

Aboriginal Land Rights (Northern Territory) Amendment Act 1979

No. 189 of 1979

An Act to amend the *Aboriginal Land Rights (Northern Territory) Act 1976*.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

1. (1) This Act may be cited as the *Aboriginal Land Rights (Northern Territory) Amendment Act 1979*.¹ Short title, &c.

(2) The *Aboriginal Land Rights (Northern Territory) Act 1976*² is in this Act referred to as the Principal Act.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹ Commencement

3. Section 11 of the Principal Act is amended—

(a) by inserting in paragraph (b) of sub-section (1) “, or any part of the land,” after “land”;

(b) by inserting in paragraph (c) of sub-section (1) “, or that part of that land,” after “land”;

(c) by omitting paragraph (d) of sub-section (1) and substituting the following paragraph:

“(d) where that land, or that part of that land, is, or includes, alienated Crown land, ensure that the estates and interests in that alienated Crown land of persons (other than the Crown) are acquired by the Crown by surrender or otherwise; and”;

(d) by inserting in paragraph (e) of sub-section (1) “, or that part of that land,” after “land”.

Recommendations for grants of Crown land, other than that described in Schedule 1

4. Section 27 of the Principal Act is amended by adding at the end of paragraph (b) of sub-section (1) “(including assistance in connection with the administration of the affairs of the Council)”. Powers of Land Council

5. Section 35 of the Principal Act is amended by inserting after sub-section (2) the following sub-section: Application of moneys of Land Council

“(2A) Moneys paid to a Land Council under sub-section 64 (7) shall be applied by the Land Council in meeting its administrative costs in accordance with section 34.”.

6. After section 37 of the Principal Act the following section is inserted:

Annual
reports by
Land
Councils

“37A. (1) A Land Council shall, as soon as practicable after the end of each financial year, prepare and furnish to the Minister a report of the operations of the Council during that year, together with financial statements in respect of that year in such form as the Minister approves and a copy of the report on those statements prepared in accordance with sub-section (2).

“(2) Financial statements referred to in sub-section (1) shall be audited by a person having the prescribed qualifications and appointed by the Council for the purpose, who shall report to the Council—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Council during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the person so appointed considers should be reported to the Council.”

Proclama-
tions to be
laid before
Houses of
Parliament

7. Section 42 of the Principal Act is amended by omitting sub-section (3) and substituting the following sub-sections:

“(3) Where—

- (a) a notice referred to in sub-section (2) is given with respect to a Proclamation; and
- (b) at the expiration of the period during which a resolution disapproving of the declaration in the Proclamation could have been passed—
 - (i) the notice has not been withdrawn and the relevant motion has not been called on; or
 - (ii) the relevant motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of,

the declaration in the Proclamation shall be deemed to have been disapproved of.

“(3A) If—

- (a) neither House of the Parliament passes a resolution in accordance with sub-section (2) disapproving of the declaration in a Proclamation; and
- (b) the declaration in the Proclamation has not been deemed to have been disapproved of under sub-section (3),

the Proclamation takes effect on the day immediately following the last day upon which a resolution disapproving of the declaration in the Proclamation could have been passed.”.

8. Section 50 of the Principal Act is amended by omitting from sub-section (1) “Minister for the Northern Territory” (wherever occurring) and substituting “Administrator of the Northern Territory”.

Functions of
Com-
missioner

9. (1) After section 54B of the Principal Act the following section is inserted:

“54C. (1) Where—

- (a) an application has been made, in accordance with paragraph 50 (1) (a), to the Commissioner by or on behalf of Aboriginals claiming to have a traditional land claim to an area of land; and
- (b) a person (not being a person by whom, or on whose behalf, the application referred to in paragraph (a) has been made) or an unincorporated association of persons wishes to be, or is, legally represented at the inquiry by the Commissioner into the claim,

Financial
assistance in
respect of
legal
representa-
tion

that person or association may apply to the Attorney-General for the provision of assistance under this section in respect of the cost of such representation at that inquiry.

“(2) Where—

- (a) an application is made to the Attorney-General under sub-section (1); and
- (b) the Attorney-General, or an officer of the Australian Public Service authorized in writing by the Attorney-General, is satisfied that, in all the circumstances of the case, it is reasonable that the Commonwealth should provide assistance in respect of the whole or a part of the cost of the representation to which the application relates,

the Attorney-General or the officer may authorize, either unconditionally or subject to such conditions as the Attorney-General or the officer determines, the provision by the Commonwealth of assistance under this section in respect of the whole or that part of the cost of that representation.

