



# **A.C.T. Self-Government (Consequential Provisions) Act 1988**

**No. 109 of 1988**

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**An Act to make certain transitional provisions, and to amend certain Acts, in consequence of the enactment of the *Australian Capital Territory (Self-Government) Act 1988***

*[Assented to 6 December 1988]*

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

## **PART I—PRELIMINARY**

### **Short title**

**1.** This Act may be cited as the *A.C.T. Self-Government (Consequential Provisions) Act 1988*.

### **Commencement**

**2. (1)** Section 1 and this section commence on the day on which this Act receives the Royal Assent.

**(2)** The amendments of section 19 of the *Commonwealth Teaching Service Act 1972* commence on a day or days to be fixed by the Chief Minister by notice in the *Territory Gazette*.

(3) The remaining provisions of this Act (including the amendments made by Schedule 5) commence on a day or days to be fixed by Proclamation.

### **Definitions**

3. In this Act, unless the contrary intention appears:

“Appropriation Act” means an Act appropriating money for the financial year ending on 30 June 1989, and includes an Act making interim provision for such an appropriation;

“Audit Act Account” means:

(a) any of the following heads of account in the Trust Fund maintained under section 60 of the *Audit Act 1901*, namely:

Life Be In It Program in the Australian Capital Territory

Other Trust Monies

Canberra Public Library Service—Literacy Material for the Handicapped Trust Fund

Territories—Services for Other Governments and Non-Departmental Bodies; or

(b) any of the following Trust Accounts established under section 62A of the *Audit Act 1901*, namely:

Australian Capital Territory Community Development Fund Trust Account

Australian Capital Territory Forestry Trust Account

Australian Capital Territory Housing Assistance Fund Trust Account

Australian Capital Territory Motor Vehicle Dealers' Compensation Fund Trust Account

Australian Capital Territory Suspense Trust Account

Australian Capital Territory Transport Trust Account;

“enactment authority” means a body, whether incorporated or not, established by or under an enactment;

“modifications” includes additions, omissions and substitutions;

“Ordinance” means an Ordinance made under section 12 of the *Seat of Government (Administration) Act 1910*;

“Planning Act” means the *Australian Capital Territory (Planning and Land Management) Act 1988*;

“public money of the Territory” means revenues, loans and other money received by the Territory;

“Self-Government Act” means the *Australian Capital Territory (Self-Government) Act 1988*;

“Self-Government Day” means the day on which the Assembly is empowered to make laws;

“teaching service” means the service known on 1 November 1988 as the Commonwealth Teaching Service;

“Territory audit law” means the law in force in the Territory on and after Self-Government Day relating to the audit of the public money of the Territory;

“Territory function” means a matter referred to in section 37 of the Self-Government Act or Schedule 4 to that Act;

“transitional authority staff” means the staff of an enactment authority, other than an authority established by an enactment that provides for the appointment or employment of its staff outside the *Public Service Act 1922*, but does not include the members of the teaching service;

“transitional staff” means:

- (a) transitional Territory staff; or
- (b) transitional authority staff;

“transitional Territory staff” means the persons required for the conduct of the public administration of the Government of the Territory, other than members of the service referred to in section 54 of the Self-Government Act.

#### **Expressions to have same meaning as in Self-Government Act**

4. Except so far as the contrary intention appears, expressions in this Act have the same meaning as in the Self-Government Act.

### **PART II—TRANSITIONAL PROVISIONS**

#### **Transfer of assets and rights of Commonwealth to Territory**

5. (1) The Minister shall transfer or cause to be transferred to the Territory all assets and rights of the Commonwealth that, in his or her opinion, relate to Territory functions.

(2) Subsection (1) does not apply to:

- (a) money; or
- (b) any estate in land.

(3) The Minister shall transfer or cause to be transferred to the Territory all estates in land in the Territory of a kind referred to in subsection (4), being estates that, in his or her opinion, are held by the Commonwealth for purposes that relate to Territory functions.

(4) Subsection (3) applies to estates consisting of:

- (a) interests under easements (including easements in gross), rights of way or mortgages; or
- (b) interests as lessee or sub-lessee.

(5) Where an estate transferred to the Territory under subsection (3) is an estate derived from a contract, the Territory is, by force of this subsection, substituted for the Commonwealth as a party to the contract.

