“(3) On receipt of the application and the prescribed fee, the Administrator may issue a permit to the applicant if he is satisfied that the animals proposed to be kept by the applicant will be adequately cared for and that the applicant is a fit and proper person to have the management and control of a private zoo.

“(4) A permit issued under sub-section (3) is subject to the conditions specified in it and these may be varied from time to time by the Administrator by notice in writing served personally or by post upon the holder of the permit.

“(5) A person shall not conduct a private zoo except in accordance with the conditions of a permit issued under this section.

Penalty: 500 dollars or imprisonment for 6 months or both.

“(6) For the purposes of this section ‘private zoo’ means a place to which the public are admitted, whether with or without payment for admission, that is used for the exhibition of a collection of animals for public education, entertainment or amusement but does not include—

- (a) the fauna enclosure at the Old Telegraph Station, Alice Springs;
- (b) a showground or place during the conduct of a show or exhibition under the auspices of an agricultural show society;
- (c) a place in which domestic animals only are commonly or usually exhibited for sale;
- (d) a boarding kennel within the meaning of section 26;
- (e) a stable within the meaning of section 27; and
- (f) a place declared by the Administrator in Council by notice published in the *Gazette*, whether by reference to the place or to the purpose for which the place may be used, to be exempted from the provisions of this section.

“26(1) A person may make application to the Administrator in Council for a permit to conduct a boarding kennel. Boarding kennels

“(2) An application made under sub-section (1) shall specify—

- (a) the location and plan of the place where it is proposed to conduct the kennels;

- (b) the types and number of animals proposed to be kept;
- (c) the facilities proposed to be provided;
- (d) the staff proposed to be employed; and
- (e) such other information as the Administrator may require.

“(3) On receipt of the application and the prescribed fee, the Administrator may issue a permit to the applicant if he is satisfied that the animals proposed to be kept by the applicant will be adequately cared for and that the applicant is a fit and proper person to have the management and control of a boarding kennel.

“(4) A permit issued under sub-section (2) is subject to the conditions specified in the permit and may be varied from time to time by the Administrator by notice in writing served personally or by post upon the holder of the permit.

“(5) A person shall not conduct a boarding kennel except in accordance with the conditions of a permit issued under this section.

Penalty: 500 dollars or imprisonment for 6 months or both.

“(6) For the purposes of this section ‘boarding kennel’ means a place where an animal is boarded for a fee but does not include—

- (a) a private zoo within the meaning of section 25;
- (b) a stable within the meaning of section 27; or
- (c) a place used for the agistment only of horses or cattle.

Stables

“27(1) A person may make application to the Administrator for a permit to conduct a stable.

“(2) An application made under sub-section (1) shall specify—

- (a) the location and plan of the place where it is proposed to conduct the stable;
- (b) the number of horses proposed to be kept;
- (c) the facilities proposed to be provided;
- (d) the staff proposed to be employed; and
- (e) such other information as the Administrator may require.

“(3) On receipt of the application and the prescribed fee, the Administrator may issue a permit to the applicant if he is satisfied that the horses proposed to be kept by the applicant will be adequately cared for and that the applicant is a fit and proper person to have the management and control of a stable.

“(4) A permit issued under sub-section (3) is subject to the conditions specified in it and these may be varied from time to time by the Administrator by notice in writing served personally or by post upon the holder of the permit.

“(5) A person shall not conduct a stable except in accordance with the conditions of a permit issued under this section.

Penalty: 500 dollars or imprisonment for 6 months or both.

“(6) For the purposes of this section ‘stable’ means a place where 3 or more horses are habitually kept, but does not include—

- (a) a place where horses are kept principally for the purpose of working cattle;

- (b) a showground or other place during the conduct of a show, exhibition or gymkhana under the auspices of an agricultural show or equestrian society;
- (c) a place where horses are commonly or usually exhibited for sale;
- (d) a racecourse or other place during the conduct of, or preparation for a race meeting or trotting meeting under the auspices of a horse racing or trotting club; and
- (e) a place declared by the Administrator in Council by notice published in the *Gazette*, whether by reference to the place or to the purpose for which the place may be used, to be exempt from the provisions of this section.

“28. An inspector may, at any reasonable time, enter and inspect any private zoo, boarding kennel or stable within the meaning of sections 24, 25 and 26 respectively.

Inspector may enter zoos, boarding kennels and stables

“29. In a prosecution for an offence against this Ordinance the production of a certificate purporting to be signed by the Administrator that a person was or was not at a particular time, or during a particular period of time specified in the certificate, the holder of a permit under section 24, 25 or 26 in respect of a particular place, is *prima facie* evidence of those facts.

Certificate of Administrator *prima facie* evidence of permit

“30. The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters that this Ordinance requires or permits to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance and, in particular—

Regulations

- (a) the fees for the issue of permits;
- (b) the form of permits;
- (c) the quantity and standard of food and drink to be supplied to animals kept in confinement and the intervals at which it is to be supplied;
- (d) the dimensions of cages and receptacles for the confining of animals; and
- (e) the imposing of penalties not exceeding 250 dollars for a breach of the regulations.

12. The Principal Ordinance is amended as provided in the schedule.

Amendment of certain sections

SCHEDULE

Section 12 Schedule

Section

Amendments

- 7(1) Omit “any member of the Police Force”, substitute “an inspector”.
- 7(2) Omit “any member of the Police Force”, substitute “an inspector”.
- 7(4) Omit “member of the Police Force” (wherever occurring), substitute “inspector”.
- 11(1) Omit “Any member of the Police Force or any inspector appointed by the Administrator under section 15”, substitute “An inspector”.
- 11(2) Omit “a member of the Police Force or”, substitute “an”.
- 12(1) Omit “member of the Police Force” (wherever occurring), substitute “inspector”.
- 14(1) Omit “a member of the Police Force”, substitute “an inspector”.
- 16(2) 1. Omit “a member of the Police Force”, substitute “an inspector”.
2. Omit “member of the Police Force” (wherever occurring), substitute “inspector”.
- 17 Omit “a member of the Police Force”, substitute “an inspector”.
- 18 Omit “member of the Police Force”, substitute “an inspector”.

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FIRST SCHEDULE

SECOND SCHEDULE

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for AN ORDINANCE

To provide for the registration of unit titles and for
other matters

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

1. This Ordinance may be cited as the *Real Property (Unit Titles) Ordinance* 1975. 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.(1) In this Ordinance "the Principal Ordinance" means the *Real Property Act and Ordinance*. Interpretation

(2) Where an expression used in this Ordinance is defined in the *Unit Titles Ordinance*, that expression as so used has the same meaning as in that Ordinance.

(3) A reference in this Ordinance to a form by number shall be read as a reference to the form so numbered in the First Schedule.

4.(1) This Ordinance is incorporated and shall be read as one with the Principal Ordinance. Incorporation with the Real Property Act and Ordinance

(2) A units plan and every other document or instrument lodged with the Registrar under this Ordinance shall, for the purposes of the Principal Ordinance, be deemed to be an instrument affecting land.

(3) Sections 267, and 273 of the Principal Ordinance do not apply to or in relation to a units plan or any copy of a Court order lodged with the Registrar under this Ordinance.

5. For the purposes of the Principal Ordinance and of this Ordinance—
- (a) a units plan shall be deemed to be registered when the Registrar has endorsed on it the date and time of registration and the number allotted to it; and
 - (b) every other document or instrument relating to the units plan lodged with the Registrar under this Ordinance shall be deemed to be registered when a memorial relating to the document or instrument is endorsed on or annexed to the units plan.
- When units plan and other instruments deemed to be registered

PART II—REGISTRATION OF UNITS PLAN

Formal require-
ments

6. A units plan shall be in accordance with Forms 1, 2, 3, 4 and 5, or such of those forms as are applicable in the circumstances of the case, and with the requirements set out in the Second Schedule.

Registra-
tion of units plan

7.(1) The Registrar shall, on the lodgment with him within the period referred to in section 21 of the *Unit Titles Ordinance* of—

- (a) an application in accordance with Form 6;
- (b) 3 copies of the units plan complying with section 6 and endorsed by the Administrator under section 20 of that Ordinance;
- (c) the duplicate lease of, or the duplicate certificate of title for, the relevant parcel;
- (d) the written consent, in accordance with Form 7, to the registration of the units plan of every person having a registered estate or interest in the parcel; and
- (e) the duplicate copy of every instrument evidencing or creating such an estate or interest,

register the units plan.

(2) On the registration of the units plan, the Registrar shall deliver one copy to the applicant and one copy to the Municipal Council for the municipality in which the parcel is situated, or if the parcel is not situated in a municipality, the Registrar shall deliver one copy to the Administrator.

Effect of
registration of
units plan on
interests in parcel

8.(1) If, immediately before the registration of a units plan, a person was the registered proprietor of a mortgage of the parcel or the lease of the parcel, he shall be deemed to be, on the registration of the units plan, the registered proprietor of a mortgage of each unit, as if—

- (a) on the date on which the memorandum creating the first mentioned mortgage was executed, the mortgagor had been the proprietor of all the units and that memorandum had been executed by him accordingly; and
- (b) the first-mentioned mortgage had been a mortgage of all the units and not of the parcel.

(2) If, immediately before the registration of a units plan, a person was the registered proprietor of an easement over portion of the parcel, he shall be deemed to be, on the registration of the units plan, the proprietor of an easement over so much of the land comprised in the common property and each unit as was affected by the first-mentioned easement, as if—

- (a) on the date on which the memorandum creating the first-mentioned easement was executed, the proprietor or the lessee of the parcel on that date had been the proprietor or the lessee of the common property and the unit or units, as the case may be, and that memorandum had been executed by him accordingly; and
- (b) the first-mentioned easement had been an easement over the common property or the unit or units, as the case may be, and not over that portion of the parcel.

(3) On and after the registration of a units plan, the memorandum of mortgage referred to in sub-section (1) and the memorandum of easement referred to in sub-section (2) and any instrument or other document relating to the parcel or the lease of the parcel or to that mortgage or easement

shall be deemed to be modified in such manner as is necessary to give effect to sub-section (1) and (2).

9. Immediately after the registration of a units plan, the Registrar shall—

Duties of Registrar after registration of units plan

- (a) cancel the lease of or certificate of title for, the parcel and the duplicate of that lease or certificate;
- (b) issue, in accordance with Form 8, a certificate of title for each unit to the person who, by force of section 23 of the *Unit Titles Ordinance*, is the proprietor of the unit;
- (c) issue to the relevant corporation a certificate of title for the common property in accordance with Form 9;
- (d) enter on each certificate of title so issued a memorial of any mortgage or easement to which, by force of section 8, the unit is subject and, if it is subject to 2 or more mortgages or easements, enter the memorials in such manner as to preserve their priority; and
- (e) enter on the registered instrument evidencing or creating such a mortgage or easement and on its duplicate copy a memorial that it has effect in accordance with section 8.

PART III—CANCELLATION AND ALTERATION OF UNITS PLAN

10. On the lodgment with the Registrar of an office copy of a final order made by the Court under section 95 of the *Unit Titles Ordinance* for the cancellation of a units plan, the Registrar shall register the order.

Registration of order for cancellation of units plan

11.(1) If, immediately before the registration of an order for the cancellation of a units plan, a person was the registered proprietor of a mortgage of a unit, that person shall be deemed to be, on the registration of the order, the registered proprietor of a mortgage of the share in the estate, or a mortgage of the whole estate, as the case may be (which share or estate is in this sub-section called “the interest”) vested by section 96(1) (d) of the *Unit Titles Ordinance* in the person who was the proprietor of the unit as if—

Effect of cancellation of units plan on interests

- (a) on the date on which the memorandum creating the first-mentioned mortgage was executed, the mortgagor had been the registered proprietor of the interest so vested and that memorandum had been executed by him accordingly; and
- (b) the first-mentioned mortgage had been a mortgage of the interest so vested and not of the unit.

(2) If, immediately before the registration of an order for the cancellation of a units plan, a person was the registered proprietor of an easement over portion of the common property or of a unit or units, he shall be deemed to be, on the registration of the order, the registered proprietor of an easement over so much of the land comprised in the units plan as was affected by the first-mentioned easement, as if—

- (a) on the date on which the memorandum creating the first-mentioned easement was executed the proprietor of the common property and the proprietor or proprietors of that unit or units had been the registered proprietors or proprietor of the estate referred to in section 96(1)(d) of the *Unit Titles Ordinance*, and that memorandum had been executed by them or him accordingly; and

- (b) the first-mentioned easement had been an easement over that land and not over that portion of the common property or of the unit or units.

(3) On and after the registration of the order for the cancellation of the units plan, the memorandum of mortgage referred to in sub-section (1) and the memorandum of easement referred to in sub-section (2) and any instrument or other document relating to the relevant unit or units or of the common property or to that mortgage or easement shall be deemed to be modified in such manner as is necessary to give effect to sub-sections (1) and (2).

Duties of
Registrar upon
registration of
order

12. (1) Immediately after the registration of an order for the cancellation of a units plan, the Registrar shall—

- (a) cancel the units plan;
- (b) cancel the certificate of title for each unit and for the common property;
- (c) subject to sub-section (2), issue to the person in whom a share in the estate, or the whole estate, as the case may be, is vested by section 96(1)(d) of the *Unit Titles Ordinance* a certificate of title for that share or estate; and
- (d) enter on each certificate of title so issued a memorial of any mortgage or easement to which, by force of section 11, the land is subject and, if it is subject to 2 or more mortgages or easements, enter the memorials in such manner as to preserve their priority; and
- (e) enter on the registered instrument evidencing or creating such a mortgage or easement and on its duplicate copy a memorial that it has effect in accordance with section 11.

(2) The Registrar may, in his discretion, refuse to issue a certificate of title under sub-section (1)(c) to the person who was the proprietor of a unit until the duplicate copy of the certificate of title for that unit has been lodged with the Registrar.

(3) Sub-section (2) does not prevent the issue of a certificate of title in a case where the Registrar has dispensed with, or has been ordered by the Court to dispense with, the lodgment of the document referred to in that sub-section.

(4) The Registrar shall cancel a certificate of title lodged with him under sub-section (2).

Registration of
order for
alteration of
units plan

13. On the lodgment with the Registrar of an office copy of an order made by the Court under section 99 of the *Unit Titles Ordinance* for the alteration of a units plan, together with a copy of the schedule of unit entitlement altered in accordance with the order, the Registrar shall register those documents.

Duties of
Registrar on
registration of
order for
alteration of
units plan

14. Immediately after the registration of an order for the alteration of a units plan, the Registrar shall—

- (a) cancel the certificate of title and the duplicate certificate of title for the unit the title of which has been determined; and
- (b) enter on the units plan such memorials as are necessary to give effect to the order.

15. Immediately after the registration of an order for the cancellation or alteration of a units plan, the Registrar shall give written notice of the registration of the order to the Municipal Council for the municipality in which the parcel is situated, or if the parcel is not situated in a municipality, the Registrar shall deliver one copy to the Administrator.

Registrar to give notice of cancellation or alteration of units plan

PART IV—MISCELLANEOUS

16.(1) Where the address shown on a units plan for service of documents is changed, the corporation shall forthwith give notice to the Registrar in accordance with Form 10.

Change of address for service of documents

Penalty: 50 dollars.

(2) On receipt of a notice under sub-section (1) the Registrar shall endorse on the units plan a memorial of the change of address.

17. On the lodgment with the Registrar of a copy of a special resolution, certified under the seal of the corporation as a true copy of the resolution, altering the articles of the corporation, the Registrar shall register the resolution.

Registration of alteration of articles

18. On the lodgment with the Registrar of an office copy of an order made by the Court under Part VII of the *Unit Titles Ordinance* appointing, removing or replacing an administrator of a corporation, the Registrar shall register the order.

Registrar to register appointment, &c., of administrator

19.(1) Where a copy of an application made to the Court under section 95 or section 98 of the *Unit Titles Ordinance* is served on the Registrar, the Registrar shall register the copy of the application and shall enter on the units plan a memorial that the application has been made.

No dealings while application for cancellation or alteration of units plan is pending

(2) On the service on the Registrar of an office copy of an order for the cancellation of a units plan, of an order for the alteration of a units plan or of an order dismissing an application for such an order, the Registrar shall enter on the units plan a further memorial stating the effect of the order.

(3) After a memorial is entered on a units plan under section (1), and until a further memorial is entered on the units plan under sub-section (2), the Registrar shall not, except in accordance with an order of the Court, register any instrument—

- (a) in the case of an application for an order for the cancellation of the units plan—affecting a unit; or
- (b) in the case of an application for an order for the alteration of the units plan providing for the elimination of a unit—affecting that unit.

20.(1) At any time after the lodgment with the Registrar of an application for the registration of a units plan and before the units plan is registered, the applicant may apply in writing to the Registrar for the withdrawal of the application for registration.

