

1978

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

NORTHERN TERRITORY (SELF-GOVERNMENT) BILL 1978

NOTES ON CLAUSES

(Circulated by the Minister for the Northern
Territory, the Hon. Evan Adermann)

NORTHERN TERRITORY (SELF-GOVERNMENT) BILL 1978NOTES ON CLAUSES

- Preamble Sets out the constitutional authority for the creation of the new political entity.
- Clause 1 Gives the short title of the Bill.
- Clause 2 Provides for the Bill to come into operation on 1 July 1978.
- Clause 3 Repeals the Northern Territory (Administration) Act 1910 and subsequent amendments. In order to establish an appropriate framework of Government it will be necessary to re-enact, with minor textual changes, a substantial number of the provisions of the repealed Act. In these notes such provisions are denoted by Ø.
- Clause 4 Definitions.
- Clause 5 Formally establishes the Territory as a body politic under the Crown by the name of the Northern Territory of Australia.
- Clause 6 Ø Defines the legislative power but does not vary the power presently conferred on the Legislative Assembly by the Northern Territory (Administration) Act 1910.
- Clause 7 Existing assent provision, modified so that the Administrator will have either to assent to or withhold assent from proposed laws related to matters for which the Northern Territory has executive authority but will no longer have the further alternative, in those cases, of reserving for the Governor-General's pleasure. In the case of proposed laws relating to matters in respect of which the Northern Territory does not have executive authority the Administrator may, upon receiving advice from the Commonwealth, assent, withhold assent or reserve the proposed laws. In both cases the Administrator will still be able to return proposed laws to the Legislative Assembly with recommended amendments, and the Governor-General will still have power to disallow, within six months, any enactment assented to by the Administrator. Any proposed law covering a mixture of transferred and non-transferred matters may be reserved for the Governor-General.

- Clause 8 Ø Provides for dealing with laws reserved for the Governor-General's pleasure. The procedure largely follows existing provisions.
- Clause 9 Ø Existing provision covering the power of the Governor-General to disallow within six months of receiving the Administrator's assent.
- Clause 10 Requires reason for withholding assent or disallowance to be laid before Legislative Assembly.
- Clause 11 Ø Existing provision.
- Clause 12 Enables the Legislative Assembly to make laws as to its powers, privileges and immunities so as not to exceed the powers, privileges and immunities of the House of Representatives as apply at any time.
- Clause 13 Re-creates the Legislative Assembly, and provides for composition and electoral arrangements to be the subject of Territory enactments. Sub-clauses (4) and (5) require electoral divisions to contain a number of electors not exceeding, nor falling short of the quota (number of electors divided by the number of members to be elected) by more than one fifth. For saving and transitional provisions see clauses 59 and 62.
- Clauses 14, 15 and 16 Ø Existing provisions.
- Clause 17 Sub-clause 2 provides that the maximum term of future Legislative Assemblies should be not more than 4 years from the date the Assembly first meets after a general election.
- Clause 18 Ø Existing provision.
- Clause 19 Establishes the procedure for filling a casual vacancy in the office of a member of the Legislative Assembly. In keeping with Clause 17, an amendment will be moved in the Committee stages to extend the period, during which this procedure is to operate, to 3 years and 9 months.
- Clause 20 Establishes qualifications for election to the Legislative Assembly.

- Clause 21 Ø Existing provision, but modified in relation to:
- . 1(c) - contains a specific requirement for sentence of imprisonment to have been given;
 - . 2(b) - consistent with Clause 20(a), the words "Australian Citizen" are included;
 - . 2(e) - changed arrangements regarding remuneration and allowances; and
 - . 3 - substitution of Territory for Commonwealth.
- Clause 22 Ø Existing provision, modified to leave the minimum number of members necessary to request a meeting of the Legislative Assembly, to be prescribed by Territory enactment. (For transitional provision refer to Clause 63).
- Clause 23 Ø Existing provision, modified to leave the Legislative Assembly quorum number to be prescribed by Territory enactment. (For transitional provision refer to Clause 64).
- Clause 24 Ø Redraft of existing provision covering election and tenure of office of Speaker to achieve greater clarity.
- Clause 25 Existing provisions.
and 26 Ø
- Clauses 27 Existing provisions.
to 30 Ø
- Clause 31 A general provision to ensure that those having executive and administrative authority (the Administrator, the Executive Council and the Ministers) will have the customary ancillary powers and Crown prerogatives associated with the exercise of such authority.
- Clause 32 Ø Based on an existing provision but modified to reflect the new constitutional situation:
- . The Administrator's duty of administering the Government of the Territory is no longer specified as being "on behalf of the Commonwealth";
 - . Requires that in carrying out the duties of his office, the Administrator shall also have regard to powers and functions conferred by Territory law. (For saving provision refer to Clause 58).
- Clause 33 Ø Existing provision, modified to relate the role of the Executive Council to matters for which the Northern Territory has executive responsibility. (For saving provision refer to Clause 60).