(6) So long as any land in the Territory is Territory Land as defined by the *Australian Capital Territory (Planning and Land Management) Act 1988*, all rights of the Commonwealth in relation to minerals in that land are vested in the Territory by force of this subsection.

(7) In subsection (6):

“mineral” means a naturally occurring substance or mixture of substances, whether in a solid, liquid or gaseous state.

#### **Transfer of rights and obligations of Commonwealth under contracts**

6. (1) The regulations may provide for:

- (a) the substitution of the Territory for the Commonwealth as a party to any contract; and
- (b) matters connected with any such substitution.

(2) Subsection (1) applies only to a contract:

- (a) which is subsisting immediately before Self-Government Day;
- (b) to which the Commonwealth is a party; and
- (c) which relates to a Territory function.

#### **Acts that bind States to bind Territory**

7. (1) Where an Act (whether or not by express provision) binds each of the States, or the Crown in right of each of the States, that Act, by force of this subsection, binds the Territory, or the Crown in right of the Territory, unless that Act specifically provides otherwise.

(2) Subsection (1) does not affect the application of a law of the Commonwealth in and in relation to the Territory otherwise than as provided in that subsection.

#### **Ordinances modifying converted Acts**

8. (1) The power of the Governor-General to make Ordinances extends to making, before Self-Government Day, Ordinances modifying Acts referred to in Schedule 2 to the Self-Government Act, being modifications arising from, connected with or consequential upon the establishment of the Territory as a body politic under the Crown.

(2) The modifications shall not take effect before Self-Government Day.

(3) On Self-Government Day, an Ordinance made under this section shall be taken to be an enactment, and may be amended or repealed accordingly.

#### **Uncommenced Acts**

9. (1) In this section:

“Commonwealth law” means an Act, or a Part of an Act, specified in Schedule 2 to the Self-Government Act.

**(2) Where:**

- (a) a provision of a Commonwealth law is to commence on a day to be fixed by Proclamation; and
- (b) at the beginning of Self-Government Day, a day has not been fixed for the commencement of the provision;

then, on or after that Day, the Chief Minister may, by notice in the *Territory Gazette*, fix a day for the commencement of that provision.

**Uncommenced Ordinances**

**10. (1) In this section:**

“Ordinance” means an Ordinance made before Self-Government Day, other than an Ordinance, or a provision of an Ordinance, specified in Schedule 3 to the Self-Government Act.

**(2) Where:**

- (a) an Ordinance, or a provision of an Ordinance, is to commence on a day to be fixed by notice in the *Commonwealth Gazette*; and
- (b) at the beginning of Self-Government Day, a day has not been fixed for the commencement of the Ordinance or provision;

then, on or after that Day, the Chief Minister may, by notice in the *Territory Gazette*, fix a day for the commencement of that Ordinance or provision.

(3) An Ordinance, or a provision of an Ordinance, made before Self-Government Day but not in force immediately before that Day shall, on that Day, be taken to be an enactment, and may be amended or repealed accordingly.

**Ordinances not to be treated as inconsistent with Acts**

**11. Where:**

- (a) an Ordinance is made before Self-Government Day about a subject that, when the Ordinance is made, is dealt with by an Act;
- (b) the Ordinance does not commence before that Day; and
- (c) when the Ordinance commences, it is capable of operating concurrently with the Act as then in force;

the Ordinance is not invalid merely because, at the time when it is made, it is inconsistent with the Act.

**Laws converted into enactments by 1 July 1990**

**12. (1) In this section:**

“law” includes a part of a law.

(2) If, immediately before 1 July 1990, any laws specified in subsection (5) have not been omitted from Schedule 3 of the Self-Government Act, the laws are omitted from that Schedule on that date by force of this subsection and shall be taken to be enactments and may be amended or repealed accordingly.

(3) Where:

- (a) an Ordinance has been made with respect to the subject matter of a law specified in Schedule 3 to the Self-Government Act; and
- (b) the law is omitted from that Schedule at a time when the Ordinance is in force;

the Governor-General may make regulations providing that the Ordinance, or specified parts of the Ordinance (being parts relating to that subject matter), with such modifications (if any) as are specified in the regulations, shall be taken to be an enactment and may be amended or repealed accordingly.

(4) The definition of “enactment” in section 3 of the Self-Government Act shall be read as including a law, Ordinance or part of an Ordinance that is taken to be an enactment because of subsection (2) or (3).