Withdrawal of units plan

(2) The Registrar shall, on the receipt of an application under sub-section (1), endorse the application for the registration of the units plan as being withdrawn and deliver to the applicant the documents lodged under section 7.

Provisions
applicable in
relation to trusts

21.(1) Where, immediately before the registration of a units plan, the proprietor or the lessee of the parcel, as the case may be, held the parcel or the lease as trustee, that person shall, upon the registration of the units plan, hold the units defined in the units plan in trust for the persons for whom, and the purposes for which, the parcel or the lease of the parcel was so held.

(2) Where, immediately before the registration of an order for the cancellation of a units plan, the proprietor of a unit held the unit as trustee, that person shall, upon the registration of the order, hold the share in the estate, or the whole estate, as the case may be, of which he becomes possessed under section 96 of the *Unit Titles Ordinance* in trust for the persons for whom, and the purposes for which, the unit was so held.

Delivery to
registrar of
duplicate
certificates of
title

22.(1) The Registrar may, by notice in writing, require a person having in his possession, custody or control the duplicate certificate of title for a unit the title of which has been determined to deliver it, within a time specified in the notice, to the Registrar for cancellation.

(2) A person who fails to comply with a requirement made under the last preceding sub-section is guilty of an offence and is punishable, on conviction, by a fine not exceeding 200 dollars.

Unit Titles

7

THE SCHEDULES

First Schedule

Section 6

FORM 1

Real Property (Unit Titles) Ordinance 1975

UNITS PLAN No.

Sheet No. 1 of Sheets

Lot Register Book Volume	Folio	Town of , Deposited Plan No.
-----------------------------	-------	---------------------------------

Address of the Corporation for service of documents

I, _____ of _____ a surveyor registered under the *Licensed Surveyor's Ordinance* hereby certify that the diagram on this sheet shows the boundaries of the abovementioned parcel of land, (*and, if the parcel is to be subdivided into Class B units as defined in the Unit Titles Ordinance*, the boundaries of each of those units) and the boundaries, at ground level, or projected to ground level, of the extremities of each building on the parcel and that each building is wholly within the parcel.

Approved under the *Unit Titles Ordinance* as the Units Plan for the sub-division of the abovementioned parcel of land.

Dated this _____ day of _____, 19 _____

Administrator of the Northern Territory of Australia

Registered by me on the _____ day of _____, 19 _____, at _____ minutes past _____ o'clock in the _____ noon, the number allotted to this Units Plan being _____

Dated this _____ day of _____, 19 _____

Licensed Surveyor

The terms of the leases of the units and the lease of the common property expire on the _____ day of _____

Registrar of Titles

SITE PLAN

Scale: _____

Applicant

Unit Titles

Section 6

FORM 2

Real Property (Unit Titles) Ordinance 1975

Sheet No. of Sheets

Lot

Town of

UNITS PLAN No.

SCHEDULE OF UNIT ENTITLEMENT

[illegible]

Aggregate

Applicant

The Certificate of Title issued for each of the units into which the parcel of land has been sub-divided is as shown in column 2 above. The Certificate of Title for the common property is Register Book Volume

Folio

Column 1 above is the schedule of unit entitlement approved for the sub-division.
Dated this _____ day of _____

Registrar of Titles

Administrator of
the Northern
Territory of
Australia

Section 6

FORM 3

Real Property (Unit Titles) Ordinance 1975

UNITS PLAN No. .

Sheet No.

of

Sheets

Lot

Town of

(Number of Floor) FLOOR PLAN

Scale:

Applicant

Administrator of the Northern Territory of Australia

Section 7

FORM 4

Real Property (Unit Titles) Ordinance 1975

APPLICATION FOR REGISTRATION OF UNITS PLAN

I, _____ being the registered proprietor of the
 land comprised in Lot _____, Town of _____, Register Book
 Volume _____ Folio _____, hereby apply for the registration of the
 annexed Units Plan.

The Units Plan consists of _____ sheets, numbered 1 to _____,
 inclusive.

Dated this _____ day of _____, 19 _____.

Witness _____ Applicant

I hereby certify that this application and the annexed Units Plan are correct for the purposes
 of the *Real Property Act and Ordinance* and of the *Real Property (Unit Titles) Ordinance*.

To the Registrar of Titles

(Signature)

Unit Titles

FORM 5

Section 7

Real Property (Unit Titles) Ordinance 1975

CONSENT TO REGISTRATION OF UNITS PLAN

I, _____ being the registered proprietor of
 (description of estate or interest) the land comprised in Lot _____,
 Town of _____, Register Book Volume _____ Folio _____,
 hereby consent to the registration of the Units Plan for the sub-division of that land.
 Dated this _____ day of _____, 19 _____.

Witness

Registered Proprietor

I hereby certify that this consent to registration is correct for the purposes of the *Real Property Act and Ordinance* and of the *Real Property (Unit Titles) Ordinance*.

(Signature)

FORM 6

Section 9

THE NORTHERN TERRITORY OF AUSTRALIA

Real Property (Unit Titles) Ordinance 1975

CERTIFICATE OF TITLE FOR UNIT No. _____ SHOWN ON UNITS PLAN No. _____

_____ is registered as the proprietor of a freehold
 estate in Unit No. _____ shown on Units Plan No. _____, registered by me on the
 day of _____, 19 _____, subject, nevertheless, to the rights
 created by section _____ of the *Unit Titles Ordinance* and the rights, mortgages,
 encumbrances, liens and interests notified by memorial underwritten or endorsed on this Certificate of Title.

Dated this _____ day of _____, 19 _____.

Witness

Registrar of Titles

FORM 7

Section 9

THE NORTHERN TERRITORY OF AUSTRALIA

*Real Property (Unit Titles) Ordinance 1975*CERTIFICATE OF TITLE FOR COMMON PROPERTY COMPRISED IN UNITS
PLAN No. _____

_____ is registered as the proprietor of an estate
 of leasehold in the Common Property comprised in Units Plan No. _____, registered by me
 on the day of _____, 19 _____, subject, nevertheless, to the rights created by
 section 21 of the *Unit Titles Ordinance* and to the easements notified by memorial underwritten
 or endorsed on this Certificate of Title.

Dated this _____ day of _____, 19 _____.

Registrar of Titles

FORM 8

Section 21

Real Property (Unit Titles) Ordinance 1975

UNITS PLAN No. _____

NOTICE OF CHANGE OF ADDRESS FOR SERVICE OF DOCUMENTS

_____ hereby gives notice that the address for
 service on it of documents has been changed from _____ to _____

Dated this _____ day of _____, 19 _____.

To the Registrar of Titles

SECOND SCHEDULE

Section 6

REQUIREMENTS IN RELATION TO UNITS PLAN

PART I—GENERAL

1. One copy of each sheet containing a diagram of diagrams shall be of good quality tracing linen and other copies and other sheets shall be of good quality paper.
2. All sheets shall be of the size known as International B4.
3. All sheets shall be free from discolouration and blemishes.
4. The contents of a sheet shall be written or drawn on one side only of the sheet.
5. Sheets shall not be creased or folded.
6. The contents of a sheet shall be so placed as to leave a margin of at least 4 centimetres on the left-hand side of the sheet and a margin of at least one centimetre on each of the other 3 sides of the sheet.
7. No printing, writing or diagram (other than the reference to the sheet number) shall extend into a margin on the sheet.
8. An alteration shall be made by striking through the matter to be altered and not by rubbing, scraping or cutting the surface of the linen or paper.
9. All writing shall be legible and in ink.
10. All sheets shall be numbered consecutively commencing with the figure 1 and on each sheet there shall be stated the total number of sheets comprising the Units Plan.

PART II—REQUIREMENTS IN RELATION TO DIAGRAMS

1. Each diagram shall be drawn in water-proof Indian ink.
2. Each diagram shall be drawn to a stated scale, being a scale sufficient to enable all details and notations to be clearly shown.
3. Each diagram shall indicate, by an arrow or other appropriate means, the direction of North.
4. All linear measurements shall be shown in metres and fractions of a metre.
5. If necessary, a diagram may be commenced on one sheet and continued on a subsequent sheet and, in such a case, the diagrams shall be so drawn that the complementary parts or lines on the several sheets show, when placed side by side, the complete diagram.

PART III—NUMBERING OF UNITS AND UNIT SUBSIDIARIES

1. Units shall be numbered consecutively, commencing with the figure 1.
 2. A unit subsidiary shall be shown as having the same number as the unit to which it is appurtenant prefixed with the letter S.
 3. If there are two or more unit subsidiaries appurtenant to a unit, each of those unit subsidiaries shall be distinguished by the addition of a consecutive number in brackets commencing with the figure (1), thus S1(1), S1(2) and so on.
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TABLE OF PROVISIONS

Clause

1. Short title
2. Commencement
3. Interpretation
4. Delegation
5. Investigation areas
6. Power to examine lands in investigation area
7. Compensation for damage to land
8. Development areas
9. Registrar-General to enter certain particulars relating to development areas
10. Development of land
11. Immediate acquisition of land in a development area
12. Value factor
13. Determination of amount of compensation
14. Evidence
15. Regulations

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for AN ORDINANCE

To Stabilize the Price of Land in the Northern Territory required, or likely to be required, in connexion with Urban Development

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

1. This Ordinance may be cited as the *Stabilization of Land Prices Ordinance* 1975. Short title

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

3.(1) In this Ordinance, unless the contrary intention appears—

“Administrator in Council” means the Administrator, having received, and acting in accordance with, the advice of the Administrator’s Council; Interpreta-
tion

“area” means a part of the Northern Territory;

“authorized person” means a person appointed by the Administrator to be an authorized person for the purposes of this Ordinance;

“building” includes any structure and any part of a building or structure, but does not include plant or machinery installed in a building or structure;

“development area” means an area in relation to which a declaration under section 8(1) is in force;

“erect”, in relation to a building, includes extend and re-erect;

“investigation area” means an area in relation to which a declaration under section 5(1) is in force;

“Registrar-General” means the person holding office as Registrar-General for the Northern Territory, and includes a person holding office as Deputy Registrar-General for the Northern Territory and a person acting in either of those offices;

“relevant date”, in relation to land to which this Ordinance applies, means the date on which the notice under section 5(1) that relates to the land was published in the *Gazette* or, if 2 or more such notices relate to the land, the date on which the last of those notices was so published;

“urban purposes” means purposes connected with the establishment,

extension, development or re-development of a city or town or of a part of a city or town.

(2) The Administrator may delegate to an officer, either generally or otherwise as provided in the instrument of delegation, all or any of the powers or functions of the Administrator under this Ordinance, being powers or functions that the Administrator may exercise or perform without first receiving the advice of the Administrator's Council, except this power of delegation.

(3) The power or function so delegated shall be exercised and performed by the delegate in accordance with the instrument of delegation.

(4) 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 Administrator or the Administrator in Council, as the case may be.

Investigation areas

5.(1) Where it appears to the Administrator in Council that the whole or part of an area may be required for use for urban purposes, the Administrator shall, by notice published in the *Gazette*, declare the area to be an investigation area for the purposes of this Ordinance.

(2) Where the Administrator in Council is satisfied that the area or a part of the area specified in a declaration under sub-section (1) is not likely to be required for use for urban purposes, the Administrator shall, by notice published in the *Gazette*, revoke the declaration in relation to the area or in relation to the part of the area, as the case may be.

(3) Where the Administrator, by notice under section 8(1), declares an area, or a part of an area, specified in a declaration under sub-section (1) to be a development area for the purposes of this Ordinance, the declaration under sub-section (1) shall be deemed to have been revoked in relation to the area or in relation to the part of the area, as the case may be.

(4) A declaration under sub-section (1) that is in force in relation to an area immediately before the expiration of one year after the date on which it is published in the *Gazette* shall, upon the expiration of that period, be deemed to have been revoked in relation to that area.

Power to examine lands in investigation area

6.(1) In this section, a reference to land is a reference to land comprising or forming part of an investigation area.

(2) An authorized person may request the occupier of land to give his consent to the authorized person entering upon the land, with such assistants as are necessary, for the purpose of exercising upon the land the functions of an authorized person under this section.

(3) Where—

(a) the occupier of land has refused to give his consent to an authorized person under sub-section (2); or

(b) an authorized person has reason to believe that it would be impracticable to obtain, within a reasonable time, the consent of the occupier of land under sub-section (2),

the authorized person may make application to a Justice of the Peace for a warrant under sub-section (4).

(4) Where, upon application under sub-section (3), a Justice of the Peace is satisfied, by information on oath or affirmation—

- (a) that the occupier of land has refused to give his consent to an authorized person under sub-section (2) or that there is reasonable ground for believing that it would be impracticable to obtain, within a reasonable time, the consent of the occupier of land under sub-section (2); and
- (b) that the granting of a warrant under this sub-section is reasonably necessary for the purposes of this Ordinance,

the Justice of the Peace may grant a warrant authorizing the authorized person to enter upon the land, with such assistants as are necessary, during such hours of the day as the warrant specifies, if necessary by force, for the purpose of exercising on the land the functions of an authorized person under this section.

(5) Where an authorized person enters upon land in accordance with a consent under sub-section (2) or in pursuance of a warrant granted under sub-section (4)—

- (a) he may exercise on the land the functions of an authorized person under this section; and
- (b) he shall, upon demand by the occupier of the land, produce to the occupier the instrument issued by the Administrator appointing him to be an authorized person and, if the entry is in pursuance of a warrant, that warrant.

(6) A person shall not, without reasonable excuse, obstruct or hinder an authorized person performing functions in accordance with this section or an assistant to an authorized person performing functions in accordance with this section.

Penalty: 200 dollars.

(7) The functions of an authorized person under this section are—

- (a) to inspect land;
- (b) on land entered by him—
 - (i) to make surveys, take levels, sink pits and examine the soil; and
 - (ii) to do any other thing necessary for ascertaining the suitability of the land for use for urban purposes; and
- (c) to bring or cause to be brought onto land entered by him such vehicles and things as he requires for the purpose of exercising on the land the functions specified in paragraphs (a) and (b).

7.(1) Where an owner of an interest in land, or an occupier of land, or a person having a right, power or privilege over, or in connexion with, land, suffers loss or damage by reason of the exercise, in relation to the land, of the powers conferred by a provision of this Ordinance, the Administrator, out of moneys provided for the purpose, is liable, subject to this Ordinance, to pay him such compensation as is determined by agreement between the owner or occupier, as the case may be, and the Administrator or, in the absence of agreement, by action by the owner or occupier against the Administrator in a court of competent jurisdiction.

Compensation
for damage to
land

(2) In this section “court of competent jurisdiction” includes a court of the Northern Territory that has jurisdiction—

- (a) in actions for the recovery of debts up to an amount not less than the compensation claimed; and
- (b) in respect of the locality in which the land, or part of the land, is situated.

Development
areas

8.(1) Where the Administrator in Council is satisfied that an area, being the whole or a part of an investigation area, is likely to be required for use for urban purposes, the Administrator shall, by notice published in the *Gazette*, declare the area to be a development area for the purposes of this Ordinance during a period not exceeding 2 years, specified in the notice.

(2) Where the Administrator in Council is satisfied that the area or a part of the area specified in a declaration under sub-section (1) is no longer likely to be required for use for urban purposes, the Administrator shall, by notice published in the *Gazette*, revoke the declaration in relation to the area or in relation to the part of the area, as the case may be.

(3) A declaration under sub-section (1) that is in force in relation to an area immediately before the expiration of the period specified in it in accordance with sub-section (1) shall, upon the expiration of that period, be deemed to have been revoked in relation to that area.

Registrar-
General to enter
certain
particulars
relating to
development
areas

9.(1) The Administrator shall furnish to the Registrar-General a copy of each notice published in the *Gazette*, under section 8.

(2) Upon receipt of a copy of a notice under section 8(1) declaring an area to be a development area, the Registrar-General shall enter a memorial on each folium that relates to land forming part of the development area noting that the land, or a specified part of the land, as the case may be, forms part of the development area.

(3) Where—

(a) the Registrar-General—

- (i) registers a certificate of title or a Crown Lease; or
- (ii) registers a certificate in the provisional Register of Crown Leases; and

(b) any of the land to which a certificate of title or a Crown Lease relates forms part of a development area,

the Registrar-General shall enter a memorial on the folium relating to the land noting that the land, or a specified part of the land, as the case may be, forms part of the development area.

(4) Where—

(a) the Registrar-General receives a notice under section 8(2) revoking a declaration under section 8(1) in relation to the area or a part of the area specified in the declaration; or

(b) such a declaration is, under section 8(3), to be deemed to have been revoked in relation to any part of the area specified in it,

the Registrar-General shall enter a memorial on each folium that relates, either in whole or in part, to land forming part of the area in relation to which the declaration is so revoked, noting—

(c) if the whole of the land to which the folium relates forms part of that last-mentioned area—that the memorial entered on that folium in pursuance of sub-section (2) or (3) is revoked; or

(d) in any other case—that a specified part of the land to which the folium relates has ceased to form part of the development area.