- Clause 34 Ø Modification of existing provision to cover change from executive member to Minister of the Territory. The requirement for the Administrator to consult with the Ministers (Commonwealth) in creating Ministerial offices has been removed).
- Clause 35 Provides for the conferral of executive authority on the Northern Territory by way of Regulation.
- Clauses 36 Existing provisions. (For saving provisions
to 42 Ø refer to Clause 58).
- Part V This Part establishes the Northern Territory
(Clauses 43- Treasury.
48)
- Clause 43 Definitions.
- Clause 44 Confers on the Northern Territory the authority to control its own public moneys.
- Clause 45 Provides for legislative control over the disposal of public moneys.
- Clause 46 Enables the Commonwealth to lend money to the Territory.
- Clause 47 Enables the Territory and Northern Territory authorities to borrow elsewhere with the approval of the Commonwealth Treasurer. The Commonwealth may guarantee such borrowings and may require indemnity from the Territory.
- Clause 48 Enables the Commonwealth Auditor-General to audit the the accounts of the Territory.
- Clause 49 Ø Existing provision.
- Clause 50 Provides that any acquisition in the Territory by the Commonwealth and/or the Northern Territory Government will be on just terms.
- Clause 51 Ensures that Commonwealth Acts which bind the States will equally bind the Territory.
- Clause 52 Ø Sub Clause (1) is an existing provision. Sub-Clause (2) ensures that the Territory can legislate in respect of internal trade and commerce.

- Clause 53 Sub-Clauses (1), (2) and (4) are existing provisions. Sub-Clause (3) prevents the Conciliation and Arbitration Commission (until contrary legislation applies) from hearing and determining disputes, claims or matters which are already within the province of existing Northern Territory arbitral tribunals. Sub-Clauses (5) and (6) preclude the creation - by Territory law - of further industrial Tribunals and establish the superiority of the Conciliation and Arbitration Act 1904.
- Clause 54 Enables the remuneration and allowances of members of the Legislative Assembly, Executive Councillors and Territory Ministers to be provided for by Territory legislation, and permit the Northern Territory to use the Remuneration Tribunal for this purpose. (For transitional provision refer to Clause 65).
- Clause 55 Ø Existing provision.
- Part VII A new part covering transitional provisions.
- Clause 56 Definitions.
- Clause 57 Saving provision to ensure the continuance of existing Territory laws.
- Clause 58 Saving provision to continue existing appointments of Administrator, Acting Administrator and Deputy Administrator. (vide Clauses 32, 40 and 41).
- Clause 59 Saving and transitional provision to continue the present Legislative Assembly in its totality pending a general election and, until dealt with by Territory enactment, its present size. (vide Clause 13).
- Clause 60 Saving provision in relation to actions of the former Executive Council. (vide Clause 33).
- Clause 61 General saving provision in relation to actions under the repealed Act.
- Clause 62 Transitional provision to continue in force existing arrangements covering electoral districts, distribution and electoral procedures, until dealt with by Territory enactment, or the date of the second general election of members of the Legislative Assembly after the commencing date of this legislation. (vide Clause 13).

- Clause 63 Transitional provision to continue in force the existing provision for requesting a meeting of the Legislative Assembly, until dealt with by Territory enactment. (vide Clause 22).
- Clause 64 Transitional provision to continue in force existing Legislative Assembly quorum, until dealt with by Territory enactment. (vide Clause 23).
- Clause 65 Transitional provision to continue remuneration and allowances of members of the Legislative Assembly, Executive Councillors and Ministers (Executive Members) as in force immediately before 1/7/78, until dealt with by Territory enactment (Clause 54).
- Clause 66 Transitional provision to cover any ordinances awaiting assent at 1/7/78.
- Clause 67 Saving provision with respect to references in other laws to the Legislative Assembly, the Executive Council, Ordinances and office holders under the repealed Act.
- Clause 68 Continuance of certain miscellaneous provisions of the repealed Act; these are mainly historical and associated with the 1926-1931 period when separate territories of Central Australia and North Australia, and a North Australia Commission existed.
- Clause 69
- . Transfers the basic reversionary interest in all land in the Territory from the Crown in right of the Commonwealth to the Crown in right of the Territory.
 - . Transfers to the Crown in right of the Territory, the Crown's reserved rights to all minerals, other than uranium and prescribed substances under the Atomic Energy Act.
 - . Transfers to the Northern Territory Government the real and personal property and interests of the Commonwealth held in relation to transferred matters, on such terms and conditions as may be agreed between the Commonwealth and the Territory.

- Clause 70 Provides for the Commonwealth to reacquire within a period of twelve months land and interests therein associated with non-transferred or Federal matters without having to pay compensation to the Territory Government.
- Clause 71 Provides a statutory procedure whereby the Territory may be substituted for the Commonwealth in existing contracts related or incidental to transferred matters.
- Clause 72 A general indemnity from the Commonwealth to the Territory covering suits relating to actions of the Commonwealth before executive authority for a matter transfers to the Territory.
- Clause 73 Saving provision ensuring the validity of existing ordinances.
- Clause 74 A general provision covering agency arrangements between the Commonwealth and Northern Territory Governments.
- Clause 75 Additional regulation making power (effective until 30 June 1979) in respect of matters arising out of or connected with the repeal of the previous Act.
- Schedule 1 Lists the repealed Acts.
- Schedule 2 Form of oath and affirmation referred to in Clauses 13 and 42.
- Schedule 3 to 6 Existing provisions.