(5) The laws referred to in subsection (2) are the laws specified in the various Parts of Schedule 3 to the Self-Government Act as follows:

**PART 1**

*Children’s Services Ordinance 1986* except sections 143, 144, 145, 146 and 147

*Criminal Injuries Compensation Ordinance 1983*

*Coroners Ordinance 1956*

Crimes Ordinances and Crimes Amendment Ordinances (various)

*Imperial Acts (Substituted Provisions) Ordinance 1986*, Schedule 2, Parts 16, 17, 20 and 21

*Judgment Creditors Remedies Ordinance 1933*

*Judiciary (Stay of Proceedings) Ordinance 1933*

*Legal Practitioners Ordinance 1970*

*Limitation Ordinance 1985*

*Magistrates Court Ordinance 1930*

*Magistrates Court (Civil Jurisdiction) Ordinance 1982*

*Notaries Public Ordinance 1984*

*Police Ordinance 1927*

*Small Claims Ordinance 1974*

*Supreme Court Ordinance 1952*

**PART 2**

Arrest on Mesne Process Act 1902

Crimes Act 1900

Judgment Creditors’ Remedies Act 1901

Lunacy Act 1898, sections 65, 66 and 67

Piracy Punishment Act 1902

**PART 3**

Offences at sea

(1536) 28 Hen. 8 c. 15

Piracy

(1698) 11 Will. 3 c. 7

Piracy	(1717) 4 Geo. 1 c. 11
Piracy	(1721) 8 Geo. 1 c. 24
Piracy	(1744) 18 Geo. 2 c. 30
Slavery Abolition Act	(1833) 3 and 4 Will. 4 c. 73
Slave Trade Act	(1824) 5 Geo. 4 c. 113
Slave Trade Act	(1843) 6 and 7 Vic. c. 98
Slave Trade Act	(1873) 36 and 37 Vic. c. 88

### **Appointments under Audit Act**

**13. (1)** In this section:

“audit appointment” means an appointment made under section 34 of the *Audit Act 1901*, so far only as the appointment empowers the appointee to exercise powers in relation to the Territory;

“audit delegation” means a delegation made under section 70A of that Act of powers under section 20, 34, 37B, 62B or 70C of that Act, so far only as those powers relate to the Territory.

(2) Where, immediately before Self-Government Day, a person holds an audit appointment, the appointment continues in effect on and after that Day as if it had been made under the corresponding provision of the Territory audit law.

(3) Where, immediately before Self-Government Day, an audit delegation is in effect, the delegation continues in effect on and after that Day as if it had been made by the Chief Minister under the corresponding provision of the Territory audit law.

### **Auditor-General**

**14.** On and after Self-Government Day, and until otherwise provided by enactment, the Auditor-General for the Commonwealth shall be the Auditor-General for the Territory and each Territory authority and, for those purposes, shall exercise such powers as are provided by enactment.

### **Transfer of Audit Act Accounts**

**15. (1)** Where, immediately before Self-Government Day, an Audit Act Account was in existence, a Trust Account shall, on that Day, be taken to be established under the Territory audit law for the same purposes as those of the Audit Act Account.

(2) An amount standing to the credit of an Audit Act Account at the beginning of Self-Government Day shall be paid into the corresponding Trust Account established by subsection (1).

(3) For the purposes of subsection (2), money standing to the credit of the Trust Fund under a head of account that constitutes an Audit Act Account as defined by this Act shall be taken to be money standing to the credit of the Account.

(4) Where, at the beginning of Self-Government Day, an amount is payable, but has not been paid, into an Audit Act Account, the amount is payable into the corresponding Trust Account established by subsection (1).

#### **Transfer of appropriations for Audit Act Accounts**

16. (1) Where an Appropriation Act has appropriated, or appropriates, money for the purposes of a Trust Account that is an Audit Act Account as defined by this Act, the Act shall be taken to have appropriated, or to appropriate, the money for the purposes of the corresponding Trust Account established by subsection 15 (1).

(2) Subsection (1) does not apply to money that has been spent for the purposes of the Audit Act Account before Self-Government Day.

#### **Abolition of Australian Capital Territory Trust Account**

17. (1) In this section:

“Account” means the Australian Capital Territory Trust Account established under section 62A of the *Audit Act 1901*;

“Consolidated Revenue Fund” means the Consolidated Revenue Fund of the Territory established under the Territory audit law.