(5) This section does not require the Registrar-General to enter, in accordance with sub-section (2) or (3), a memorial on a folium relating to

land, whether vested in Australia or not, that forms part of a development area—

- (a) if the land was vested in Australia on the date on which the notice under section 8(1) relating to that development area was published in the *Gazette*; or
- (b) if the land has been acquired by Australia at any time after that date.

(6) For the purpose of sub-section (5), land shall not be taken to have been vested in Australia at a particular time if another person had at that time a lease or a right to a lease of that land under a law of the Northern Territory.

(7) Where the Registrar-General enters a memorial on a folium in accordance with this section, it is not necessary for the Registrar-General to enter the like memorial on the duplicate certificate of title or to require the production of the duplicate certificate of title.

(8) In this section, “folium” means a folium in the Register Book, the Register Book of Crown Leases or the Provisional Register of Crown Leases kept in accordance with the law of the Northern Territory.

10.(1) Subject to sub-section (2), a person shall, for the purposes of this Ordinance, be taken to carry out development of land if the person— Develop-
ment of land

- (a) erects a building on the land;
- (b) alters a building erected on the land;
- (c) effects any improvements to the land, including improvements by way of constructing or altering a bore or dam or by way of erecting fences;
- (d) makes any material change in the use of any building erected on the land or in the use of the land or of a part of the land; or
- (e) commences to carry on operations for the removal of sand, clay or gravel, or for the extraction of any minerals, from the land.

(2) Where a person erects a building on land or alters a building on land and the cost of erecting or altering the building does not exceed 4,000 dollars, the person shall not, for the purposes of this Ordinance, be taken to carry out development of the land.

(3) The owner or occupier of land to which this Ordinance applies may make application to the Administrator, in writing, for approval for the purposes of this Ordinance to carry out development of the land.

(4) Where an application is made under sub-section (3) for approval for the purposes of this Ordinance to carry out development of land, the Administrator may request the applicant—

- (a) to furnish particulars of the development;
- (b) to state the purpose for which the applicant proposes to carry out the development and the estimated cost of carrying out the development; and
- (c) to furnish particulars of such matters related to the proposed development as the Administrator specifies,

and the Administrator may defer consideration of the application until the applicant furnishes those particulars.

(5) Where development consists of the erection or alteration of a building, the Administrator may request an applicant for approval to carry out the development to furnish sketch plans and brief specifications of the building proposed to be erected or of the alteration, as the case may be, and the Administrator may defer consideration of the application until the applicant furnishes those sketch plans and brief specifications.

(6) The Administrator may, in his discretion, grant or refuse to grant an applicant approval for the purposes of this Ordinance to carry out development of land.

(7) Where the Administrator grants an applicant approval to carry out development of land, he shall furnish to the applicant, in writing, particulars of the development of the land that may, for the purposes of this Ordinance, be carried out by virtue of the approval.

Immediate
acquisition of
land in a
development
area

11.(1) The owner of land to which this Ordinance applies may request the Administrator, in writing, to cause the land to be acquired under the *Lands Acquisition Ordinance*.

(2) Where the Administrator is satisfied that the owner of land who has made a request under sub-section (1)—

(a) has suffered financial hardship; or

(b) would, if the land were not acquired forthwith, be likely to suffer financial hardship,

by reason of the land being included in a development area, the Administrator shall cause to be taken such action as is appropriate for the acquisition of the land under the *Lands Acquisition Ordinance* by agreement or by compulsory process.

Value factor

12.(1) Where land to which this Ordinance applies is acquired by compulsory process under the *Lands Acquisition Ordinance*, the Administrator shall furnish particulars of the acquisition to the Valuer-General.

(2) Subject to sub-section (3), the Valuer-General shall, upon receipt of particulars of an acquisition of land furnished to him under sub-section (1), determine, by reference to information available to him relating to the value of lands in the Northern Territory, the percentage increase or decrease (if any) that has, between the relevant date and the date on which the land was acquired, occurred in the values of those lands in the Northern Territory that, in his opinion, were comparable to the land acquired, being lands the values of which have not been affected between those dates by any declaration under this Ordinance.

(3) Where the Valuer-General is of the opinion that, by reason of the fact that land was, immediately before its acquisition, used as to part for one purpose and as to another part for a different purpose, or for any other reason, it would be impracticable to determine a percentage increase or decrease under sub-section (2) in respect of the whole of the land, the Valuer-General shall determine separate percentage increases or decreases (if any) in respect of different parts of the land.

(4) Where the Valuer-General has made a determination in respect of land in accordance with this section, the Valuer-General shall cause a copy of the determination to be furnished to the Administrator.

(5) The Administrator shall, as soon as practicable after receipt of a copy of a determination in respect of land under this section, cause a copy of the determination to be served on the owners of the land, or on such of them as can, after diligent inquiry, be ascertained.

(6) Sections 11 and 59 of the *Lands Acquisition Ordinance* apply to and in relation to the service of a copy of a determination on the owners of the land under sub-section (5) in like manner as they apply to and in relation to service of a copy of a notice of acquisition of land on the owners of the land under section 11 of that Ordinance.

(7) Where land to which this Ordinance applies is acquired by compulsory process under the *Lands Acquisition Ordinance*, section 17 of that Ordinance applies as if the reference in sub-section (2)(a) of that section to 120 days after the date of acquisition were a reference to 120 days after the date on which service of a copy of the determination of the Valuer-General under this section in respect of the land was served on the owners of the land in accordance with sub-section (5) of this section.

(8) A determination made by the Valuer-General in accordance with this section—

- (a) is final and conclusive;
- (b) shall not be challenged, appealed against, reviewed, quashed or called in question in any court; and
- (c) is not subject to prohibition, mandamus or injunction in any court on any account.

13.(1) Where land to which this Ordinance applies is acquired by compulsory process under the *Lands Acquisition Ordinance*, the provisions of this section apply to the determination by arbitration or by a court of the amount of compensation to be paid in respect of the acquisition. Determination of amount of compensation

(2) Notwithstanding anything contained in the *Lands Acquisition Ordinance*, compensation payable in respect of the acquisition by compulsory process of land to which this section applies shall be determined in the following manner—

- (a) subject to paragraph (d), the compensation shall be determined on the basis of the value of the land at the relevant date as increased or decreased in accordance with paragraph (c);
- (b) in the application of paragraph (a) in relation to land—
 - (i) regard shall not be had, in determining the value of the land, to any increase in the value of the land arising from the carrying out of or the proposal to carry out the public purpose for which the land was acquired;
 - (ii) subject to sub-paragraph (iii), the value of the land shall be determined as if, on the relevant date, the land had been in the same state as it was immediately before the date of acquisition and as if it was, on the relevant date, being used for any purpose for which it was being used immediately before the date of acquisition; and
 - (iii) if development of the land was carried out after the relevant date otherwise than in accordance with an approval for the purposes of this Ordinance of the Adminis-

trator under section 10, the value of the land shall be determined as if the development had not been carried out;

(c) the value of the land determined in accordance with the foregoing provisions shall be increased or decreased as follows—

(i) if the Valuer-General has determined a single value factor in respect of the land—the value so determined shall be increased or decreased, as the case requires, by the percentage of the value factor; or

(ii) if the Valuer-General has determined 2 or more value factors in respect of the land—the value so determined, so far as it relates to each part of the land to which such a value factor relates, shall be increased or decreased, as the case requires, by the percentage of the value factor in respect of that part;

(d) if any damage was caused by the severance of the land from other land in which the claimant had an interest at the date of acquisition, there shall be added to the amount of the compensation determined in accordance with the foregoing provisions an amount in respect of the damage so caused; and

(e) if the value of the interest of the claimant in other land adjoining or severed from the land acquired is enhanced or depreciated by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired, the enhancement or depreciation shall be set off against, or added to, as the case requires, the amount of the compensation otherwise payable to the claimant.

(3) For the purpose of sub-section (2)(b)(iii), development of land—

(a) that is by way of the completion of development that was commenced before the relevant date; or

(b) that is carried out after the relevant date in accordance with a contract entered into before the relevant date,

shall be deemed to have been carried out in accordance with an approval of the Administrator granted under section 10.

Evidence

14.(1) The Administrator, or an officer authorized by the Administrator for the purposes of this section, may certify, in writing—

(a) that the Administrator has not granted any approval for the purposes of this Ordinance for the carrying out of development of specified land; or

(b) that the Administrator, on a specified date, granted to a specified person approval for the purposes of this Ordinance to carry out specified development of specified land.

(2) A document purporting to be a certificate given under sub-section (1)—

(a) shall, unless the contrary is proved, be deemed to be a certificate so given and to have been duly given; and

(b) is *prima facie* evidence of the facts stated in it.

(3) A document purporting to be a copy of a determination made by the Valuer-General under section 12—

(a) shall, unless the contrary is proved, be deemed to be such a copy; and

- (b) is *prima facie* evidence that the Valuer-General made the determination of which it purports to be a copy.

15. The Administrator in Council 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. Regulations

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for AN ORDINANCE

To provide for the Legislative Assembly to assume Executive Responsibility over certain Statutory Authorities in accordance with Recommendation 9 of the First Report on Constitutional Development in the Northern Territory prepared by the Joint Committee of the Australian Parliament on the Northern Territory and tabled in that Parliament in November 1974, and confirmed by the Second Report of that Committee tabled in the Australian Parliament in May 1975, and for other purposes

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 Executive Powers Ordinance* 1975. Short title

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

3.(1) The Administrator in Council may, by notice in the *Gazette*, appoint a member of the Legislative Assembly to be an executive member. Executive
Members

(2) A notice under sub-section (1) shall designate the executive member by a title to distinguish him from the other executive members.

(3) An executive member appointed under sub-section (1) holds office as an executive member, subject to this section, during the pleasure of the Administrator in Council.

(4) An executive member shall not hold office as an executive member for a longer period than 3 months after the date on which he ceases to be a member of the Legislative Assembly unless, within that period, he again becomes a member of the Legislative Assembly.

(5) An executive member who desires to resign his office as executive member shall deliver a written resignation to the Administrator and his resignation becomes effective when it is received by the Administrator.

Executive
responsibility

4.(1) The Administrator in Council may, by notice in the *Gazette*, approve an administrative arrangement that, subject to this Ordinance—

- (a) allots an area of responsibility to a designated executive member; and
- (b) appoints a designated executive member to administer an Ordinance.

(2) Where the Administrator in Council approves under sub-section (1) an administrative arrangement relating to an executive member, that executive member—

- (a) has, subject to the directions of the Administrator in Council, responsibility for the area of responsibility allotted to him; and
- (b) shall, subject to the directions of the Administrator in Council, administer the Ordinances that he is appointed to administer.

Acting
appointments

5. When an executive member is or is expected to be absent from duty or from the Northern Territory or unable to be contacted or to act, the Administrator may appoint another executive member to act in the place of that first-mentioned member while that member is absent or unable to be contacted or to act, and a person so appointed, while he is so acting, has the powers and duties and may exercise the functions of the person in whose place he is acting.

Amendments of
certain
Ordinances

6. The Ordinances specified in the First Schedule are respectively amended as provided by that Schedule.

Amendments of
certain
Regulations

7. The Regulations specified in the Second Schedule, being Regulations made under the *Supply of Services Ordinance*, are respectively amended as provided by that Schedule.

Savings

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

FIRST SCHEDULE
AMENDMENTS OF ORDINANCES

Section 6

<i>Ordinance and Provision Amended</i>	<i>Amendment</i>
<i>Architects Ordinance</i> 1963 as amended—	
Section 6(1)	Omit "Administrator in Council", (wherever occurring), substitute "Executive Member".
Section 6(3)	Omit "Administrator in Council", substitute "Executive Member".
Section 7(1)	Omit "Administrator in Council", substitute "Executive Member".
Section 9(1)	Omit "Administrator in Council", substitute "Executive Member".

<i>Ordinance and Provision Amended</i>	<i>Amendment</i>
Section 9(4)	Omit "Administrator in Council", substitute "Executive Member".
Section 11(2)	Omit "Administrator", substitute "Executive Member".
Section 21(4)	Omit "Administrator", substitute "Executive Member".
Section 40	Omit "Administrator", substitute "Executive Member".
<i>Companies Ordinance</i> 1963 as amended—	
Section 8(1)	Omit "Attorney-General" (wherever occurring), substitute "Executive Member".
Section 8(2)	Omit "Attorney-General", substitute "Executive Member".
Section 8(3)	Omit "Attorney-General", substitute "Executive Member".
Section 8(4)	Omit "Attorney-General" (wherever occurring), substitute "Executive Member".
Section 8(10)	Omit "Attorney-General", substitute "Executive Member".
Section 8(11)	Omit "Attorney-General", substitute "Executive Member".
<i>Consumer Protection Council Ordinance</i> 1969 as amended—	
Section 4(1)	Omit "Administrator in Council", substitute "Executive Member".
Section 4(4)	Omit "Administrator in Council", substitute "Executive Member".
Section 4(5)	Omit "Administrator", substitute "Executive Member".
Section 4(6)	Omit "Administrator in Council", substitute "Executive Member".
Section 5(1)	Omit "Administrator in Council", substitute "Executive Member".
	Omit "Administrator" (wherever occurring), substitute "Executive Member".
Section 6	Omit "Administrator" (wherever occurring), substitute "Executive Member".
<i>Dentists Registration Ordinance</i> 1953 as amended—	
Section 5	Omit the definition of "Minister".
Section 8(1)	Omit "Minister" substitute "Executive Member".
Section 10	Omit "Minister" (wherever occurring), substitute "Executive Member".
<i>Encouragement of Primary Production Ordinance</i> 1931 as amended—	
Section 3	Omit the definition of "The Minister".
Section 4(1)	Omit "Administrator in Council", substitute "Administrator".
Section 4(2)	Omit "Administrator", substitute "Executive Member".
Section 9(2)	Omit "Minister", substitute "Executive Member".
Section 16A	Omit "Minister", substitute "Executive Member".
Section 32	Repeal the section.
<i>Fire Brigades Arbitral Tribunal Ordinance</i> 1965 as amended—	
Section 3(1)	Omit "Administrator in Council", substitute "Executive Member".
Section 3(2)	Omit "Administrator", substitute "Executive Member".
Section 3(3)	Omit "Administrator", substitute "Executive Member".
Section 3(5)	Omit "Administrator", substitute "Executive Member".
Section 3(6A)	Omit "Administrator", substitute "Executive Member".
Section 3(6B)	Omit "Administrator", substitute "Executive Member".
Section 3(8)	Omit "Administrator", substitute "Executive Member".
Section 5	Omit "Administrator", substitute "Administrator in Council".

<i>Ordinance and Provision Amended</i>	<i>Amendment</i>
Section 6(1)	Omit "Administrator", substitute "Executive Member".
Section 6(5)	Omit "Administrator", substitute "Executive Member".
Section 8(3)	Omit "Administrator", substitute "Executive Member".
Section 8(4)	Omit "Administrator", substitute "Executive Member".
Section 9	Omit "Administrator", (wherever occurring), substitute "Executive Member".
<i>Fire Brigades Ordinance 1956</i> as amended—	
Section 6	Omit "Administrator", substitute "Executive Member".
Section 7(1)	Omit "Administrator", substitute "Executive Member".
Section 7(3)	Omit "Administrator", substitute "Executive Member".
Section 8(1)	Omit "Administrator", substitute "Executive Member".
Section 14(1)	Omit "Administrator", substitute "Executive Member".
Section 14(2)	Omit "Administrator", substitute "Executive Member".
Section 14(3)	Omit "Administrator", substitute "Executive Member".
Section 14(4)	Omit "Administrator", substitute "Executive Member".
Section 17(1)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 17(2)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 17(3)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
<i>Hospital Advisory Board Ordinance 1970</i> as amended—	
Section 4	Omit the definition of "the Minister".
Section 5	Omit "Administrator in Council", substitute "Executive Member".
Section 6	Omit "Administrator in Council", substitute "Executive Member".
Section 7(1)	Omit "Administrator in Council", substitute "Executive Member".
Section 7(2)	Omit "Administrator in Council", substitute "Executive Member".
Section 8(1)	Omit "Administrator", substitute "Executive Member".
Section 8(7)	Omit "Administrator", substitute "Executive Member".
Section 8(10)	Omit "Administrator", substitute "Executive Member".
Section 9(1)	Omit "Administrator", substitute "Executive Member".
Section 10	Omit "Administrator", substitute "Executive Member".
Section 11(1)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 12(1)	Omit "Administrator", substitute "Executive Member".
Section 13	Omit "Director of Health and to the Director-General of Health", substitute "Executive Member".
Section 14(1)	Omit from paragraph (a) "Minister", substitute "Executive Member". Omit from paragraph (b) "Director of Health and to the Administrator for transmission to the Minister", substitute "Executive Member".
Section 16	Omit "Minister or Administrator", substitute "Executive Member". Omit "either of them", substitute "him".
Section 17(1)	Omit "Minister or Administrator", substitute "Executive Member". Omit "either of them", substitute "him".
<i>Housing Ordinance 1959</i> as amended—	
Section 6(2)	Omit "Administrator in Council", substitute "Executive Member".
Section 6(4)	Omit "Administrator in Council", substitute "Executive Member". Omit "Administrator's", substitute "Executive Member's".

