

Northern Territory Supreme Court

No. 99 of 1971

An Act relating to the Supreme Court of the Northern Territory of Australia.

[Assented to 17 November 1971]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title
and citation.

1.—(1) This Act may be cited as the *Northern Territory Supreme Court Act 1971*.

(2) The *Northern Territory Supreme Court Act 1961–1969** is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the *Northern Territory Supreme Court Act 1961–1971*.

Commence-
ment.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Appointment
and tenure of
Judges and
additional
Judges.

3.—(1) Section 7 of the Principal Act is amended by adding at the end thereof the following sub-sections:—

“(4.) A Judge appointed under sub-section (1.) of this section ceases to hold office upon his attaining the age of seventy years.

“(5.) An additional Judge ceases to hold office if he no longer holds office as a Judge (other than an additional Judge) of another court created by the Parliament.

“(6.) A Judge may be removed from office by the Governor-General, on an address from both Houses of the Parliament in the same session praying for his removal on the ground of proved misbehaviour or incapacity, but shall not otherwise be removed from office.

“(7.) A Judge may, by writing under his hand delivered to the Governor-General, resign his office.”

(2.) Sub-sections (4.) to (7.), inclusive, of section 7 of the Principal Act as amended by this Act apply in relation to Judges who were appointed before, or are appointed after, the commencement of this Act.

* Act No. 11, 1961, as amended by No. 92, 1965; No. 93, 1966; No. 116, 1968; and No. 40, 1969.

4. Section 13 of the Principal Act is amended by adding at the end thereof the following sub-sections:— Exercise of jurisdiction.

“(5.) Provision may be made by Rules of Court for the jurisdiction of the Court to be exercisable by the Master in such cases, and subject to such conditions, as are specified in the Rules of Court and, for the purposes of the exercise of jurisdiction by the Master in such a case, this Act has effect, subject to this section, as if the Court consisted of the Judge or Judges and the Master.

“(6.) A person dissatisfied with an order made by the Master in the exercise of jurisdiction conferred upon him by Rules of Court in accordance with the last preceding sub-section may appeal, as prescribed by Rules of Court, to the Court constituted by one Judge.

“(7.) On an appeal under the last succeeding sub-section, the Court may affirm, vary or set aside the order of the Master and may make such order as in all the circumstances it thinks just.

“(8.) In this section, ‘the Master’ does not include a Deputy Master of the Supreme Court.”.

5. Section 31 of the Principal Act is amended by inserting in sub-section (2.), after the words “Subject to”, the words “this Act and to”. Appointment of officers.

6. Sections 36 and 37 of the Principal Act are repealed and the following sections inserted in their stead:—

“36. Except as otherwise provided by this Act or by any other law in force in the Territory, or unless in any suit the parties agree to the contrary, evidence in any matter shall be given orally in open court. Manner of giving evidence.

“37.—(1.) On the hearing of any matter, evidence may be given by affidavit of the service of any document incidental to the proceedings in the matter or of the signature of a party to the matter, or of his solicitor, to such a document. Evidence by affidavit.

“(2.) On or before the hearing of a civil matter, the Supreme Court or a Judge may, for sufficient reason, order that all or a part of the evidence in the matter, being evidence that but for the order would be required to be given orally in open court, may be given by affidavit.

“(3.) An order under the last preceding sub-section may be made subject to such conditions as the Supreme Court or Judge thinks just.

“(4.) The conditions referred to in the last preceding sub-section may include a condition that copies of an affidavit by which any evidence is given be served on a party or parties to the matter and a condition that a person whose evidence is given by affidavit attend at the hearing for cross examination.”.

Rules of
Court.

7.—(1.) Section 55 of the Principal Act is amended—

(a) by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“ (1.) The senior Judge may make Rules of Court, not inconsistent with this or any other Act or with any Ordinance—

(a) for regulating and prescribing—

(i) the practice and procedure, including the method of pleading, to be followed in the Supreme Court and in the offices of the Court; and

(ii) all matters and things incidental to or relating to any such practice and procedure or necessary or convenient to be prescribed for the conduct of any business of the Court; and

(b) for prescribing any matter or thing that is, by this Act, required or permitted to be prescribed by Rules of Court.”;

(b) by inserting in paragraph (a) of sub-section (2.), after the word “ served ”, the words “ and executed ”; and

(c) by omitting sub-sections (3.) to (5.), inclusive, and inserting in their stead the following sub-sections:—

“ (3.) Where Rules of Court are made in pursuance of this section—

(a) notice of the making of the Rules shall be published in the *Government Gazette* of the Territory;

(b) the Rules shall take effect from the date of publication of the notice or from a later date fixed by or in accordance with the Rules; and

(c) the Rules shall be laid before each House of the Parliament within fifteen sitting days of that House after the making of the Rules.

“ (4.) After either House of the Parliament, in pursuance of a motion of which notice has been given within fifteen sitting days after any Rules of Court have been laid before that House, passes a resolution disallowing any rule, the rule so disallowed thereupon ceases to have effect.

“ (5.) Where—

(a) a rule is disallowed under this section; and

(b) the rule amended or revoked a rule that was in force immediately before the first-mentioned rule came into operation,

the disallowance revives the previous rule on and after the date of the disallowance.”.

(2.) Notwithstanding the amendments made by the last preceding sub-section, the Rules of Court in force under section 55 of the Principal Act immediately before the commencement of this Act continue in force but may be amended or revoked by Rules of Court made under section 55 of the Principal Act as amended by this Act.