(2) An amount standing to the credit of the Account at the beginning of Self-Government Day shall be paid into the Consolidated Revenue Fund.

(3) Where, at the beginning of Self-Government Day, an amount is payable, but has not been paid, into the Account, the amount is payable into the Consolidated Revenue Fund.

(4) Where an Appropriation Act has appropriated, or appropriates, money for the purposes of the Account, the Act shall be taken to have appropriated, or to appropriate, the money for the purposes of the Consolidated Revenue Fund.

(5) Subsection (4) does not apply to money that has been spent for the purposes of the Account before Self-Government Day.

#### **Closure of Accounts**

18. After the money standing to the credit of an Account has been paid under section 15 or 17, the Account shall be closed.

#### **Territory audit law to apply to new Accounts**

19. Nothing in this Act prevents a Trust Account established by this Act from being dealt with, or being closed, under the Territory audit law.

#### **Territory to reimburse Commonwealth for certain development costs**

20. (1) In this section:

“development costs”, in relation to land, means costs of development of the land, other than costs that have been recouped by payments out of the Trust Account;



“Territory Land” has the same meaning as in the *Australian Capital Territory (Planning and Land Management) Act 1988*;

“Trust Account” means the Australian Capital Territory Trust Account established under section 62A of the *Audit Act 1901*.

(2) Where:

- (a) before Self-Government Day, the Commonwealth incurred development costs in relation to any land in the Territory;
- (b) immediately before that Day, the land was not subject to a leasehold interest and was, or was intended to be, available to be:
  - (i) leased; or
  - (ii) used by the Territory for commercial purposes; and
- (c) on that Day, the land becomes Territory Land;

the Territory shall pay to the Commonwealth a reasonable amount as reimbursement of those costs.

(3) Where:

- (a) before Self-Government Day:
  - (i) the Commonwealth incurred development costs in relation to any land in the Territory; and
  - (ii) a leasehold interest in the land has been sold; and
- (b) the proceeds of the sale have:
  - (i) been paid into the Trust Account before that Day; or
  - (ii) become payable to the Territory on or after that Day;

the Territory shall pay to the Commonwealth a reasonable amount as reimbursement of those costs.

#### **Staff from Australian Public Service**

**21. (1)** Until an enactment provides that this subsection is to cease to have effect, transitional staff shall be persons appointed or employed under the *Public Service Act 1922* (in this section called “the Act”).

(2) The Head of Administration has all the powers of a Secretary under the Act, so far as they relate to the branch of the Australian Public Service comprising the transitional staff as if that branch were a separate Department.

(3) Section 25 of the Act applies for the purposes of subsection (2) as if:

- (a) subsections (1), (1A) and (2) were omitted;
- (b) in subsection (6), the reference to the Minister administering the Department were a reference to the Chief Minister; and
- (c) subsections (7), (8) and (9) were omitted.

(4) The Chief Minister shall cause a copy of a report received by him or her under subsection 25 (6) of the Act applying as provided by subsection (3) to be laid before the Assembly within 15 sitting days of the Assembly after the day on which the Chief Minister receives the report.

(5) In relation to the transitional staff appointed or employed under the Act, the Act applies subject to the modifications in Schedule 1.

(6) A reference in the Self-Government Act to a public servant includes a reference to a member of the transitional staff.

(7) The Commonwealth and the Territory shall consult with the Australian Council of Trade Unions, the Council of Professional Associations and any other organisation that the Minister wishes to include in the consultation, in relation to the initial terms and conditions of employment of:

- (a) members of the transitional staff who are to be appointed to an office, or employed, in accordance with an enactment; and
- (b) other persons who are to be members of the staff of an enactment authority.

### **Transitional application of Commonwealth Employees Rehabilitation and Compensation Act**

22. (1) In this section:

“Territory staff” means:

- (a) the Head of Administration;
- (b) an Associate Head of Administration;
- (c) the transitional Territory staff; and
- (d) the members of the teaching service.

(2) Until the commencement of the amendments of the *Commonwealth Employees Rehabilitation and Compensation Act 1988* made by this Act, that Act applies in relation to the members of the Territory staff as if:

- (a) the Territory were a Commonwealth authority within the meaning of that Act;
- (b) those members were employed by that authority under a law of the Commonwealth; and
- (c) the principal officer in relation to that authority were the Head of Administration.