<i>Ordinance and Provision Amended</i>	<i>Amendment</i>
Section 6(6)	Omit "Minister", (wherever occurring), substitute "Administrator in Council".
Section 7(1)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 9	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 10(2)	Omit "Administrator", substitute "Executive Member".
Section 15A(2)	Omit "Minister", (wherever occurring), substitute "Administrator in Council".
Section 16	Omit "Minister or Administrator", substitute "Executive Member".
Section 20B	Omit "Minister", (wherever occurring), substitute "Executive Member".
Section 21	Omit "Treasurer", substitute "Administrator in Council".
Section 22(2)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 23(1)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 23(2)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 23(3)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 24	Omit "Administrator", substitute "Executive Member".
Section 26	Omit "Administrator", substitute "Executive Member".
Section 32(2)	Omit "Administrator in Council", substitute "Executive Member".
Section 32(3)	Omit "Administrator in Council", substitute "Executive Member".
Section 33A	Omit "Minister", substitute "Executive Member".
Section 33B(1)	Omit "Member", substitute "Executive Member".
Section 33E	Omit "Member", substitute "Executive Member".
<i>Housing Ordinance 1969</i>	
Section 3(2)	Omit "Minister", substitute "Administrator in Council".
<i>Lottery and Gaming Ordinance 1940 as amended—</i>	
Section 94D(2)	Omit "Adminsitrator in Council", substitute "Executive Member".
Section 94D(4)	Omit "Administrator in Council", substitute "Executive Member".
Section 94F(1)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 94F(2)	Omit "Administrator", substitute "Executive Member".
Section 94KB(1)	Omit "Administrator's", substitute "Executive Member's".
Section 94KB(2)	Omit "Administrator", substitute "Executive Member".
Section 94KC(1)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 94KC(2)	Omit "Administrator" (wherever occurring), substitute "Executive Member".
Section 94KC(3)	Omit "Administrator" (wherever occurring), substitute "Executive Member".
Section 94KD(1A)	Omit "Administrator in Council", substitute "Executive Member".
Section 94KD(2)	Omit "Administrator in Council", substitute "Executive Member".
Section 94KD(2A)	Omit "Administrator in Council", substitute "Executive Member".
Section 94KD(4)	Omit "Administrator in Council", substitute "Executive Member".
Section 94L	Omit "Administrator in Council", substitute "Executive Member".
Section 94P(5)	Omit "Administrator", substitute "Executive Member".
Section 94P(6)	Omit "Administrator", substitute "Executive Member".

<i>Ordinance and Provision Amended</i>	<i>Amendment</i>
Section 94P(7)	Omit "Administrator", substitute "Executive Member".
Section 94P(8)	Omit "Administrator", substitute "Executive Member".
Section 94P(9)	Omit "Administrator", substitute "Executive Member".
Section 94P(10)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 94AAR(1)	Omit "Administrator", substitute "Executive Member".
Section 94AAR(2)	Omit "Administrator", substitute "Executive Member".
Section 94AAR(3)	Omit "Administrator", substitute "Executive Member".
Section 94AAR(4)	Omit "Administrator", substitute "Executive Member".
Section 94AAR(5)	Omit "Administrator", substitute "Executive Member".
<i>Medical Practitioners Registration Ordinance 1935 as amended—</i>	
Section 5	Omit the definition of "The Minister".
Section 7(1)	Omit "Minister", substitute "Executive Member".
Section 8(2)	Omit "Director-General", substitute "Executive Member".
Section 10	Omit "Minister", (wherever occurring), substitute "Executive Member".
Section 42A(1)	Omit "Minister", substitute "Executive Member".
Section 42A(2)	Omit "Director-General", substitute "Executive Member".
Section 42A(3)	Omit "Minister", substitute "Executive Member".
Section 42C(1)	Omit "Minister", substitute "Executive Member".
Section 42C(2)	Omit "Minister", (wherever occurring), substitute "Executive Member".
<i>Museums and Art Galleries Ordinance 1965 as amended—</i>	
Section 8(1)	Omit "Administrator in Council", substitute "Executive Member".
Section 8(2)	Omit "Administrator in Council", substitute "Executive Member".
Section 10	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 11(1)	Omit "Administrator in Council", substitute "Executive Member".
Section 11(2)	Omit "Administrator in Council", (wherever occurring), substitute "Executive Member".
	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 14(1)	Omit "Administrator", substitute "Executive Member".
Section 23	Omit "Minister", substitute "Administrator".
Section 25	Omit "Administrator in Council", substitute "Executive Member".
Section 26	Omit "Administrator in Council", substitute "Executive Member".
Section 29(2)	Omit "Administrator's", substitute "Executive Member's".
Section 29(3)	Omit "Administrator", substitute "Executive Member".
Section 30(1)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 30(2)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 30(3)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
<i>National Parks and Gardens Ordinance 1959 as amended—</i>	
Section 7(1)	Omit "Administrator in Council", substitute "Executive Member".
Section 7(2)	Omit "Administrator in Council", substitute "Executive Member".
Section 7(3)	Omit "Administrator", substitute "Executive Member".

<i>Ordinance and Provision Amended</i>	<i>Amendment</i>
Section 7(4)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 13(1)	Omit "Administrator", substitute "Executive Member".
Section 18(1)	Omit "Administrator", substitute "Executive Member".
Section 19A	Omit "Treasurer", substitute "Executive Member".
Section 26(1)	Omit "Administrator", substitute "Executive Member".
Section 26(2)	Omit "Administrator", substitute "Executive Member".
Section 27(1)	Omit "Administrator", substitute "Executive Member".
Section 27(2)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 27(3)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
<i>Optometrists Ordinance 1958 as amended—</i>	
Section 4	Omit the definition of "the Minister".
Section 6(1)	Omit "Minister", substitute "Executive Member".
Section 6(3)	Omit "Minister", substitute "Executive Member".
Section 6(4)	Omit "Minister", substitute "Executive Member".
Section 7(1)	Omit "Minister", substitute "Executive Member".
Section 9	Omit "Minister", substitute "Executive Member".
Section 10	Omit "Minister", (wherever occurring), substitute "Executive Member".
Section 11	Omit "Minister", substitute "Executive Member".
Section 12	Omit "Minister", substitute "Executive Member".
Section 24	Omit "Attorney-General", substitute "Executive Member".
<i>Pharmacy Ordinance 1936 as amended—</i>	
Section 5	Omit the definition of "the Minister".
Section 7(2)	Omit "Administrator in Council", substitute "Executive Member".
Section 7A	Omit "Administrator", (wherever occurring), substitute "Executive Member".
<i>Prisons Ordinance 1950 as amended—</i>	
Section 6(1)	Omit "Administrator", substitute "Executive Member".
Section 6(2)	Omit "Administrator", substitute "Executive Member".
Section 7(1)	Omit "Administrator", substitute "Executive Member".
Section 11(1)	Omit "Administrator", substitute "Executive Member".
Section 11A(1)	Omit "Administrator", substitute "Executive Member".
Section 11A(3)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 11A(3A)	Omit "Administrator", substitute "Executive Member".
Section 11A(5)	Omit "Administrator", substitute "Executive Member".
Section 11A(6B)	Omit "Administrator", substitute "Executive Member".
Section 11A(6C)	Omit "Administrator", substitute "Executive Member".
Section 11A(6D)	Omit "Administrator", substitute "Executive Member".
Section 11A(7)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 11A(8)	Omit "Administrator", substitute "Executive Member".
Section 11C(1)	Omit "Administrator", substitute "Administrator in Council".
Section 11D(1)	Omit "Administrator", substitute "Executive Member".
Section 11DA(2)	Omit "Administrator", substitute "Executive Member".
Section 11DA(3)	Omit "Administrator", substitute "Executive Member".
Section 11F(3)	Omit "Administrator", substitute "Executive Member".
Section 11F(4)	Omit "Administrator", substitute "Executive Member".

<i>Ordinance and Provision Amended</i>	<i>Amendment</i>
Section 11G	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 12(1)	Omit "Administrator", substitute "Executive Member".
Section 12(3)	Omit "Administrator", substitute "Executive Member".
Section 13(1)	Omit "Administrator", substitute "Executive Member".
Section 13(2)	Omit "Administrator", substitute "Executive Member".
Section 14(1)	Omit "Administrator", substitute "Executive Member".
Section 14(2)	Omit "Administrator", substitute "Executive Member".
Section 14(3)	Omit "Administrator", substitute "Executive Member".
Section 14(4)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 15	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 22	Omit "Administrator", substitute "Executive Member".
Section 36A(2)	Omit "Administrator in Council", substitute "Executive Member".
Section 36A(3)	Omit "Administrator in Council", substitute "Executive Member".
Section 36C(1)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
<i>Tourist Board Ordinance</i>	
1962 as amended—	
Section 6(1)	Omit "Administrator in Council", substitute "Executive Member".
Section 6(4)	Omit "Administrator in Council", substitute "Executive Member".
Section 6(5)	Omit "Administrator in Council", substitute "Executive Member".
	Omit "Administrator", substitute "Executive Member".
Section 6(6)	Omit "Administrator", substitute "Executive Member".
Section 6(8)	Omit "Administrator in Council", substitute "Executive Member".
Section 6(9)	Omit "Administrator in Council", substitute "Executive Member".
Section 14(2)	Omit "Minister", substitute "Executive Member".
Section 18	Omit "Treasurer", substitute "Executive Member".
Section 20(1)	Omit "Administrators", substitute "Executive Members".
Section 20(2)	Omit "Administrator", substitute "Executive Member".
Section 21(1)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 21(2)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
Section 21(3)	Omit "Administrator", (wherever occurring), substitute "Executive Member".
<i>Veterinary Surgeons Ordinance</i>	
1961 as amended—	
Section 6(2)	Omit "Administrator", substitute "Executive Member".
Section 6(3)	Omit "Administrator", substitute "Executive Member".
Section 7(1)	Omit "Administrator", substitute "Executive Member".
Section 7(2)	Omit "Administrator", substitute "Executive Member".
Section 8(1)	Omit "Administrator", substitute "Executive Member".
Section 10(1)	Omit "Administrator", substitute "Executive Member".
	Omit "Administrators", substitute "Executive Members".
Section 10(4)	Omit "Administrator", substitute "Executive Member".
Section 11	Omit "Administrator", substitute "Executive Member".
Section 12(2)	Omit "Administrator", substitute "Executive Member".
Section 13(2)	Omit "Administrator", substitute "Executive Member".
Section 14	Omit "Administrator", substitute "Executive Member".

SECOND SCHEDULE
AMENDMENTS OF REGULATIONS

Section 7

<i>Regulations and Provision Amended</i>	<i>Amendment</i>
Electricity Supply Regulations—	
Regulation 35(3)	Omit “Administrator”, substitute “Executive Member”.
Regulation 35(4)	Omit “Administrator”, substitute “Executive Member”.
Regulation 41(1)	Omit “Administrator”, substitute “Executive Member”.
Regulation 41(2)	Omit “Administrator”, substitute “Executive Member”.
Regulation 47	Omit “Administrator”, substitute “Executive Member”.
Regulation 49(1)	Omit “Administrator”, substitute “Executive Member”.
Sewerage Regulations—	
Regulation 29(3)	Omit “Administrator”, substitute “Executive Member”.
Regulation 29(4)	Omit “Administrator”, substitute “Executive Member”.
Regulation 32(1)	Omit “Administrator”, substitute “Executive Member”.
Regulation 32(2)	Omit “Administrator”, substitute “Executive Member”.

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To make Temporary Provision for the Removal of Trespassers from certain land and to Create Certain Offences

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

1. This Ordinance may be cited as the *Trespassers (Temporary Provision) Ordinance 1975*. Short title

2. The provisions of this Ordinance shall cease to have effect on a date to be fixed by the Administrator in Council by notice in the *Gazette* or 1 January 1977, whichever is the earlier, and this Ordinance shall, on that day, be regarded as having been repealed. Duration

3. This Ordinance applies only to and in relation to land situated within 40 kilometres of the building known as the Darwin Post Office as existing at the commencement of this Ordinance. Application

4. In this Ordinance, unless the contrary intention appears— Definitions

“land” includes—

- (a) a part of land; and
- (b) a chattel or structure on land, whether movable or immovable and whether damaged or undamaged, or part of such a chattel or structure, used or capable of being used as an accommodation unit;

“owner” means a person who is or a body corporate that is entitled to immediate possession of land;

“trespasser” means a person who is on land without any right or title to, or interest in, that land.

5. This Ordinance shall be construed as additional to and not in derogation of any other law for the time being in force in the Northern Territory for the eviction of trespassers and the recovery of possession of land, and nothing relating to the eviction of trespassers and the recovery of land contained in any other Ordinance shall be so construed as to limit the application of this Ordinance. Construction of Ordinance

6.(1) An owner of land, or an employee or agent of an owner claiming to act in the course of his employment or in pursuance of the agency, may serve personally or cause to be served personally upon a trespasser on that Owner may serve notice

land a notice substantially in accordance with Form 1 in the Schedule requiring the trespasser immediately and permanently—

- (a) to vacate and yield possession of the land; and
- (b) to remove from the land all his goods and chattels.

(2) Where a person wishing to serve a notice in pursuance of sub-section (1) wishes to serve the notice on all persons who are or may become trespassers on the land, he may—

- (a) serve the notice in pursuance of sub-section (1) on all trespassers whose existence and identity he can by reasonable enquiry establish and whom he can by reasonable endeavour serve; and
- (b) display a notice substantially in accordance with Form 2 prominently on the land,

and all persons who are or become trespassers on the land while the second-mentioned notice is so displayed shall be deemed to have been served with that notice.

(3) A trespasser shall not take down, remove, damage, disfigure, cover, or otherwise interfere with a notice displayed in pursuance of sub-section (2).

Penalty: 500 dollars or imprisonment for 3 months.

Application for
order

7. A person who has served or displayed or caused to be served or displayed a notice under section 6 may, after 24 hours after the notice has been served or displayed, make an *ex parte* application in chambers to a stipendiary magistrate appointed or holding office under the *Justices Ordinance* for an order for recovery of possession of the land.

Making of order

8.(1) Where an application is made to a magistrate under section 7, the magistrate shall hear the application and shall hear the evidence of such persons as he thinks fit and, subject to sub-section (2) and to sections 9 and 10, if he is satisfied that there are reasonable grounds for believing—

- (a) that the applicant is entitled to immediate possession of the land, or is reasonably acting as an employee or agent of a person who is or a body corporate that is so entitled;
- (b) that the land is required for immediate occupation or for repair with a view to immediate occupation by a person who is not a trespasser, or that substantial damage is being caused or is likely to be caused to the land or to improvements or property lawfully on the land;
- (c) that the person served with the notice is a trespasser on the land; and

(d) that the notice was duly served and has not been complied with, he may make an order for recovery of possession of the land.

(2) A magistrate may, having regard to all the circumstances of the case, refuse to make an order under sub-section (1) if he considers that the making of an order would be unduly harsh and oppressive on the person against whom the order is sought.

(3) An order made under sub-section (1) may be addressed to a named person or it may be addressed to all persons who are trespassers on the land at the date of the order or become trespassers on the land after the date of the order.

(4) An order made under sub-section (1) shall order the person or persons to whom it is addressed permanently and either forthwith or on or before such day as is specified in the order—

- (a) to vacate and yield possession of the land; and
- (b) to remove from the land all his goods and chattels.

(5) Where a magistrate makes an order under sub-section (1) he may make such further orders in relation to the application as he thinks fit.

9.(1) Where a magistrate hearing an application under section 8 is not able, without further evidence, to satisfy himself of the matters concerning which he must be satisfied, he may adjourn the hearing of the application. Adjournment

(2) Where a magistrate adjourns an application in pursuance of sub-section (1), he may order that notice of the application and of the date, time and place fixed for further hearing be given to a named person or be prominently displayed on the land in respect of which the application is made.

