

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

ADMINISTRATIVE HEADS (TENURE OF
OFFICE) ORDINANCE 1989

No. 27, 1989

Subsection 12(1) of the Seat of Government (Administration) Act 1910 provides that the Governor-General may make Ordinances for the peace, order and good government of the Australian Capital Territory.

Subsection 52 of the Australian Capital Territory (Self-Government) Act 1988 provides that the Head of Administration or an Associate Head of Administration hold office on terms and conditions determined by the Chief Minister under enactment.

Section 3 of that Act defines 'enactment' to include an ACT Ordinance that is taken to be an enactment by virtue of subsection 34(4) of that Act. An ACT Ordinance is taken to be an enactment if it is in force in the Territory immediately before the commencing day of self-government.

Section 11 of the ACT Self-Government (Consequential Provisions) Act 1988 allows ACT Ordinances to make necessary consequential and transitional provisions in respect of laws of the Territory which are to become Assembly laws. The section provides that Ordinances, made for that purpose before self-government day, which might otherwise be inconsistent with a Commonwealth Act, are not invalid on this basis. The provision allows the Commonwealth to make interim laws which will be able to be amended or repealed by the Assembly as it wishes.

The Administrative Heads (Tenure of Office) Ordinance 1989 (the Ordinance) relates to the determination, by the Chief Minister, of terms and conditions of appointment, in respect to the Head of Administration or Associate Head of Administration. Details of the Ordinance are as follows:

Section 1 cites the title of the Ordinance.

Section 2 provides for the commencement of the Ordinance to coincide with the date of commencement of section 22 of the Australian Capital Territory (Self-Government) Act 1988 of the Commonwealth.

Section 3 provides that the Chief Minister may, by instrument, determine the terms and conditions on which a person appointed as Head of Administration or as an Associate Head of Administration holds office.

It provides that persons shall be appointed to hold office for a maximum term of five years but may not to hold office on attaining the age of sixty five years. Consistent with provisions contained in the Public Service Act 1922 of the Commonwealth with respect to Secretaries, this section provides that where an appointment is terminated for reasons other than misbehaviour or mental or physical incapacity, the appointee may be entitled to compensation.

**ISSUED BY THE AUTHORITY OF THE
MINISTER OF STATE FOR THE ARTS
AND TERRITORIES**