### **Transitional application of Long Service Leave (Commonwealth Employees) Act**

23. (1) In this section:

“Territory staff” means:

- (a) the Head of Administration;
- (b) an Associate Head of Administration;
- (c) the transitional Territory staff; and
- (d) the members of the teaching service.

(2) Until the commencement of the amendment of the definition of “public authority of the Commonwealth” in subsection 4 (1) of the *Long Service Leave (Commonwealth Employees) Act 1976* (in this section called

“the Act”) made by this Act, the Act applies in relation to the members of the Territory staff:

- (a) as if those members were employed by the Commonwealth under a law; and
- (b) subject to the modifications in Schedule 2.

(3) Decisions for the purposes of the Act made in relation to Territory staff by the Public Service Commissioner that were in effect at the commencement of this section continue in effect as if made by the Head of Administration.

**Transitional application of Maternity Leave (Commonwealth Employees) Act**

**24. (1)** In this section:

“Territory staff” means:

- (a) the Head of Administration;
- (b) an Associate Head of Administration;
- (c) the transitional Territory staff;
- (d) the members of the teaching service; and
- (e) persons who constitute, or are members of, an enactment authority.

(2) Until the commencement of the amendments of the *Maternity Leave (Commonwealth Employees) Act 1973* (in this section called “the Act”) made by this Act, the Act applies in relation to the members of the Territory staff:

- (a) as if the Territory were a prescribed authority as defined by section 3 of the Act;
- (b) as if those members were employed by that authority under a law of the Commonwealth; and
- (c) subject to the modifications in Schedule 3.

(3) Decisions for the purposes of the Act made in relation to Territory staff by the Public Service Commissioner that were in effect at the commencement of this section continue in effect as if made by the Head of Administration.

**Transitional application of Merit Protection (Australian Government Employees) Act**

**25.** Until the commencement of the amendment of the definition of “Commonwealth authority” in subsection 3(1) of the *Merit Protection (Australian Government Employees) Act 1984* made by this Act, that Act applies in relation to transitional staff subject to the modifications in Schedule 4.

**Administrative Decisions (Judicial Review) Act—savings**

**26. (1)** In this section:

“ACT law” means a law or provision that is, on Self-Government Day, converted into an enactment by section 34 of the Self-Government Act;

“decision” means a decision under an ACT law.

**(2)** Where, immediately before Self-Government Day:

(a) a person had a right to apply under the *Administrative Decisions (Judicial Review) Act 1977* for a review of a decision; and

(b) either:

(i) the person had not made such an application; or

(ii) the person had made such an application and proceedings under that Act arising from that right had not been finally disposed of;

then, on and after that Day, the person continues to have that right as if the amendments of that Act by this Act had not been made.

**(3)** For the purposes of subsection (2):

(a) the decision shall be taken to have been made by the person who would have made the decision under the ACT law as in force on and after that Day; and

(b) in any proceedings under that Act arising from that right, the person referred to in paragraph (a) shall be substituted as a party for the person who actually made the decision.

**Administrative Appeals Tribunal—savings**

**27. (1)** In this section:

“ACT law” means a law or provision that is, on Self-Government Day, converted into an enactment by section 34 of the Self-Government Act;

“decision” means a decision under an ACT law;

“proceedings”, in relation to the *Administrative Appeals Tribunal Act 1975*, includes a reference made to the Federal Court of Australia, or an appeal made to that Court or the High Court, arising out of proceedings under that Act.

**(2)** Where, immediately before Self-Government Day:

(a) a person had a right to apply to the Administrative Appeals Tribunal for a review of a decision; and

(b) either:

(i) the person had not made such an application; or

(ii) the person had made such an application and proceedings under the *Administrative Appeals Tribunal Act 1975* arising from that right had not been finally disposed of;

then, on and after that Day, the person continues to have that right as if the amendments of that Act by this Act had not been made.

- (3) For the purposes of subsection (2):
  - (a) the decision shall be taken to have been made by the person who would have made the decision under the ACT law as in force on and after that Day; and
  - (b) in any proceedings under that Act arising from that right, the person referred to in paragraph (a) shall be substituted as a party for the person who actually made the decision.

#### **ACT Ombudsman—interim arrangements**

**28. (1)** In this section:

“ACT Ombudsman” means the person appointed under enactment as Ombudsman, and includes the person to whom subsection (3) applies;

“Commonwealth Act” means the *Ombudsman Act 1976*;

“Commonwealth Ombudsman” means the person for the time being holding office as Ombudsman under the Commonwealth Act.