10.(1) At any stage of the hearing of an application under section 8, the magistrate may, if he considers that the application raises complex questions of fact or law, order that the application shall be removed into the Local Court of Darwin and shall be heard as an action in that court. Removal into
Local Court

(2) Where a magistrate makes an order under sub-section (1), he may make such further orders as he thinks fit modifying the application of the provisions of the *Local Courts Ordinance* in relation to that action for the purpose of removing the application into the court and hearing it as an action of the court.

(3) Upon the making of an order under sub-section (1), the application becomes an action in the Local Court of Darwin and, subject to sub-section (2), this Ordinance ceases to apply in relation to that application.

11.(1) An order made under section 8 shall have effect and may be enforced as a judgment of the Local Court of Darwin under the *Local Courts Ordinance*, and the provisions of that Ordinance relating to the enforcement of judgments and orders of that court apply in relation to the enforcement of such an order. Effect of order

(2) The Clerk of the Local Court of Darwin shall record all applications made under this Ordinance and the orders made thereon.

(3) It shall not be necessary for an order made under this Ordinance to be drawn up or served, but, if the order is not obeyed, the Clerk of the Local Court shall, at the request of the applicant, issue a warrant in accordance with Form 3 in the Schedule authorizing and requiring the bailiff of the court to give possession of the land to the applicant.

(4) A warrant issued under sub-section (3) shall, on whatever day it is issued, bear the date of the day next after the last day for the delivery of possession of the land in question, and shall continue in force for 3 months after that date.

12.(1) A bailiff or assistant bailiff of the Local Court of Darwin may, for the purpose of executing a warrant issued in pursuance of this Ordinance or of identifying a person whom he suspects on reasonable grounds to be a trespasser, require a person whom he finds on or about the land to which the warrant relates to give his name and address. Name and
address to be
supplied

(2) A person who is required under sub-section (1) to give his name and address shall not, without good cause, refuse or fail to give his name and address.

Penalty: 500 dollars or imprisonment for 3 months.

Obstruction of
bailiff

13. A person shall not obstruct, hinder or otherwise interfere with a bailiff or assistant bailiff of the Local Court of Darwin in the execution of his duty in pursuance of this Ordinance.

Penalty: 500 dollars or imprisonment for 3 months.

Returning to
land

14. A trespasser who has yielded possession of land after receipt of a notice under this Ordinance or who has been ejected from land in pursuance of a warrant under this Ordinance shall not as a trespasser return to that land.

Penalty: 500 dollars or imprisonment for 3 months.

SCHEDULE

Section 6

FORM 1

THE NORTHERN TERRITORY OF AUSTRALIA

Trespassers (Temporary Provision) Ordinance

NOTICE TO QUIT

TO.....
(name of trespasser)

TAKE NOTE that the owner of this land upon which you are trespassing requires you immediately and permanently—

- (a) to vacate and yield possession of the land; and
- (b) to remove from the land all your goods and chattels.

It is the intention of the owner, unless you comply with this notice within 24 hours, forthwith to make an *ex parte* application in chambers to a magistrate of the Local Court of Darwin for an order for recovery of possession of the land.

.....
(Signature of owner, or of employee or
agent for the owner)

.....
(name and address of owner)

.....
(date of service)

Section 6

FORM 2

THE NORTHERN TERRITORY OF AUSTRALIA

Trespassers (Temporary Provision) Ordinance

NOTICE TO QUIT

TO ALL TRESPASSERS

TAKE NOTE that the owner of this land requires all trespassers immediately and permanently—

- (a) to vacate and yield possession of the land; and
- (b) to remove from the land all their goods and chattels.

It is the intention of the owner, unless all trespassers comply with this notice within 24 hours of the date hereunder, forthwith to make an *ex parte* application in chambers to a magistrate of the Local Court of Darwin for an order for recovery of possession of the land.

It is an offence (Penalty: 500 dollars or imprisonment for 3 months) to take down, remove, damage, disfigure, cover or otherwise interfere with this notice.

.....
(Signature of owner, or of employee or
agent for the owner)

.....
(name and address of owner)

.....
(date of service)

Section 11

FORM 3

THE NORTHERN TERRITORY OF AUSTRALIA

Trespassers (Temporary Provision) Ordinance

WARRANT OF POSSESSION

In the Local Court of Darwin

No.

Applicant
ex parte

To the Bailiff and Assistant Bailiffs of the said Court, and to all Police Officers:

WHEREAS on an *ex parte* application to a magistrate of the said Court wherein the said Magistrate had jurisdiction A. B. recovered (*or* C.D. was ordered to deliver to A.B.) possession of all that with the appurtenances;

THESE ARE therefore to require you the said Bailiff and others to enter the same, and to cause the said A.B. to have (*or* C.D. to deliver to A.B.) possession of the said land and premises with the appurtenances; for which this shall be your sufficient warrant.

By order of the Court, this
, 197

day of

Clerk of the Court

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THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

Relating to the Sub-division of Land into Units,
Unit Subsidiaries and Common Property

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 <i>Unit Titles Ordinance 1975</i> . | Short title |
| 2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice published in the <i>Gazette</i> . | Commence-
ment |

PART II—INTERPRETATION

- | | |
|--|--|
| 3.(1) In this Ordinance, except in Part III, "unit" means a part of the relevant parcel shown on the units plan as a unit. | Definition of
"unit" and "unit
subsidiary" |
| (2) In this Ordinance, "unit subsidiary" means a part of the relevant parcel shown on the units plan as a unit subsidiary. | |
| (3) Unless the contrary intention appears, a reference in this Ordinance, except in Part III, to a unit shall, in the case where a unit subsidiary is appurtenant to a unit, be read as a reference to both the unit and the unit subsidiary. | |
| 4. In this Ordinance, unless the contrary intention appears—
"adminstrator" means an administrator appointed under section 90;
"building", in relation to proposals for sub-division, includes a building proposed to be erected;
"Class A unit" means a unit described in section 9(a)(i) and does not include a unit subsidiary;
"Class B unit" means a unit described in section 9(a)(ii) and does not include a unit subsidiary;
"committee" means the committee of a corporation constituted by section 32;
"committee-man" means a member of a committee;
"common property" means so much of a parcel as is not within a unit;
"corporation" means a corporation constituted under section 27; | Other definitions |

- “general meeting” means a general meeting of a corporation;
- “improvements” includes fittings and fixtures;
- “member” means a member of a corporation;
- “mortgage” means a registered mortgage, or a registered encumbrance, within the meaning of the *Real Property Act and Ordinance*, and “mortgaged” has a corresponding meaning;
- “mortgagee” means the registered proprietor of a mortgage;
- “parcel” means the whole of the land comprised in a proposal for the sub-division of a parcel of land or in a units plan, as the case may be;
- “proprietor”, in relation to a unit, means the registered proprietor;
- “registered” means registered in the Register Book—
 - (a) under the *Real Property Act and Ordinance*;
 - (b) under the *Real Property (Unit Titles) Ordinance*
 and “register” and “registration” have corresponding meanings;
- “the Court” means the Supreme Court;
- “the Registrar” means the Registrar-General under the *Real Property Act and Ordinance* and includes an acting or Deputy Registrar-General;
- “unit entitlement”, in relation to a unit, means the number specified in the schedule of unit entitlement as the unit entitlement for the unit;
- “units plan” means all the documents referred to in section 20(1) and endorsed under that section, being documents relating to the sub-division of the relevant parcel.

References to
proprietor or
mortgagee

5. In this Ordinance, unless the contrary intention appears, a reference to a proprietor or mortgagee shall be read as including—

- (a) in the case of a natural person—a reference to the heirs, executors, administrators or assigns of that person or to a person in whom the property of the first-mentioned person is vested, or by whom that property is controlled, under the *Bankruptcy Act 1966-1973*; or
- (b) in the case of a body corporate other than a corporation—a reference to its liquidators or assigns.

Plural references
to members
proprietors or
committee-
men where only
one exists

6. In this Ordinance, a reference to—

- (a) members, in relation to a corporation with only one member;
- (b) proprietors, in relation to units in a case where the relevant corporation has only one member; or
- (c) committee-men, in relation to a committee with only one committee-man,

shall be read as a reference to the person who is that member or committee-man.

References in
special
resolutions

7. In this Ordinance, a reference to a special resolution shall be read as a reference to a resolution, at a duly convened general meeting, passed by votes representing not less than two-thirds of the total number of units and not less than half of the aggregate unit entitlement of the units.

References to
unanimous
resolutions

8. (1) In this Ordinance, a reference to a unanimous resolution shall be read as a reference to—

- (a) where only one person is entitled to vote at a general meeting—a resolution made by that person and recorded by him as a unani-

mous resolution in the minute book of the corporation kept under this Ordinance; or

- (b) where more than one person is entitled to vote at a general meeting—a resolution, at a duly convened general meeting, unanimously passed by all the members of the corporation and recorded as a unanimous resolution in the minute book of the corporation kept under this Ordinance.

(2) For the purposes of sub-section (1)(b), a mortgagee of a unit by whom notice in accordance with section 65(1) has been given shall be deemed to be a member of the corporation to the exclusion of the proprietor whose estate or interest is subject to the mortgage.

PART III—PROPOSALS FOR SUB-DIVISION

9. In this Part—

Units and unit
subsidiaries

- (a) a reference to a unit shall be read as a reference to either—
 - (i) a part of the parcel, being a part of a building, bounded by reference to floors, walls and ceilings; or
 - (ii) a part of the parcel unlimited in its vertical dimensions except to the extent of any projection above, or encroachment below, ground level by another part of the parcel; and
- (b) a reference to a unit subsidiary shall be read as a reference to either—
 - (i) a part of the parcel, being a building or part of a building consisting only of a utility room, laundry, store-room, balcony, verandah, porch, stairway, shed, garage or car port; or
 - (ii) a part of the parcel suitable for any one or more of the following purposes, namely, a parking area for vehicles, a garden, a lawn or a yard, and unlimited in its vertical dimensions except to the extent of any projection above, or encroachment below, ground level by another part of the parcel.

10.(1) The registered proprietor of—

Propo-
sals for sub-
division

- (a) a freehold parcel of land;
 - (b) a lease granted under the *Darwin Town Area Leases Ordinance*; or
 - (c) a lease of town lands granted under the *Crown Lands Ordinance*
- may, in respect of that parcel of land, apply to the Administrator for approval of proposals for the sub-division of the parcel under this Ordinance.

(2) The proposals shall provide for the sub-division of the parcel into units and common property, and may provide for one or more than one unit subsidiary appurtenant to a unit.

(3) Where the proposals provide for a unit subsidiary it shall be appurtenant to a specified unit, whether or not it is contiguous to that unit.

(4) An uncovered balcony or uncovered stairway that is not shown in the proposals as part of a Class B unit shall, unless it is to be common property, be shown in the proposals, as a unit subsidiary and not as part of a unit.

(5) Any land contiguous to a Class A unit (or to a unit subsidiary consisting of a building or part of a building) shall not be shown in the proposals as part of that unit or unit subsidiary, but nothing in this sub-section prevents that land from being a unit subsidiary, part of a Class B unit or common property.

(6) For the purposes of sub-section (5) "land" does not include—

- (a) a building or part of a building; or
- (b) land upon which a building or part of a building is situated.

Documents to be included in proposals

11.(1) The proposals shall include—

- (a) diagrams showing the manner in which it is proposed to sub-divide the parcel and—
 - (i) showing, in respect of each unit, whether it is a Class A or a Class B unit;
 - (ii) showing the unit subsidiary or unit subsidiaries (if any) appurtenant to each unit;
 - (iii) allotting to each unit a number; and
 - (iv) allotting to each unit subsidiary the number of the unit to which it is appurtenant and the letter 'S' and, if there are 2 or more unit subsidiaries appurtenant to the same unit, an additional number for each unit subsidiary;
- (b) a schedule specifying—
 - (i) in respect of each unit—a whole number being the unit entitlement for that unit; and
 - (ii) a whole number, being the aggregate unit entitlement proposed for all the units; and
- (c) where the proposals provide for the erection or alteration of, or an addition to, a building—a copy of the plans and specification for the erection, alteration or addition.

(2) Where the proposals provide for a unit subsidiary, the diagram shall show whether it is a utility room, laundry, store-room, balcony, verandah, porch, stairway, shed, garage, car port, parking area, garden, lawn or yard.

Nature of diagrams to be included in proposals

12.(1) The diagrams referred to in section 11(1)(a) shall include—

- (a) a diagram showing—
 - (i) the boundaries of the parcel;
 - (ii) the boundaries at ground level, or in an appropriate case, the boundaries projected to ground level, of the extremities of each building on the parcel; and
 - (iii) if the proposals include provisions for the sub-division of the parcel into Class B units—the boundaries of each of those units,

so drawn that the relationship of those boundaries to one another is shown;

- (b) where the proposals provide for a building to be so sub-divided that one Class A unit is wholly or partly above another Class A unit—a separate diagram for each floor of the building showing sufficient particulars, at floor level, from which the vertical boundaries of each unit on that floor are ascertainable, without necessarily specifying any bearings or dimensions;

- (c) where the proposals provide for a building to be sub-divided into 2 or more Class A units otherwise than in the manner referred to in paragraph (b) a diagram showing sufficient particulars, at floor level, from which the vertical boundaries of each unit are ascertainable without necessarily specifying any bearings or dimensions; and
- (d) where the proposals provide for a Class B unit that is limited in its vertical dimensions by a projection above, or encroachment below, ground level by another part of the parcel—a statement on the diagram on which the unit is shown to the effect that the unit is so limited and stating the nature of the limitation.

(2) A diagram referred to in paragraphs (b) or (c) of sub-section (1) shall show the approximate floor area of each unit.

(3) This section applies to and in relation to—

- (a) a unit subsidiary consisting of a building or part of a building as if that unit subsidiary were a Class A unit; and
- (b) any other unit subsidiary as if that unit subsidiary were a Class B unit.

(4) Subject to sub-section (1)(b) one or more diagrams referred to in that sub-section may be combined.

13.(1) Where—

- (a) the proposals show a unit as a Class A unit; or
- (b) a unit subsidiary consists of a building or part of a building,

Boundaries of
units and unit
subsidiaries

the boundaries of the unit or the unit subsidiary, as the case may be, shall be ascertained by reference to its floors, walls and ceilings.

(2) Where—

- (a) the proposals show a unit as a Class B unit; or
- (b) a unit subsidiary does not consist of a building or part of a building,

the boundaries of the unit or the unit subsidiary, as the case may be, shall be ascertained from the diagram in the proposals, and the unit or the unit subsidiary, as the case may be, is unlimited in its vertical dimensions except to the extent of any projection above, or encroachment below, ground level by another part of the parcel.

14.(1) Subject to sub-section (3) where, in accordance with the proposals, a Class A unit or a unit subsidiary consisting of a building, or part of a Class A unit or a unit subsidiary consisting of a building or part of a building, is separated from—

Common
boundaries

- (a) common property;
- (b) a unit; or
- (c) from a unit subsidiary,

by a floor, wall or ceiling, the common boundary between them lies along the centre of that floor, wall or ceiling, as the case may be.

(2) Where a Class A unit or a unit subsidiary consisting of a building or part of a building is bounded by reference to an external wall of the building—

- (a) the boundary of that unit or unit subsidiary lies along the centre of that wall; and

(b) so much of that wall as is outside that boundary is common property.

(3) If the proposals specify that a boundary referred to in sub-section (1) lies elsewhere than in the position there described, the boundary is as so specified.

Approval of
subdivision

15.(1) Subject to section 16, the Administrator shall—

- (a) in respect of an application for approval to subdivide a parcel of freehold land—approve the proposals; or
- (b) in respect of an application for approval to subdivide a parcel of leasehold land—approve the proposals if the registered proprietor is not in breach of a covenant contained in the lease or a provision of the Ordinance under which that lease was granted in respect of that lease.

(2) Where the registered proprietor of a parcel of land is in breach of a covenant or provision referred to in sub-section (1)(b), the Administrator in Council may, in his discretion, approve the proposals.

Condition of
approval

16.(1) The Administrator shall not approve the proposals unless—

- (a) each unit is suitable for separate occupation;
- (b) the schedule of unit entitlement is reasonable, having regard to the respective values of the units, and
- (c) the proposals conform to the preceding provisions of this Part.

(2) In determining the value of a unit for the purpose of sub-section (1)(b), the value of a unit subsidiary or unit subsidiaries appurtenant to the unit shall be taken into consideration.

Conditional
approval of
subdivision

17. An approval under section 15 shall, in the case of proposals referred to in section 11(1)(c), be expressed to be subject to the condition that the erection or alteration of, or addition to, the building will be completed in accordance with those proposals within such time as is specified in the approval or within such extended time as the Administrator from time to time allows.

