

AUSTRALIAN CAPITAL TERRITORY

Self-Government (Transitional Provisions) Ordinance 1989

No. 23 of 1989

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 27 April 1989.

BILL HAYDEN
Governor-General

By His Excellency's Command,

CLYDE HOLDING
Minister of State for the Arts and Territories

An Ordinance to make certain transitional provisions consequential upon the establishment of the Territory as a body politic under the Crown

Short title

1. This Ordinance may be cited as the *Self-Government (Transitional Provisions) Ordinance 1989*.¹

(Ord. 19/89)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Commencement

2. (1) Section 1 and this section commence on the day on which this Ordinance is notified in the *Gazette*.

(2) The remaining provisions commence on the date of commencement of section 22 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth.

Savings

3. (1) A subordinate law made but not in force, or having force and effect, immediately before self-government day shall, on and after that day, be as valid and effectual for all purposes as if—

- (a) in the case of regulations—those regulations had been made on that day by the Executive; or
- (b) in the case of any other subordinate law—it had been made on that day by the person empowered under the Act under which the subordinate law was made to make such a subordinate law.

(2) An appointment made, an instrument (other than a subordinate law) made, granted, issued or given, or anything done, by—

- (a) the Governor-General;
- (b) a Commonwealth Minister or his or her delegate;
- (c) the Secretary of a Department of State of the Commonwealth or his or her delegate; or
- (d) an officer of such a Department;

under a law that has become an Act or a subordinate law and having force and effect immediately before self-government day shall, on and after that day, have force and effect as if made, granted, issued, given or done by—

- (e) the Executive or the Chief Minister;
- (f) the Chief Minister or the Minister for the time being administering that Act, or the Act under which that subordinate law was made, or that Act in the relevant respect, as the case requires;
- (g) the Head of Administration or Associate Head of Administration in control of the relevant administrative unit of the Public Service; or
- (h) a public servant;

respectively.

(3) Subsection (2) does not apply if, under the relevant law as amended with effect on and from self-government day, the power or duty to make such an appointment, to make, grant, issue or give such an instrument, or to do such a thing, continues to be conferred or imposed on the appropriate person referred to in paragraph (2) (a), (b), (c) or (d).

(4) Where, pursuant to a law that has become an Act or a subordinate law, a notice or other document was, before self-government day, given to, served on, or lodged with—

- (a) a Commonwealth Minister;
- (b) the Secretary of a Department of State of the Commonwealth; or
- (c) an officer of such a Department;

that notice or document shall, on and after that day, be deemed to have been given to, served on, or lodged with—

- (d) the Chief Minister or the Minister for the time being administering that Act, or the Act under which that subordinate law was made, or that Act in the relevant respect, as the case requires;
- (e) the Head of Administration or Associate Head of Administration in control of the relevant administrative unit of the Public Service; or
- (f) a public servant;

respectively.

(5) This section applies in relation to a law that becomes an enactment or subordinate law on a day later than self-government day as if the references in this section to self-government day were references to that later day.

Preservation of certain delegations

4. (1) Where—

- (a) before self-government day, the Commonwealth Minister for the time being administering the *Seat of Government (Administration) Act 1910* of the Commonwealth had, under section 12C of that Act, delegated to a person a power or function under an Ordinance that has become an enactment (in this section called the “relevant Act”); and
- (b) that delegation was in force immediately before that day;

then, unless the contrary intention appears, on and after that day—

- (c) that delegation shall, subject to paragraph (d), continue to have effect—
- (i) as if it had been given by the Minister for the time being administering the relevant Act or that Act in the relevant respect;
 - (ii) if the delegation was given to the Secretary of the Commonwealth Department administered by that Commonwealth Minister—as if it had been given to the Head of Administration;
 - (iii) if the delegation was given to the holder for the time being of an office that is a former office within the meaning of subsection 29 (2) of the *Public Service Act 1922* of the Commonwealth—as if it had been given to the holder for the time being of the office that is, in relation to that former office, the substituted office within the meaning of that subsection; and
 - (iv) otherwise according to its tenor; and
- (d) may, by instrument, be varied or revoked by the Minister for the time being administering the relevant Act or that Act in the relevant respect.

(2) Paragraphs 29B (c) and (d), and section 30, of the *Interpretation Act 1967* apply in relation to a delegation referred to in subsection (1) as if it had been given on self-government day by the Minister then administering the relevant Act or that Act in the relevant respect.

(3) Where a substituted office referred to in subparagraph (1) (c) (iii) is created under, or pursuant to a direction under, subsection 29 (2) of the *Public Service Act 1922* of the Commonwealth on a day later than self-government day, the references in subsections (1) and (2) to self-government day shall, in relation to the relevant delegation, be read as references to that later day.

Regulations

5. (1) The Executive may make regulations making provision (including provision by way of modifications of an Act or a subordinate law) in relation to any matter arising from, connected with or consequential upon the enactment of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth.

(2) Regulations made under subsection (1) may be expressed to take effect on and from a date earlier than the date of making of the regulations, not being a date earlier than self-government day.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 3 May 1989.