(2) If an enactment (in this section called “the ACT law”) provides for the appointment of an ACT Ombudsman, this section applies.

(3) The person for the time being holding office as Ombudsman (in this section called “the Ombudsman”) under the Commonwealth Act shall be taken to be the ACT Ombudsman until the appointment of the ACT Ombudsman is made under the ACT law.

(4) Subject to any arrangements in force between the Commonwealth and the Territory, the Commonwealth Ombudsman shall not be remunerated in relation to his or her duties as ACT Ombudsman under subsection (3).

(5) Where:

(a) before the commencement of the ACT law:

(i) a complaint has been made to the Commonwealth Ombudsman; or

(ii) the Ombudsman has commenced an investigation;

in relation to action taken by a Department or by an authority (being action in respect of which the ACT Ombudsman would have had power to investigate had the action been taken after the commencement of the ACT law); and

(b) the Commonwealth Ombudsman has not finally disposed of the matter at the commencement of the ACT law;

then:

(c) the Commonwealth Ombudsman shall transfer the complaint or investigation to the ACT Ombudsman, and forward to him or her any information or document, or a copy of, or extract from, a document, being information or a document relating to the complaint or the investigation; and

- (d) the ACT Ombudsman shall deal with the complaint or investigation as if it had been made or commenced, as the case requires, under the ACT law.

#### **Freedom of Information Act—transitional**

**29. (1)** In this section:

“agency” has the same meaning as in the Act;

“corresponding enactment” means an enactment one of whose objects is to give members of the public rights of access to official documents of the Territory and its agencies;

“the Act” means the *Freedom of Information Act 1982*.

**(2)** Where:

- (a) a corresponding enactment comes into force;
- (b) before the commencement of that enactment, a person had made a request to an agency under section 15 of the Act for access to a document;
- (c) the request had not been fully dealt with at the commencement of that enactment; and
- (d) the document has been transferred to the Territory under this Act;

then:

- (e) the agency shall transfer the request to the appropriate Territory agency; and
- (f) any steps taken under the Act in relation to the request have effect as if they had been taken under that enactment.

#### **Appropriation**

**30.** The Consolidated Revenue Fund is appropriated as necessary for the purposes of this Act.

#### **Regulations**

**31. (1)** The Governor-General may make regulations making provision (including provision by way of modifications of an Act) in relation to:

- (a) any matter arising from, connected with or consequential upon the establishment of the Territory as a body politic under the Crown; or
- (b) any matter arising from, connected with or consequential upon the conversion of a law into an enactment.

**(2)** The power to make regulations extends to regulations expressed to take effect on and from a date earlier than the date of the making of the regulations, not being a date earlier than Self-Government Day.

**(3)** Regulations relating to a matter specified in paragraph (1) (a) shall not be made after 31 December 1989.

**(4)** Regulations relating to a matter specified in paragraph (1) (b) shall not be made after the law becomes an enactment.

(5) In this section:

“law” includes:

- (a) a part of a law; or
- (b) an Ordinance or a part of an Ordinance.

### **PART III—CONSEQUENTIAL AMENDMENTS OF ACTS**

#### **Amendments of Acts**

**32.** The Acts specified in Schedule 5 are amended as set out in that Schedule.

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**SCHEDULE 1**

Subsection 21 (5)

**MODIFICATIONS OF PUBLIC SERVICE ACT 1922**

**Subsection 7 (1) (paragraph (c) of the definition of “relevant staff organisation”):**

Omit “the Minister who is responsible for the Department”, substitute “a Territory Minister”.

**After subsection 7 (1):**

Insert the following subsection:

“(1A) Except so far as the contrary intention appears, expressions used in this Act have the same meaning as in the *A.C.T. Self-Government (Consequential Provisions) Act 1988*.”.

**Subsection 22A (4):**

Omit “Minister administering the Department”, substitute “Chief Minister”.

**Subsection 22A (5):**

Omit “Prime Minister”, substitute “Chief Minister”.

**Subsection 22B (9):**

Omit “Minister administering the Department”, substitute “Chief Minister”.

**Subsection 22B (11):**

Omit “Prime Minister”, substitute “Chief Minister”.

**Subsection 22C (10):**

Omit “Prime Minister”, substitute “Chief Minister”.

**Subsection 22C (10A):**

Omit “each House of the Parliament”, substitute “the Assembly”.