“(3) The reference in sub-section (2) to all the circumstances of the case shall be read as including a reference to any hardship that the refusal of the application in question would cause to the applicant or, if the applicant is an unincorporated association of persons, to any of those persons.”.

(2) A person who, or an unincorporated association of persons which, was, on or after 13 February 1979 and before the commencement of this section, legally represented at an inquiry by the Commissioner resulting

from an application made in accordance with paragraph 50 (1) (a) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (not being a person by whom, or on whose behalf, that application was made) may, by virtue of this sub-section, apply to the Attorney-General for the provision of assistance under section 54C of that Act in respect of the cost of such representation at that inquiry, and sub-section (2) of that section shall apply in relation to that application as if it had been made under sub-section (1) of that section.

(3) Where—

(a) before the commencement of this section, provision by the Commonwealth of assistance in respect of the whole or a part of the cost of legal representation was authorized in response to an application made to the Attorney-General; and

(b) that application could have been made under sub-section (2) if this section had been in force when that application was made,

the provision of that assistance shall, by force of this sub-section, be deemed to have been as validly authorized as if—

(c) this section had been in force when that application was made;

(d) that application had been made under sub-section (2) of this section as so in force; and

(e) the authorization referred to in paragraph (a) had been made under section 54C of the *Aboriginal Land Rights (Northern Territory) Act 1976*.

Payments
into Trust
Account

10. Section 63 of the Principal Act is amended—

(a) by inserting after sub-section (5A) the following sub-section:

“(5B) There shall be paid into the Trust Account any amounts from time to time received by the Commonwealth as interest on, or as repayment of, any loan made under sub-section 64 (4).”; and

(b) by omitting from sub-section (6) “, (4) and (5A)” and substituting “and (4)”.

Payments
out of Trust
Account

11. Section 64 of the Principal Act is amended—

(a) by inserting after sub-section (4) the following sub-section:

“(4A) A payment of an amount out of the Trust Account under sub-section (4) may be by way of a loan (whether secured or unsecured) by the Commonwealth on such conditions as the Minister thinks fit.”; and

(b) by adding at the end thereof the following sub-section:

“(7) Where, at any time, the Minister is satisfied that a Land Council is, or may be, unable to meet its administrative costs, in accordance with section 34, from moneys that are, or may become, available to it for the purpose, the Minister may direct that

such amounts as the Minister specifies in the direction shall be paid to the Land Council out of the Trust Account for the purpose of meeting those costs.”.

12. Schedule 2 to the Principal Act is amended by omitting “83 square kilometres” and substituting “79 square kilometres”.

Schedule 2

13. (1) As soon as practicable after the commencement of this section, the Minister shall direct the transfer from the Aboriginals Benefits Trust Account established by section 62 of the *Aboriginal Land Rights (Northern Territory) Act 1976* to the Consolidated Revenue Fund of an amount equal to the aggregate of the amounts paid by the Commonwealth, out of the Consolidated Revenue Fund, during the period that commenced on 1 July 1978 and ends on the commencement of this section, to the Aboriginal Land Councils established by or under that Act for the purpose of meeting the administrative costs of those Councils.

Transfer of amount from Trust Account to Consolidated Revenue Fund

(2) The reference in sub-section (1) to amounts paid by the Commonwealth out of the Consolidated Revenue Fund shall be read as not including a reference to—

- (a) any amount paid under an agreement under sub-section 44 (1) or (2) of the *Aboriginal Land Rights (Northern Territory) Act 1976*; or
- (b) any amount paid out of the appropriation made by item 07 of sub-division 3 of Division 640 of the *Appropriation Act (No. 1) 1978-79*.

14. (1) This section applies to any payment made on or after 23 June 1978 and before the commencement of this section that purported to be a payment under sub-section 64 (4) of the *Aboriginal Land Rights (Northern Territory) Act 1976*, being—

Certain payments to be deemed to be, and to have been, validly made

- (a) a payment to a Land Council for the purpose of meeting the administrative costs of the Council; or
- (b) a payment to a person by way of a loan by the Commonwealth.

(2) A payment to which this section applies shall be deemed, for all purposes, to be, and to have been, a payment that was validly made under sub-section 64 (4) of the *Aboriginal Land Rights (Northern Territory) Act 1976*.

NOTES

1. Act No. 189, 1979; assented to 4 December 1979.
2. Act No. 191, 1976, as amended. For previous amendments see Acts Nos. 21, 70 and 83, 1978.