Documents to be
forwarded to
proprietor by
Administrator

18.(1) Where the Administrator has approved the proposals, he shall cause to be forwarded to the proprietor of the parcel notice in writing that he has approved the proposals or, if the approval is subject to the condition referred to in section 17 that he has approved the proposals subject to that condition being complied with.

Final approval
where conditions
complied with

19. Where a conditional approval has been granted, the Administrator shall, on an application made for the purpose by the proprietor of the parcel, give his final approval to the proposals if—

- (a) the condition has been complied with; and
- (b) the applicant is not in breach of a covenant contained in the lease of the parcel,

but, in any other case, the Administrator may, in his discretion, grant or refuse to grant final approval of the proposals.

20.(1) Where approval, not being a conditional approval, of the proposals has been granted or, a conditional approval having been granted, final approval of the proposals has been granted under section 19, the proprietor of the parcel may submit to the Administrator for endorsement under this section—

Endorsement of
units plan for
registration

(a) diagrams showing the sub-division in accordance with the proposals as so approved; and
(b) the schedule of unit entitlement as so approved,
prepared in accordance with the requirements of the *Real Property (Unit Titles) Ordinance*.

(2) Each sheet of the documents referred to in sub-section (1) shall be signed by the proprietor of the parcel.

(3) There shall be endorsed on the diagram showing the boundaries referred to in section 12(1)(a) a certificate on the appropriate form prescribed by the *Real Property (Unit Titles) Ordinance* by a surveyor registered under the *Licensed Surveyors Ordinance*.

(4) The Administrator shall make on the appropriate form prescribed by the *Real Property (Unit Titles) Ordinance* an endorsement that the documents are approved for registration under that Ordinance and affix his signature to, and note the date of, that endorsement and affix his signature to each other sheet of the documents, unless—

- (a) any alteration of, or addition to, a building on the parcel has occurred since the proposals were approved by him;
- (b) the lessee of the parcel is in breach of a covenant contained in the lease of the parcel; or
- (c) the documents submitted to him are not in accordance with the proposals as approved by him.

21.(1) An endorsement made under section 20 ceases to have effect—

Endorsement
lapses after 3
months

- (a) on the expiry of the period of 3 months after the date on which it was made, unless the units plan is lodged with the Registrar under the *Real Property (Unit Titles) Ordinance* within that period;
- (b) if the units plan is so lodged within that period and is subsequently withdrawn under section 22 of that Ordinance—when the endorsement is made by the Registrar under that section.

(2) If an endorsement so ceases to have effect, the proprietor of the parcel may again submit the documents to the Administrator for endorsement under section 20, whereupon that section and this section apply as if the previous endorsement had not been made.

PART IV—EFFECT OF REGISTRATION OF UNIT PLANS

22. On and after the registration of the units plan, the parcel is subdivided in the manner specified in the diagrams in the units plan and the boundaries of the units, of the unit subsidiaries (if any) and of the common property shall be ascertained in accordance with those diagrams and with sections 13 and 14 as if a reference in those sections to proposals were a reference to the units plan.

Sub-division of
parcel by
registration

Title to units and
common
property

23.(1) On the registration of the units plan and, in the case of a leasehold parcel, notwithstanding anything contained in the *Freehold Titles Ordinance*—

- (a) if the parcel was a leasehold parcel—the lease of the parcel is determined and the person who was, immediately before the registration of the units plan, the lessee of the parcel becomes possessed of an estate of freehold in each unit;
- (b) if the parcel was a freehold parcel—the person who was the proprietor of the parcel becomes possessed of an estate of freehold in each unit; and
- (c) the corporation becomes possessed of an estate of freehold in the common property.

(2) The estate of which a person or the corporation, as the case may be, becomes possessed under this section—

- (a) is subject to any mortgage referred to in section 8 of the *Real Property (Unit Titles) Ordinance*; and
- (b) is subject to, and has appurtenant to it, the easements created by section 25, and any easement referred to in section 8 of that Ordinance.

Common
property to be
held in trust

24.(1) The corporation shall hold the common property in trust for the persons who are for the time being the members of the corporation as tenants in common in undivided shares proportional to the unit entitlements of their respective units, and shall afford those persons opportunity for the reasonable use and enjoyment of the common property.

(2) The estate in the common property held by the corporation is not capable, either at law or in equity, of being transferred, assigned, sub-let or mortgaged.

Easements
created by this
Ordinance

25.(1) In this section—

“proprietor”, in relation to the common property, means the corporation;

“tenement” means a unit or the common property, as the case may be.

(2) On and after the registration of the units plan, the proprietor of each tenement (in this section called “the dominant tenement”) shall be deemed to have over each other tenement (in this section called “the servient tenement”) such of the rights specified in sub-section (3) as are necessary for the reasonable use and enjoyment of the dominant tenement.

(3) The rights referred to in sub-section (2) are—

- (a) rights of support, shelter and protection afforded by the servient tenement at the time of the registration of the units plan;
- (b) rights for the collection, passage and provision of water, sewerage, drainage, garbage, gas, electricity and air, and other services of whatsoever nature (including telephone, radio and television services), through or by means of pipes, wires, cables, ducts, or other reasonable means; and
- (c) such ancillary rights as are necessary to make the rights referred to in paragraphs (a) and (b) effective, including rights of entry by the proprietor of the dominant tenement and his agents, servants and

workmen at all reasonable times on the servient tenement for the purpose of—

- (i) inspecting, maintaining or repairing the servient tenement; or
- (ii) inspecting, maintaining, repairing, replacing, renewing or restoring any pipe, wire, cable, duct or other material.

(4) A right created by this section shall be deemed to be an easement appurtenant to the dominant tenement in relation to which it is enjoyed.

(5) An easement created by this section subsists notwithstanding that the same person is the proprietor of both the dominant and servient tenements.

(6) A person exercising a right under an easement created by sub-section (3) (b) or (c) is liable to make good any damage done in the course of exercising that right.

26. On and after the registration of the units plan, an alteration of the schedule of unit entitlement is not capable of being registered unless it is made in pursuance of an order of the Court under Part VIII.

No alteration of schedule of unit entitlement

PART V—MANAGEMENT CORPORATIONS

Division 1—Constitution of Corporations

27. On and after the registration of a units plan, there is constituted a body corporate under the name “The Proprietors—Units Plan No ”, the number to be included in the name being the number allotted to the units plan by the Registrar on its registration.

Incorporation of proprietors of units

28. The members of the corporation so constituted are the persons who are proprietors, for the time being, of the units.

Membership of corporation

29. A body corporate which is the proprietor of a unit may from time to time appoint a person to represent it for the purposes of the provisions of Divisions 3, 4 and 5 of this Part (other than sections 61, 71, 72 and 73 and, in that event, those provisions apply as if that person were the proprietor of that unit.

Body corporate which is member may appoint representatives

30. A corporation—

- (a) has perpetual succession;
- (b) shall have a common seal; and
- (c) may sue and be sued in its corporate name.

Legal status of corporation

31. The *Companies Ordinance* does not apply to or in relation to a corporation.

Companies Ordinance not to apply

32.(1) On and after the constitution of a corporation, there shall be a committee of the corporation which, subject to this Ordinance, shall perform all the duties and functions, and may exercise all the powers, imposed or conferred on the corporation.

Corporation to act through committee

(2) Those duties and functions shall be performed and those powers shall be exercised by the committee in such manner as the corporation by resolution passed at a general meeting directs or, in the absence of such a resolution, in such manner as the committee thinks fit.

Division 2—Duties, Functions and Powers of Corporations

General provisions

33.(1) A corporation shall perform the duties, may exercise the powers, and may perform the functions, imposed or conferred on it by this Ordinance.

(2) A corporation may do such things as are incidental or ancillary to the performance of its duties or functions or to the exercise of its powers.

General duties

34. A corporation shall—

- (a) be responsible for the enforcement of its articles and the control, management and administration of the common property;
- (b) keep in a state of good repair and properly maintain the common property and all chattels in its possession, custody or control; and
- (c) maintain in good repair and proper order and, if renewal is reasonably necessary, renew, all pipes, wires, cables, ducts, and apparatus and equipment of any kind used, or intended, adapted or designed for use, in the provision of services in respect of which easements are created by section 25.

Banking and investment of moneys of corporation

35.(1) A corporation shall open and maintain a bank account into which it shall pay all moneys received by it and out of which shall be paid all expenditure incurred by it.

(2) Subject to sub-section 3, moneys of a corporation may be invested—

- (a) in such manner as trust funds may be invested under the *Trustee Act and Ordinance*; or
- (b) in such other manner as is authorized by a special resolution.

(3) Moneys of a corporation shall not be invested in mortgages of land.

Contributions by members of the corporation

36.(1) A corporation shall, from time to time, determine the amount that it will require by way of contributions from its members to discharge expenditure that it may reasonably be expected to incur, or has incurred, by reason of the performance of the duties and functions and the exercise of the powers imposed or conferred on it by this Ordinance.

(2) A corporation shall, in a determination made under sub-section (1), specify the time within which, and the manner in which, contributions so determined are to be paid by its members.

(3) Subject to sub-section (4), the contribution payable in respect of each unit is such amount as bears to the total amount referred to in the determination the same proportion as the unit entitlement of the unit, as at the date of the determination, bears to the aggregate unit entitlement of all the units as at that date.

(4) Where—

- (a) a determination made under sub-section (1) relates to expenditure to be incurred by the corporation in discharge of a specified liability; and

- (b) before the making of that determination, the corporation has, by a unanimous resolution, resolved that contributions for that expenditure are payable in a proportion other than that specified in sub-section (3),

the contribution payable in respect of each unit for that expenditure is such amount as is ascertained in accordance with that resolution.

(5) The corporation shall cause notice of each determination made under sub-section (1) to be given to its members and shall, in the notice given to a member, specify the amount payable by him in respect of his unit and the time within which, and the manner in which, that amount is payable.

(6) If an amount payable in respect of a unit is not paid within the period specified in the notice, that amount is recoverable as a debt due to the corporation from the person who was the proprietor of the unit on the date on which the notice was so given and from the person who is the proprietor of that unit on the date on which the action is instituted.

- (7) The liability under sub-section (6) is joint and several.

37.(1) This section applies to the following persons:

- (a) the proprietor or mortgagee of a unit; and
- (b) a person who produces the consent in writing of the proprietor of a unit to the making of a request under this section; and

Statement of members' liability to the corporation and inspection of books, &c.

(2) A person to whom this section applies may request the relevant corporation—

- (a) to issue to him within 14 days after the request is received by the corporation, a certificate under the seal of the corporation certifying whether or not any amount that is payable under section 36 by way of contribution in respect of that unit is unpaid on the date of the certificate and, if so, the amount unpaid and the date on or before which the amount is, or will become, due; or
- (b) to make, as soon as is reasonably practicable after the request is received by the corporation, the books and records of the corporation available for his inspection and to give him reasonable opportunity to inspect those books and records.

(3) A request under this section shall be in writing and shall be accompanied by a fee, not exceeding 2 dollars, fixed by the corporation.

(4) If default has been made by a corporation in complying with a request made under this section, each person who was, at the time when the default occurred, a committee-man of the corporation is, unless he proves that he took reasonable steps to ensure that the default did not occur or proves that the default occurred without his knowledge, guilty of an offence and is punishable, on conviction by a fine not exceeding 400 dollars.

(5) Where a person has acted in good faith on a matter stated in a certificate issued by the corporation under this section, then, in an action by or against the corporation, the corporation is estopped, as against that person, from denying the truth of that or any other matter stated in the certificate.

38. A corporation shall comply with any reasonable request for the names and addresses of its committee-men.

Names and addresses of committee-men

No business for
profit

39.(1) Except in the course of, and for the purpose of, exercising its powers and performing its functions and duties, a corporation shall not carry on business.

(2) If default has been made by a corporation in complying with subsection (1), each person who was, at the time when the default occurred, a committee-man of the corporation is, unless he proves that he took reasonable steps to ensure that the default did not occur or proves that the default occurred without his knowledge, guilty of an offence and is punishable, on conviction, by a fine not exceeding 400 dollars.

Borrowing
powers

40. A corporation may, if authorized by a unanimous resolution—

- (a) borrow moneys required by it for the purpose of performing its duties or functions or exercising its powers; and
- (b) secure the repayment of moneys borrowed by it and the payment of interest on those moneys.

Breaches of
articles may be
remedied

41.(1) If a person who is bound by a provision of the articles of a corporation commits a breach of that provision by act or omission, the corporation may serve upon that person a notice in writing giving particulars of the breach and requiring him to remedy the breach within a reasonable time specified in the notice.

(2) If the person upon whom the notice has been served fails to remedy the breach within the time specified in the notice, the corporation may itself remedy the breach.

Acquisition and
alienation of
property

42.(1) A corporation may, if authorized by special resolution—

- (a) purchase, hire or otherwise acquire, or accept, personal property (not being a leasehold interest) for its own use or for any use in connexion with the use and enjoyment of the common property; and
- (b) dispose of any property so purchased, acquired or accepted.

(2) A corporation may, if authorized by unanimous resolution—

- (a) grant an easement over any portion of the common property;
- (b) acquire or accept an easement granted for the benefit of the common property; or
- (c) release an easement so granted, acquired or accepted,

but an easement shall not be so granted, acquired, accepted or released except upon such terms and conditions and for such purposes as are specified in the resolution.

A corporation is not capable, either at law or in equity, of acquiring or possessing any interest in land (not being an easement granted for the benefit of the common property).

Agreements with
members

43. A corporation may, if authorized by a special resolution, enter into and carry out an agreement with a proprietor or occupier of a unit providing for the repair or maintenance of the unit or for the provision of amenities or services by it to that unit or to that proprietor or occupier.

Special privileges
relating to
common
property

44.(1) A corporation may, if authorized by a unanimous resolution, grant to a member, or any person who has derived an interest in a unit through a member, any special privilege (not being a lease) in respect of the enjoyment of part or parts of the common property.

(2) A grant under sub-section (1) may be terminated by notice in writing given by the corporation to the grantee in accordance with a special resolution.

45.(1) Where a corporation has performed any act which it was required or authorized by its articles or by or under this Ordinance or any other law in force in the Territory to perform, and which related to one unit only or some of the units only, any money expended by the corporation in performing that act is recoverable by the corporation as a debt from the proprietor or proprietors, for the time being, of that unit or those units, as the case may be.

Recovery of
certain repairs,
&c.

(2) Where the act referred to in sub-section (1) related to some of the units only, the amount recoverable from a proprietor in respect of a unit bears to the whole amount of the debt the same proportion as the unit entitlement of the unit bears to the aggregate unit entitlement of all those units.

(3) For the purposes of this section—

(a) “act” includes repairs and work; and

(b) an act shall be deemed to relate to a unit if, but only if, the act is wholly or substantially for the benefit of the unit or wholly or substantially the liability or the responsibility of the proprietor of the unit.

46. Where a corporation has incurred any expenditure or performed any repairs, work or act that it was required or authorized by its articles or by or under this Ordinance or any other law in force in the Territory to perform, the expenditure, repairs, work or act having been rendered necessary by reason of any wilful or negligent act or omission on the part of, or breach of any provision of its articles by, a member of the corporation, the amount of that expenditure or any money expended by it in performing the repairs, work or act is recoverable by it from that member as a debt.

Recovery of
expenditure
resulting from
fault

47. Where 2 or more persons are proprietors of a unit and an amount is recoverable under section 36 or section 45 from the proprietor of that unit, the liability of those persons in respect of the payment of that amount is joint and several.

Liability of
co-proprietors

Division 3—Committees of Corporations

48. (1) Until the first annual general meeting, the committee consists of all the members of the corporation.

Constitution of
committee
before first
annual general
meeting

(2) Until the first annual general meeting, the committee shall not perform a duty or function imposed, or exercise a power conferred, on the corporation unless it is authorized by a unanimous resolution to do so.

49.(1) After the first annual general meeting, the committee shall, subject to this section, consist of such number of members of the corporation as is determined at that meeting, being a number not less than 3 and not more than 7.

Constitution of
committee after
first annual
general meeting

(2) Subject to this section, the number of committee-men may be varied by ordinary resolution passed at a general meeting.

(3) The corporation may, by special resolution, fix a number of committee-men exceeding 7.

(4) Where—

- (a) there are not more than 3 members of the corporation; or
- (b) the number of members of the corporation is equal to or less than the number determined, for the time being, to be the number of committee-men,

the committee consists of all the members of the corporation.

(5) Except where sub-section (4) is applicable, the committee-men shall be elected at each annual general meeting and shall hold office until the next succeeding annual general meeting.

(6) Except where the committee consists of all the members of the corporation, the corporation may, by special resolution, remove any committee-man before the expiry of his term of office and appoint another member of the corporation in his place to hold office for the unexpired part of the term of office of the committee-man so removed.

