

AUSTRALIAN CAPITAL TERRITORY

Interpretation (Amendment) Ordinance 1989

No. 22 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 amend the *Interpretation Ordinance 1967* consequential upon the establishment of the Territory as a body politic under the Crown and for other purposes

Short title

1. This Ordinance may be cited as the *Interpretation (Amendment) Ordinance 1989*.¹

(Ord. 21/89)—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.

Principal Ordinance

3. In this Ordinance, “Principal Ordinance” means the *Interpretation Ordinance 1967*.²

Repeal

4. Sections 7 and 8 of the Principal Ordinance are repealed.

Numbering of Acts

5. Section 9 of the Principal Ordinance is amended—

- (a) by omitting “made” (wherever occurring) and substituting “passed”; and
- (b) by omitting “, beginning with the number one,”.

Citation of other laws

6. Section 11 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (a) “an Act” and substituting “a Commonwealth Act”; and
- (b) by inserting in subsection (2) “Commonwealth” before “Act” (first occurring).

Use of extrinsic material in interpreting an Act

7. Section 11B of the Principal Ordinance is amended by omitting paragraphs (2) (c) and (d) and substituting the following paragraphs:

- “(c) any relevant report of a Royal Commission, Law Reform Commission, committee of inquiry or other similar body that was laid before the Legislative Assembly or either House of the Commonwealth Parliament before the time when the provision was enacted or made;

- (d) any relevant report of a committee of the Legislative Assembly that was made to that Assembly before the time when the provision was enacted;
- (da) any explanatory memorandum relating to the Bill containing the provision, or any other relevant document, that was laid before, or furnished to the members of, the Legislative Assembly before the time when the provision was enacted;
- (db) the presentation speech made to the Legislative Assembly during the passage of the Bill containing the provision by the member of the Assembly who introduced the Bill;
- (dc) in the case of a provision contained in a converted Ordinance—any explanatory statement relating to the Ordinance, or any other relevant document, that was laid before, or furnished to the members of, either House of the Commonwealth Parliament when the Ordinance was laid before that House;
- (dd) any relevant material in the minutes of the Legislative Assembly’s meetings or in any other official record of debates in the Legislative Assembly; and”.

Meaning of certain words

8. Section 14 of the Principal Ordinance is amended—

- (a) by omitting from subsection (1)—
 - (i) the definitions of “Act”, “Department”, “House of Assembly”, “law of the Territory”, “Ordinance”, “the Consolidated Revenue Fund”, “the Executive Council”, “the *Gazette*”, “the Government Printer” and “the Parliament” and
 - (ii) the definition of “the Territory” or “the Australian Capital Territory”;
- (b) by inserting in subsection (1) the following definitions:

“ ‘Act’ means—

- (a) an Act passed by the Legislative Assembly; or
- (b) an enactment;

‘administrative head’ means the Head of Administration or the Associate Head of Administration who has control of the administrative unit of the Public Service that is the

responsibility of the Minister for the time being administering the Act or the Act in the relevant respect;

‘Associate Head of Administration’ means a person appointed under subsection 49 (2) of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth;

‘Chief Minister’ means the Chief Minister for the Territory elected under section 40 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth;

‘Commonwealth Act’ means an Act passed by the Commonwealth Parliament;

‘Commonwealth Gazette’ means the *Commonwealth of Australia Gazette* and includes the *Australian Government Gazette* published during the period that commenced on 1 July 1973 and ended on 30 June 1977;

‘Commonwealth Minister’ means one of the Queen’s Ministers of State for the Commonwealth;

‘Consolidated Revenue Fund’ means the Consolidated Revenue Fund established by section 81 of the *Audit Act 1989*;

‘converted Ordinance’ means an enactment that, immediately before self-government day, was an Ordinance;

‘enactment’ means a law that is—

- (a) an enactment within the meaning of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth by virtue of section 34 of that Act; or
- (b) to be taken to be an enactment by virtue of subsection 10 (3) or 12 (2) or (3) of the *A.C.T. Self-Government (Consequential Provisions) Act 1988* of the Commonwealth;

‘Executive’ means the Australian Capital Territory Executive established by section 36 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth;

‘Gazette’ means the *Australian Capital Territory Gazette*;

‘Government Printer’ includes any person printing for or by the authority of the Executive or the Government of the Commonwealth;

‘Head of Administration’ means the person appointed under subsection 49 (1) of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth;

‘law of the Territory’ means—

- (a) an Act;
- (b) a subordinate law;
- (c) a law specified in Schedule 3 or 5 to the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth;
- (d) a provision of a law, being a provision specified in Schedule 3 to that Commonwealth Act;
- (e) an Ordinance;
- (f) a regulation, rule or by-law made under—
 - (i) a law that is a law of the Territory by virtue of paragraph (c); or
 - (ii) an Ordinance; or
- (g) the common law;

‘Legislative Assembly’ means the Legislative Assembly for the Australian Capital Territory established by section 8 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth;

‘Minister’ means the Chief Minister or a Minister appointed under section 41 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth;

‘National Land’ has the same meaning as in the *Australian Capital Territory (Planning and Land Management) Act 1988* of the Commonwealth;

‘Northern Territory’ means the Northern Territory of Australia;

‘Ordinance’ means an Ordinance made pursuant to section 12 of the *Seat of Government (Administration) Act 1910* of the Commonwealth;

‘public servant’ means—

- (a) a member of the Public Service; or
- (b) a member of the transitional staff within the meaning of the *A.C.T. Self-Government (Consequential Provisions) Act 1988* of the Commonwealth;