(7) Subject to sub-section (6), when a casual vacancy occurs on the committee, the remaining committee-men may appoint another member of the corporation in place of, and for the unexpired part of the term of office of, the committee-man whose office is vacant.

Meetings of
committee

50.(1) Subject to sub-section (2), the committee may meet for the conduct of business as and when it determines and may adjourn and otherwise regulate its meetings as it thinks fit.

(2) A committee-man may convene a meeting of the committee by giving to each other committee-man not less than 7 days' written notice specifying the business that he proposes to bring before the meeting and the time and place of the meeting.

Quorum of
committee

51.(1) No business shall be transacted at a meeting of the committee unless a quorum is present at the relevant time.

(2) For the purposes of sub-section (1), a quorum is—

- (a) where the total number of committee-men is an odd number—a number ascertained in accordance with the formula—

$$\frac{X + 1}{2}$$

; or

- (b) where the total number of committee-men is an even number—a number ascertained in accordance with the formula—

$$\frac{X}{2} + 1$$

where X is the total number of committee-men.

Chairman of
committee

52.(1) At the commencement of each meeting of the committee, the committee-men present shall elect a chairman for the meeting.

(2) If any chairman so elected vacates the chair or is unwilling or unable to act as chairman during the course of a meeting, the committee-men present shall elect another chairman in his place.

(3) The chairman elected under either sub-sections (1) or (2) is not prevented from exercising his deliberative vote as a committee-man and, in the case of an equality of votes, is entitled to a second or casting vote.

53. At meetings of the committee, all matters shall be decided by a majority of the votes of the committee-men present and voting.

Voting of
committee

54.(1) Subject to any restriction or direction that may be imposed or given by ordinary resolution passed at a general meeting, the committee may delegate to one or more of the committee-men either generally or otherwise as provided by the instrument of delegation, all or any of its duties, functions and powers, except this power of delegation.

Committee may
delegate duties,
functions and
powers

(2) A duty so delegated shall be performed and a function or power so delegated may be performed or exercised, 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 performance of a duty or function, or the exercise of a power, by the committee.

55. Subject to any restriction or direction that may be imposed or given by special resolution, the committee may, for and on behalf of the corporation, employ, on such terms and conditions as it thinks fit, agents and servants in connexion with the performance of the duties and functions and the exercise of the powers of the corporation.

Committee may
employ agents
and servants

56.(1) The committee shall—

Minutes, records
and accounts

- (a) keep minutes of its proceedings;
- (b) cause minutes of proceedings at all general meetings of the corporation to be kept in a minute book of the corporation kept for the purpose;
- (c) include in that book a record of every resolution of the corporation indicating whether that resolution was unanimous, special or ordinary;
- (d) cause proper records and books of account to be kept in respect of the assets and liabilities of the corporation and all sums of money received and expended by and owing to and by the corporation; and
- (e) cause those minutes, records and books of account to be retained for a period of 3 years after the completion of the transactions, acts or operations to which they relate.

(2) At each annual general meeting, the committee shall present to the corporation statements showing all moneys received and paid by, and assets and liabilities of, the corporation covering the period since the last preceding accounts so presented or, in the case of the first annual general meeting, since the registration of the units plan, and made up to a date that is not more than 3 months before the date of that meeting.

(3) If default has been made by the committee in complying with either sub-sections (1) or (2), each person who was, at the time when the default occurred, a committee-man is, unless he proves that he took reasonable steps to ensure that the default did not occur or proves that the default occurred without his knowledge, guilty of an offence and is punishable, on conviction, by a fine not exceeding 400 dollars.

57. No act done in good faith by the committee is invalidated merely by reason of the fact that at the relevant time there was some defect in the appointment or continuance in office of a committee-man.

Validity of acts
of committee

Division 4—General Meetings of Corporations

Annual general meetings

58.(1) A corporation shall hold a general meeting (which shall be called the annual general meeting and may be held in addition to any other general meeting held in the same year) at least once in every year and, except in the case of the first annual general meeting, not more than 15 months after the date of the last preceding annual general meeting.

(2) Subject to this Division, a corporation may hold, adjourn and otherwise regulate general meetings as it thinks fit.

Convening of first annual general meeting

59.(1) The first annual general meeting shall be held within 6 months after the registration of the units plan.

(2) The first annual general meeting may be convened by the committee or by any member of the corporation.

Convening of general meeting other than the first annual general meeting

60.(1) The committee—

(a) may, whenever it thinks fit; and

(b) shall, upon a requisition in writing specifying the matters to be considered at a general meeting and made by members having not less than 25 per centum of the aggregate unit entitlement,

upon notice given in accordance with section 61, convene a general meeting.

(2) Where a mortgagee has, in a notice given under section 65 or in a subsequent written notice, notified the corporation that he is to be regarded as a member of the corporation in respect of that unit for the purposes of sub-section (1) the mortgagee shall be deemed for those purposes to be a member of the corporation in respect of that unit.

Notice of general meeting

61.(1) Subject to sub-section (2), the time to be fixed for the holding of a general meeting shall be a time which will permit not less than 14 days' notice of the time fixed for the meeting to be given.

(2) Where it appears to the committee that a matter to be considered at a general meeting requires a unanimous resolution, the time to be fixed for the holding of the general meeting shall be a time that will permit not less than 21 days' notice of the time fixed for the meeting to be given.

(3) A notice for a general meeting—

(a) shall specify the time, date and place fixed for the holding of the meeting;

(b) if it appears to the committee that any matter to be considered at the meeting is a matter that requires a unanimous resolution, shall specify that matter and state the fact that it requires a unanimous resolution; and

(c) shall be given to all the members of the corporation and to all mortgagees who have given notice to the corporation under section 65.

(4) Notice under sub-section (3) shall be deemed to have been sufficiently given to a person if sent by prepaid post as a letter properly addressed to the last address of that person notified to the corporation, or, if no such address has been so notified, to the person's last known place of abode or, if that person is a body corporate, to its registered office, its place of business or any other known address.

(5) The proceedings at a general meeting are not invalidated by reason of the fact only—

- (a) that a person did not receive notice under this section; or
- (b) that such a notice was received by a person less than 14 days or 21 days as the case may be, before the time fixed for the meeting.

(6) Where notice of a general meeting has been received by a person less than 14 days or 21 days, as the case may be, before the time fixed for the meeting, the meeting shall, if that person so requests, be adjourned to a date to be determined by the persons present and voting at the meeting.

62.(1) At the commencement of a general meeting, the members present shall elect a chairman for the meeting.

Chairman of
general meeting

(2) If a chairman so elected vacates the chair or is unwilling or unable to act as chairman during the course of the meeting, the members present shall elect another chairman in his place.

63.(1) Subject to sub-section (2), no business shall be transacted at a general meeting unless a quorum, consisting of persons entitled to exercise voting rights in respect of not less than half the total number of units, is present at the relevant time.

Quorum at
general meeting

(2) If, within half an hour after the time appointed for a general meeting, a quorum referred to in sub-section (1) is not present, the meeting shall be adjourned to the same day in the next week at the same place and time and, if a quorum is not then present within half an hour after the time appointed for the adjourned meeting, the persons who are then present and entitled to vote constitute a quorum for the purposes of that sub-section.

Division 5—Voting at General Meetings

64. Subject to section 65, at a general meeting—

Voting by
members

- (a) where a unanimous resolution is required, each member is entitled to exercise one vote; and
- (b) where a unanimous resolution is not required, one vote is exercisable in respect of each unit and that vote is exercisable by the member who is the proprietor of that unit or, where there are 2 or more proprietors of that unit, jointly by the members who are those proprietors.

65.(1) Where the estate or interest of the proprietor of a unit is subject to a mortgage or mortgages, the mortgagee or, if there are 2 or more such mortgages, the mortgagee under whichever of those mortgages is entitled to priority over the other mortgage or other mortgages may give the corporation written notice that the unit is subject to the mortgage and that he proposes to exercise the rights conferred by this section.

Voting by
mortgagees

(2) Where a mortgagee of a unit has given notice under sub-section (1) and the mortgage has not been discharged, the right to vote in respect of that unit, on a matter requiring a unanimous resolution, that would, but for this sub-section, be exercisable by the proprietor, of that unit—

- (a) shall not be exercised by the proprietor; and
- (b) may be exercised by the mortgagee.

(3) Where—

- (a) a mortgagee of a unit has given notice under sub-section (1);
 - (b) he or his proxy is present at a general meeting of the corporation at the time of voting; and
 - (c) the mortgage has not been discharged,
- the right to vote in respect of that unit, on a matter not requiring a unanimous resolution that would, but for this sub-section, be exercisable by the proprietor of that unit—
- (d) shall not be exercised by the proprietor; and
 - (e) may be exercised by the mortgagee.

(4) Where 2 or more persons are mortgagees of a unit as joint tenants or as tenants in common—

- (a) the right to give notice under this section is exercisable only by them jointly;
- (b) the right to vote conferred upon them by this section is exercisable by them jointly; and
- (c) for the purposes of sub-section (3), those mortgagees shall be deemed not to be present at a meeting unless their proxy is present at that meeting.

(5) Where—

- (a) a unit is held by 2 or more persons as tenants in common; and
- (b) one of those tenants has mortgaged his estate or interest as registered proprietor,

the mortgagee may give notice to the corporation in accordance with sub-section (1) and thereupon the preceding provisions of this section apply in relation to the right to vote that the mortgagor would, but for this sub-section, be entitled to exercise.

Declaration by
chairman of
result of voting

66. Where a unanimous resolution is not required, then, unless a poll is demanded under section 67, a declaration by the chairman of the meeting that a resolution has been carried is conclusive evidence of the fact without proof of the number or proportion of votes recorded against or in favour of that resolution.

Polls

67.(1) Where a unanimous poll or special resolution is required, a poll may be demanded by any person present and entitled to vote.

(2) A demand for a poll may be withdrawn.

(3) A poll, if demanded, shall be taken in such manner as the chairman of the meeting thinks fit and the result of the poll, which shall be declared by the chairman as soon as it is ascertained, shall determine whether or not the resolution in respect of which the poll was demanded has been carried.

Votes may be
cast personally or
by proxy

68.(1) Subject to section 72 and 73, votes at a general meeting may be cast either personally or by proxy, whether on a poll or not.

(2) An instrument appointing a proxy for the purposes of this Division shall be in accordance with a form determined by the committee.

Value of votes

69. Except where a unanimous or special resolution is required, every vote is of equal value unless a poll is demanded and held, and in that event the value of each vote corresponds to the unit entitlement of the unit in respect of which it is exercised.

70. The chairman of a general meeting is not prevented from exercising his deliberative vote as a member and, in the case of an equality of votes on an ordinary resolution, whether on a poll or not, is entitled to a second or casting vote. Voting by chairman

71. Except where a unanimous resolution is required, the right to vote in respect of a unit is not exercisable unless all amounts due and payable in respect of that unit to the corporation by the member or members liable to pay those amounts have been paid. No vote unless dues paid

72.(1) Where notice has been given that it is proposed to move at a general meeting a matter requiring a unanimous resolution and more than one person is entitled to attend the meeting and vote on the resolution— Absentee votes on unanimous resolutions

- (a) the committee shall, with the notice of the meeting given to the person, give a voting paper; and
- (b) a person entitled to vote on the proposed resolution may, in lieu of voting in any other manner, cast an absentee vote by recording his vote on the voting paper and causing it to be delivered to the corporation before the commencement of the meeting.

(2) A vote recorded and delivered in accordance with sub-section (1) shall be accepted by the chairman of the meeting concerned as a valid vote by the person exercising it and that person shall, except for the purposes of section 63, be deemed to be present at the meeting and to have exercised his powers of voting on that resolution.

73.(1) Where 2 or more persons are entitled to exercise one vote jointly, that vote shall be exercised only by a person (who may or may not be one of them) jointly appointed by them as their proxy. Joint voters

(2) Notwithstanding sub-section (1), where 2 or more persons are entitled to exercise one vote jointly, any one of them may, except where a unanimous resolution is required, demand a poll.

74. The right of a person to vote at a general meeting— Capacity to vote

- (a) may, subject to paragraph (b), be exercised by him, if he has attained the age of 18 years;
- (b) shall not be exercised by him if he is under a legal disability (not being infancy) that prevents him from lawfully dealing with his property, but may in that event be exercised by the person who is, for the time being, authorized by law to control that property; and
- (c) shall not be exercised by him if he has not attained the age of 18 years, but may in that event be exercised by his guardian.

75.(1) Where, for any reason, it is impossible or impracticable to obtain the exercise by a person of his right to vote on a matter requiring a unanimous resolution, or it is not known by what person a right to vote on such a matter is exercisable, the Court, on the application of the corporation or of any other person entitled to vote on the matter, may by order— Court's powers in respect of voting

- (a) appoint a person to exercise, on behalf of the first-mentioned person, the right to vote; or
- (b) declare that any person's right to vote shall be dispensed with either on a particular occasion or generally.

(2) Where the Court has made an order under sub-section (1) (a), the person appointed by the Court may exercise the right to vote of the person named in the order.

(3) Where the Court has made an order under sub-section (1) (b), the provisions of this Division have effect as if no right to vote were exercisable by the person in question on the particular occasion or generally, as the case may be.

(4) In making an order under sub-section (1), the Court may make such provision as it thinks necessary or expedient to give effect to the order.

(5) In this section, a reference to a right to vote shall be read as including a reference to a right to appoint a proxy to vote.

Division 6—Articles of Corporations

Articles of corporation

76. On and after the constitution of a corporation by section 27, the articles set out in the Schedule shall, subject to any amendment or rescission of, or addition to, those articles made under section 78, be the articles of the corporation.

Effect of articles

77.(1) The corporation and each of the members of the corporation are bound by, and have the rights conferred by, the articles of the corporation to the same extent as if—

- (a) the corporation and each member had agreed under seal with each other and each other member to be bound by the articles; and
- (b) the articles contained covenants on the part of the corporation and each member to observe all the provisions of the articles.

(2) Unless the articles of the corporation otherwise provide, an occupier of a unit, not being the proprietor of the unit, is bound by the articles of the corporation as if he were the proprietor of the unit.

Alteration of articles

78.(1) A corporation may, by special resolution, alter its articles by amending, rescinding or adding to its articles or by making articles in the place of articles rescinded.

(2) Subject to sub-section (3) an alteration of the articles of a corporation under sub-section (1)—

- (a) has no force or effect unless a copy of the special resolution making the alteration, certified under the seal of the corporation as a true copy, is lodged with and registered by the Registrar; and
- (b) has force and effect on and from the date of its registration or such later date as is fixed by the special resolution.

(3) To the extent that an alteration of the articles of a corporation made under sub-sections (1) or (2) results in a provision of the articles—

- (a) being inconsistent with a provision of this Ordinance other than a provision in the Schedule;
- (b) imposing a duty or conferring a power on the corporation which is not incidental or ancillary to the performance of the duties or functions, or the exercise of the powers, imposed or conferred on it by this Ordinance; or
- (c) prohibiting or restricting the devolution, transfer, lease or mortgage of, or any other dealing with—

- (i) an interest in a unit; or
- (ii) the equitable estate of the proprietor of a unit in the common property,

the alteration has no force or effect.

79.(1) The *Interpretation Ordinance* applies to and in relation to the articles of a corporation as if the articles were an Ordinance and as if each article were a section of an Ordinance.

Application of
Interpretation
Ordinance

(2) Expressions used in the articles of a corporation have, unless the contrary intention appears, the same meaning as in this Ordinance.

PART VI—INSURANCE

80.(1) Subject to sub-section (3), a corporation shall insure and keep insured all buildings and other improvements on the parcel for their replacement value from time to time against all the following risks—

Insurance by
corporation

- (a) fire, lightning, tempest, earthquake and explosion;
- (b) riot, civil commotion, strikes and labour disturbances;
- (c) malicious damage;
- (d) bursting, leaking and overflowing of boilers, water tanks, water pipes and associated apparatus; and
- (e) impact of aircraft (including parts of, and objects falling from aircraft) and of road vehicles, horses and cattle.

(2) Subject to sub-section (3), a corporation shall insure itself and keep itself insured against liability in respect of—

- (a) death, bodily injury or illness; or
- (b) loss of, or damage to, property,

occurring in connexion with the common property as a result of an accident, for such aggregate amount of liability, being not less than 100,000 dollars at any one time, as is determined by the corporation.

(3) A corporation may, by unanimous resolution, resolve that it will not insure against such of the risks referred to in sub-sections (1) and (2) as are specified in the resolution, and, in that event, the corporation is not required by this section to insure against a risk so specified.

(4) Where a corporation has, under sub-section (2), resolved that it will not insure against a particular risk, a proprietor or mortgagee of a unit may at any time serve on the corporation a written notice requiring it to insure against that risk.

(5) 28 days after the receipt by the corporation of the notice, the unanimous resolution ceases to have effect in relation to the risk specified in the notice and the corporation shall, in accordance with sub-sections (1) or (2), as the case may be, insure against that risk.

(6) As soon as is practicable after the receipt by the corporation of the notice, the corporation shall notify every member and every mortgagee of a unit—

- (a) of the particulars of the notice and the date of its receipt; and
- (b) of the date on and from which the risk specified in the notice is, or is to be, covered by insurance effected by the corporation.

(7) Nothing in this section shall be construed as limiting the right of a corporation to effect such additional insurance as it determines.

(8) In this section "risk" includes any liability referred to in sub-section (2).

Insurable
interests of
corporation

81. For all purposes connected with any insurance effected by it under section 80(1), a corporation shall be deemed to have an insurable interest in the building and improvements on the parcel to the extent of their replacement value.

Corporation's
insurance
moneys not to be
brought into
contribution

82. The moneys received by a corporation under a policy of insurance effected by it under section 80(1) in respect of any buildings or other improvements on the parcel shall not be liable to be brought into contribution with moneys received under any other policy of insurance except another policy effected under that sub-section in respect of the same buildings or improvements.

Inspection of
policies and
receipts for
premiums

83. A corporation shall, on the written request of a member or the mortgagee of a unit, produce for inspection by the member or mortgagee the policy of insurance effected by the corporation and the receipt for premiums paid under that policy.

Mortgage
insurance of unit

84. Where the estate or interest of the proprietor of a unit is subject to a mortgage, the proprietor may effect one or more policies of insurance that indemnify him against liability under the mortgage, being liability arising out of damage to, or destruction of, the unit.

Payment under
policy

85. Where a policy of insurance is in force under section 84, the insurer is liable to pay to the mortgagee whose interest is noted on the policy or, if there are 2 or more such mortgagees, to those mortgagees in their order of registered priority—

- (a) the sum insured as stated in the policy;
- (b) the amount of the loss; or
- (c) the amount sufficient, at the date of the loss, to discharge the mortgage noted on the policy,

whichever is the least amount.

Transfer of
mortgagee's
interest to insurer

86. Payment by the insurer to a mortgagee under section 85 does not entitle the mortgagor to a discharge of the mortgage, but, upon that payment—

- (a) if the amount paid equals the amount necessary to discharge the mortgage, the insurer is entitled to obtain from the mortgagee a transfer of the mortgage; or
- (b) if the amount paid is less than the amount necessary to discharge the mortgage, the insurer is entitled to obtain from the mortgagee a transfer of an undivided share of the mortgagee's estate and interest in the mortgage that bears to that estate and interest the same proportion as the amount paid bears to the amount that was owing under the mortgage immediately before the payment.

Mortgage
insurance
moneys not to be
brought into
contribution

87. The moneys received under a policy of insurance effected in relation to a unit by the proprietor of that unit under section 84 shall not be brought into contribution with moneys received under any other policy of insurance except another policy effected under that section which indem-

nifies that person against liability arising out of damage to, or destruction of, that unit.

88. Nothing in this Part shall be construed as limiting the right of a proprietor of a unit to insure against damage to, or destruction of, the unit to the extent of its replacement value. Other insurance by proprietor

89. Subject to this Ordinance and to any order of the Court, where a corporation receives insurance moneys in respect of damage to, or destruction of, any building or improvement on the parcel, it shall, without delay, apply those moneys to rebuilding and reinstating the building or improvement. Application of insurance moneys

PART VII—ADMINISTRATORS OF CORPORATIONS

90.(1) A corporation, a creditor of a corporation, a person having an estate or interest in a unit or the Administrator may apply to the Court for the appointment as administrator of the corporation of a person who has consented to act in that capacity. Appointment of administrator

(2) On an application made under sub-section (1), the Court may, in its discretion and on cause shown, by order, appoint the person named in the application to be administrator of the corporation on such terms and conditions as to remuneration or otherwise as it thinks fit.

(3) The remuneration of an administrator of a corporation and the expenses incurred by him in the performance of his duties and functions and the exercise of his powers as an administrator shall be deemed to be expenditure incurred by the corporation.

91. On an application made by the administrator of a corporation, the corporation or a person referred to in section 90(1), the Court may, in its discretion, by order, remove or replace the administrator of the corporation. Removal or replacement of administrator

92. In an order under either sections 90 or 91 the Court shall give such directions as it thinks fit with respect to the giving of notice of the order to the Registrar and to the corporation. Notice to Registrar and corporation of order under section 90 or 91

93.(1) Subject to this section, the administrator of a corporation shall perform the duties, and may exercise the powers and perform the functions, of the corporation to the exclusion of the corporation and its committee. Duties, functions and powers of administrator

(2) Except with the approval of the Court, the administrator of a corporation shall not do any act that is required by this Ordinance to be authorized by a unanimous resolution.

(3) On application made to the Court by the administrator of a corporation or a person referred to in section 90(1), the Court may give such directions as it thinks fit with regard to the manner in which the administrator shall perform his duties and functions and exercise his powers.

94.(1) An administrator of a corporation may, by writing under his hand, delegate to any person, either generally or otherwise as provided by the instrument of delegation, all or any of his duties, functions and powers, except this power of delegation. Administrator may delegate duties, functions and powers

(2) A duty so delegated shall be performed, and a function or power so delegated may be performed or exercised, 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 performance of a duty or function, or the exercise of a power, by the administrator of the corporation.

PART VIII—CANCELLATION AND ALTERATION OF UNITS PLANS

Court may order
cancellation of
units plan

95.(1) A corporation, the administrator of a corporation or a member of a corporation may apply to the Court for an order for the cancellation of the units plan.

(2) A copy of an application under this section shall be served on the Registrar.

(3) On an application made under sub-section (2), the Court may make a provisional order, or a final order, for the cancellation of the units plan or may make an order dismissing the application.

(4) The Court shall not make an order for the cancellation of a units plan unless it is satisfied that, having regard to the rights and interests of all persons having estates or interests (whether registered or not) in the units, it is just and equitable to do so.

(5) If the Court considers, on an application for an order under this section, that it is necessary to impose conditions, and give directions, to be complied with before the making of a final order for the cancellation of the units plan for the purpose of adjusting, as between all persons having registered estates or interests in the units, the respective rights and duties of those persons so far as they may be affected by the cancellation of the units plan, the Court shall make a provisional order for the cancellation of the units plan specifying the conditions and directions to be complied with before the making of a final order.

(6) The Court may, if satisfied, on an application made for the purpose, that the conditions and directions specified in the provisional order have been complied with, make a final order for the cancellation of the units plan.

(7) A final order may include directions to be complied with after the cancellation of the units plan and, in such a case, the order may be enforced as if it were a judgment of the Court obtained by a person for whose benefit the directions were given against the person required to comply with the directions.

Effect of
registration of
order for
cancellation of
units plan

96.(1) On the registration of an order for the cancellation of a units plan—

- (a) the corporation is dissolved;
- (b) the title of the common property and the title of each of the units are determined;

common, in the same shares as they held in the unit or units.

(3) The share in the estate, or the estate, as the case may be, of which a person becomes possessed under sub-section (1)(d) is subject to any mortgage and any easement referred to in section 11 of the *Real Property (Unit Titles) Ordinance*.

97.(1) On the dissolution of a corporation under section—

(a) all rights, whether at law or in equity, vested in the corporation immediately before the dissolution are vested jointly in the persons who were, immediately before the dissolution the members of the corporation;

(b) subject to sub-section (2), the persons who, immediately before the dissolution, were the members of the corporation are jointly and severally liable for all the liabilities of the corporation subsisting immediately before the dissolution; and

(c) for the purposes of paragraphs (a) and (b), a reference in an instrument to the corporation shall be read as a reference to those persons.

(2) On an application made to the Court before the order for the cancellation of the units plan is made, the Court may, if it considers, in the circumstances of the case, that it is just and equitable to do so, by order, vary the operation of sub-section (1) (a) or (1) (b) in such manner as it thinks fit.

Rights and liabilities of corporation vested in former members

98.(1) Where—

(a) After the registration of a units plan, a building or other improvement on the parcel is damaged or destroyed;

(b) an order for the cancellation of the units plan has not been made under this Part; and

(c) an application for such an order is not pending,

an application may be made to the Court for an order, approving a scheme that makes provision for the reinstatement of the building or other improvement, or, in a case where a unit has been damaged or destroyed, for the elimination of that unit and for any consequential alteration of the units plan.

(2) An application under this section may be made by the corporation, by a majority of the members of the corporation jointly or, if an administrator of the corporation has been appointed, by the administrator.

(3) A copy of an application under this section for the approval of a scheme providing for the elimination of a unit shall be served on the Registrar.

(4) A scheme submitted for the approval of the Court shall include provisions showing—

(a) the proposed reinstatement or elimination;

(b) the manner in which it is proposed to apply insurance moneys paid or payable in respect of the damage or destruction;

(c) the compensation or other moneys to be paid to the proprietor of a unit and any other person who may be adversely affected by the scheme; and

(d) where the scheme provides for the elimination of a unit, the manner in which it is proposed that the units plan be altered, including any necessary alteration of the schedule of unit entitlement, to enable effect to be given to the scheme.

Approval of scheme for alteration of units plan

(5) The Court may, on the hearing of an application under this section, make an order approving the scheme if it is satisfied that it is just and equitable to do so and may, in the order, give such directions as it thinks are necessary or expedient to enable effect to be given to the scheme.

Order of Court
for alteration of
units plan

99. The Court, if satisfied, on an application made for the purpose, that the provisions of a scheme approved by its providing for the elimination of a unit (other than the provisions for the alteration of the units plan) have been carried out and that the directions (if any) given in the order approving the scheme have been complied with, shall make an order directing such alteration of the units plan as was approved by it.

Effect of
registration of
order for
elimination of
unit

100. On the registration of an order for the alteration of a units plan, the units plan shall be deemed to be altered in the manner directed by the order of the Court and—

- (a) the title of the unit proposed to be eliminated is determined;
- (b) the land comprised in the common property shall be deemed to include the land that, immediately before the registration of the order, comprised that unit;
- (c) Section 25 (3) (b) has effect as if a reference in that section to the registration of the units plan were a reference to the registration of the order for the alteration of the units plan.

Interested
persons may be
heard

101. Each of the following persons has the right to appear and to be heard in support of, or in opposition to, an application made under section 95 or 98—

- (a) the corporation or, if an administrator has been appointed, the administrator of the corporation;
- (b) a member of the corporation;
- (c) a person claiming to have an estate or interest in a unit;
- (d) an insurer who has effected insurance of a building or other improvement on the parcel; and
- (e) the Administrator.

Directions for
lodging orders
with Registrar

102. The Court shall in a final order under section 95, or in an order under section 99, give such directions as it thinks fit with respect to the taking out of the order and the lodging of a copy of the order with the Registrar.

PART IX—MISCELLANEOUS

Facilities for
service of
documents

103.(1) A corporation shall cause to be continuously displayed in a conspicuous place on the parcel a notice showing the name of the corporation and the address shown on the units plan for service of documents.

(2) A corporation shall cause to be continuously available in a conspicuous and accessible place on the parcel a receptacle suitable for purposes of postal delivery, bearing the name of the corporation in clear and legible characters.

Penalty: 50 dollars.

Service of
documents

104. A document may be served on a corporation—

- (a) by sending it by prepaid post as a letter properly addressed to the

corporation at the address shown on the units plan for service of documents; or

- (b) if that address for service is the postal address of the building on the parcel—by placing it in the receptacle referred to in section (2).

105. A document bearing the seal of the corporation and stating—

- (a) at a general meeting held on a specified date a resolution in the terms set out in the document was passed; and
 - (b) the resolution was a unanimous, special or ordinary resolution,
- is evidence of the facts stated in the document.

Evidence of
resolutions

106.(1) Where a corporation fails to carry out a requirement or perform a duty imposed on it by this Ordinance, a proprietor or mortgagee of a unit may apply to the Court for an order requiring the corporation or the committee to carry out the requirement or perform the duty, as the case may be.

Enforcement of
Ordinance

(2) On an application made under subsection (1) the Court may, if it is satisfied that the failure has occurred, make such order as it thinks just.

107. The Court has jurisdiction in all applications made to it under this Ordinance.

Jurisdiction
conferred on
Court

108.(1) On and after the registration of a units plan, and unless and until that units plan is cancelled under Part VIII—

- (a) the land comprised in the common property and units shall be deemed, for the purposes of the *Local Government Ordinance*, to form one parcel of land;
- (b) the rates imposed under that Ordinance in respect of the parcel are payable by the members of the corporation, the amount payable by each member being an amount that bears to the total amount of rates the same proportion as the unit entitlement of his unit bears to the aggregate unit entitlement of all the units; and
- (c) no rates in respect of the parcel are payable under that Ordinance by the corporation.

Application of
Rates provisions
of Local
Government
Ordinance

109. There are payable in respect of applications (other than applications to the Court) and other matters under this Ordinance such fees as are specified in, or ascertained in accordance with, the regulations.

Fees

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

Regulations

THE SCHEDULE

Articles

Section 76

1. In these articles, unless the contrary intention appears—

“authorized agent” means a person authorized by the corporation;

“Ordinance” means the *Unit Titles Ordinance* 1975 as amended from time to time.

2.(1) Subject to this article, an authorized agent may, at all reasonable times—

- (a) inspect a unit for the purpose of ascertaining whether or not the Ordinance and these Articles are being observed;
- (b) carry out in, on or to a unit any maintenance, repairs or work that the corporation is, by the Ordinance or these Articles, required to carry out in, on or to the unit;
- (c) carry out in, on or to a unit the functions imposed, exercise the powers conferred and perform the duties imposed, by the Ordinance and these Articles on the corporation in so far as they relate to the unit,

and may, for any of those purposes, enter and remain in or on the unit for such period as is reasonably necessary for the purposes of doing any act referred to in this article.

- (2) An authorized agent shall not do any act referred to in this article unless—
 - (a) the corporation or the authorized agent has given to the proprietor of the unit or to the occupier or user of the unit reasonable notice of his intention to enter in or on the unit or to do the act; or
 - (b) by reason of an emergency, it is essential that the act be done without notice having been so given.
 - (3) Each member of the corporation shall—
 - (a) pay all rates, taxes, charges, outgoings and assessments payable in respect of his unit;
 - (b) repair and maintain his unit and keep his unit in a state of good repair;
 - (c) if he agrees to transfer his unit to another person, forthwith give notice of the fact to the corporation;
 - (d) comply with any requirement made by or under any law in force in the Territory to carry out repairs or to do any work or thing in relation to his unit;
 - (e) if his unit is to be unoccupied for a continuous period exceeding 30 days, give notice of the fact to the corporation;
 - (f) if a change occurs in the occupancy of his unit, notify the corporation of that fact and of the name of the person who will occupy the unit.
 - (4) A member of the corporation—
 - (a) shall not use the common property or permit it to be used so as unreasonably to interfere with the use and enjoyment of the common property by another member of the corporation, by the occupier or user of another unit or by an invitee or licensee of such a member or person;
 - (b) shall not use his unit or permit it to be used in such a manner as to cause a nuisance, hazard or substantial annoyance to another member of the corporation or an occupier or user of another unit or to an invitee or licensee of such a member or person;
 - (c) make within his unit or on the common property such a noise as might reasonably, in the circumstances, cause substantial annoyance to another member of the corporation or to the occupier or user of another unit;
 - (d) use his unit, or permit it to be used, in a manner that results in there being a contravention of a law in force in the Territory;
 - (e) except in accordance with the express permission contained in a unanimous resolution of the corporation and in accordance with the provisions of any law in force in the Territory applicable in the circumstances, erect or alter any structure in or on his unit; and
 - (f) except in accordance with the written permission of the corporation (which permission may be withdrawn at any time by written notice given in pursuance of a special resolution of the corporation), keep any animals or birds in or on his unit or the common property.
 - (5) A person who becomes the proprietor of a unit shall, within 7 days after lodging with the Registrar for registration the instrument under which he has become the proprietor of the unit, give to the corporation notice that he has become the proprietor of the unit.
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THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To amend the *Wildlife Conservation and Control Ordinance 1962* 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 *Wildlife Conservation and Control Ordinance 1975*. Short title
 2. The *Wildlife Conservation and Control Ordinance* as amended is, in this Ordinance, referred to as the Principal Ordinance. Principal Ordinance
 3. This Ordinance shall come into effect on a date to be fixed by the Administrator by notice in the *Gazette*. Commencement
 4. Section 8(4) of the Principal Ordinance is amended by omitting “the form contained in the Second Schedule” and substituting “a form approved by the Chief Inspector and containing the photograph (full face) and the signature of the inspector or ranger, verified by the signature of the Chief Inspector”. Rangers
 5. The Second Schedule is repealed. Repeal
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