‘Public Service’ means the public service established by section 54 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth;

‘self-government day’ means the date of commencement of section 22 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth;

‘sitting day’ in relation to the Legislative Assembly, means a day on which the Assembly meets;

‘subordinate law’ means an instrument of a legislative nature (including regulations, rules or by-laws) made under an Act;

‘Territory’ means—

- (a) when used in a geographical sense—the Australian Capital Territory; or
- (b) in any other case—the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth;

‘Territory authority’ means a body, whether incorporated or not, established by or under an Act;

‘Territory Land’ has the same meaning as in the *Australian Capital Territory (Planning and Land Management) Act 1988* of the Commonwealth;

‘the Minister’ means—

- (a) the Minister for the time being administering the Act or other law in which, or in respect of which, the expression is used; or

- (b) if, for the time being, different Ministers are administering that Act or law in different respects, each of those Ministers to the extent that he or she is administering that Act or law in the relevant respect;

and includes a Minister for the time being acting on behalf of that Minister or each of those Ministers;” and

- (c) by inserting after subsection (1) the following subsection:

“(1A) In an Act, unless the contrary intention appears, a reference to a particular Minister shall be read as including a reference to a Minister for the time being acting on behalf of that Minister.”.

Repeal

- 9. Section 14A of the Principal Ordinance is repealed.

Insertion

- 10. After section 20 of the Principal Ordinance the following section is inserted:

Binding of Crown

“20A. Where an Act is expressed to bind the Crown, then, unless the contrary intention appears, the Act shall be taken, so far as the context permits, to bind the Crown in right of—

- (a) the Territory;
- (b) each of the States and the other Territories; and
- (c) if a regulation is in force under the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth for the purpose of section 27 of that Act in relation to the first-mentioned Act—the Commonwealth.”.

Repeal

- 11. Sections 23 and 24 of the Principal Ordinance are repealed.

Chairperson and Deputy Chairperson

- 12. Section 25A of the Principal Ordinance is amended by adding at the end the following subsection:

“(2) Where an Act establishes an office of Deputy Chairperson of a body, the Deputy Chairperson may be referred to as Deputy Chairman or Deputy Chairwoman, as the case requires.”.

Exercise of power and duties

13. Section 26 of the Principal Ordinance is amended by omitting from subsection (3) “that commences after the commencement of this subsection”.

Acting appointments

14. Section 28A of the Principal Ordinance is amended by omitting from subparagraph (e) (ii) “the Ordinance” and substituting “that or any other Act”.

Effect of delegation

15. Section 29B of the Principal Ordinance is amended by omitting from paragraph (c) “the purposes of the Ordinance” and substituting “all purposes”.

Exercise of certain powers and functions by delegate

16. Section 30 of the Principal Ordinance is amended by omitting “an Act or an Ordinance” and substituting “that or any other Act”.

Periodic reports

17. Section 30A of the Principal Ordinance is amended—

- (a) by omitting from the definition of “periodic report” in subsection (1) “that ends on or after 30 June 1987”;
- (b) by omitting from subsection (3) “Parliament” (first occurring) and substituting “Legislative Assembly”;
- (c) by omitting from subsection (3) “each House of the Parliament within 15 sitting days of that House” and substituting “the Legislative Assembly within 15 sitting days”;
- (d) by omitting from paragraph (6) (a) “each House of the Parliament, within 3 sitting days of that House” and substituting “the Legislative Assembly, within 3 sitting days”;
- (e) by omitting from paragraph (6) (c) “each House of the Parliament within 15 sitting days of that House” and substituting “the Legislative Assembly within 15 sitting days”; and
- (f) by omitting from paragraph (7) (b) “each House of the Parliament within 3 sitting days of that House” and substituting “the Legislative Assembly within 3 sitting days”.

Substitution

18. Section 37 of the Principal Ordinance is repealed and the following section substituted:

Non-reviver rule

“37. The repeal of an Act or part of an Act by which a previous Act or Ordinance or part of a previous Act or Ordinance was repealed does not, unless the contrary intention appears, have the effect of reviving the previous Act or Ordinance or that part of the previous Act or Ordinance.”.

References to Acts or Commonwealth Acts

19. Section 41 of the Principal Ordinance is amended—

- (a) by omitting from paragraphs (2) (a) and (b) “an Act” and substituting “a Commonwealth Act”; and
- (b) by inserting in paragraphs (2) (c) and (d) “Commonwealth” before “Act” (wherever occurring).

Substitution

20. Sections 45 and 46 of the Principal Ordinance are repealed and the following section is substituted:

References to State Ministers

“45. A reference in a continued State law to a Minister of State for New South Wales (however described) shall, unless the contrary intention appears, be read as a reference to the Minister for the time being administering that law or that law in the relevant respect, and as including a reference to a Minister for the time being acting on behalf of that Minister.”.

References to British subjects

21. Section 47 of the Principal Ordinance is amended by omitting “*Nationality and Citizenship Act 1948-1967*” and substituting “*Australian Citizenship Act 1948*”.

Repeal

22. Part V of the Principal Ordinance is repealed.

NOTES

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

2. No. 48, 1967 as amended by Nos. 18 and 42, 1972; No. 23, 1973; No. 6, 1975; No. 30, 1976; Nos. 24 and 65, 1977; No. 46, 1978; No. 4, 1979; No. 31, 1980; No. 28, 1982; No. 5, 1983; No. 73, 1984; Nos. 24, 58 and 67, 1985; No. 92, 1986; No. 37, 1987; Nos. 36 and 77, 1988.