**After subsection 43 (1):**

Insert the following subsection:

“(1A) An appointment of a person under this section to an office in the branch of the Service comprising transitional staff within the meaning of section 21 of the *A.C.T. Self-Government (Consequential Provisions) Act 1988* shall not be made unless the Commissioner has consulted the Head of Administration about the proposed appointment.”.

**Subsection 43 (3):**

Omit “each House of the Parliament”, substitute “the Assembly”.



**SCHEDULE 1—continued**

**Section 64:**

Omit “Commonwealth” (wherever occurring), substitute “Territory”.

**Paragraph 91 (1) (e):**

After “Commonwealth” insert “or the Territory”.

**Subsection 91A (1):**

(a) Omit “Board”, substitute “Head of Administration”.

(b) Omit “Commonwealth”, substitute “Territory”.

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**SCHEDULE 2**

Section 23

**MODIFICATIONS OF LONG SERVICE LEAVE (COMMONWEALTH EMPLOYEES) ACT 1976**

**Subsection 4 (1) (paragraphs (a), (b) and (c) of the definition of “approving authority”):**

Omit the paragraphs.

**Subsection 4 (1) (paragraph (e) of the definition of “approving authority”):**

Omit “Public Service Board”, substitute “Head of Administration”.

**Subparagraph 4 (8) (a):**

Omit the paragraph, substitute the following paragraph:

“(a) a Minister as defined by section 3 of the *Australian Capital Territory (Self-Government) Act 1988* or the Executive as defined by that section may grant leave of absence to the holder of an office or appointment established by, or made under an enactment within the meaning of that Act; and”.

**Subsection 9 (1):**

Omit the subsection.

**Section 9A:**

Omit the section.

**Paragraph 10 (6) (d):**

Omit “or”, substitute “and is not a member of the Territory staff as defined by section 23 of the *A.C.T. Self-Government (Consequential Provisions) Act 1988* or is employed”.

**SCHEDULE 2—continued**

**Paragraph 10 (6) (e):**

- (a) Omit “Commonwealth” (first occurring), substitute “Australian Capital Territory”.
- (b) Omit “Commonwealth” (second occurring), substitute “that Territory”.

**Subsection 23 (5):**

- (a) Omit “public authority of the Commonwealth”, substitute “enactment authority within the meaning of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*”.
- (b) Omit “Commonwealth” (last occurring), substitute “the Australian Capital Territory”.

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**SCHEDULE 3**

Section 24

**MODIFICATIONS OF MATERNITY LEAVE (COMMONWEALTH EMPLOYEES) ACT 1973**

**After subsection 3 (1):**

Insert the following subsection:

“(1A) References in this Act to the Public Service Board or to the Public Service Commissioner shall be read as references to the Head of Administration as defined by section 3 of the Self-Government Act.”.

**Subsection 3 (1):**

Insert the following definition:

“‘Self-Government Act’ means the *Australian Capital Territory (Self-Government) Act 1988*.”.

**Paragraph 5 (1) (a):**

Omit the paragraph.

**Paragraph 5 (1) (b):**

Omit “such other persons employed by the Commonwealth, and”.

**Subsection 5 (2):**

Omit the subsection.

**After paragraph 5 (3) (a):**

Insert the following paragraph:

“(ab) a member of the Legislative Assembly for the Australian Capital Territory or a Minister as defined by section 3 of the Self-Government Act;”.

**SCHEDULE 3—continued**

**Section 7B:**

After “other Act” (wherever occurring) insert “, or other enactment as defined by section 3 of the Self-Government Act”.

**Paragraph 8 (1) (a):**

Omit “a Department of the Public Service of the Commonwealth”, substitute “the branch of the Australian Public Service comprising transitional staff as defined by section 3 of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*.”.

**Subsection 8 (3):**

Omit the subsection.

**Section 11:**

Omit the section.

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**SCHEDULE 4**

Section 25

**MODIFICATIONS OF MERIT PROTECTION (AUSTRALIAN  
GOVERNMENT EMPLOYEES) ACT 1984**

**After subsection 3 (1):**

Insert the following subsection:

“(1A) Except so far as the contrary intention appears, expressions in this Act have the same meanings as in the *A.C.T. Self-Government (Consequential Provisions) Act 1988*.”.

**Subsection 43 (5):**

Omit “Prime Minister”, substitute “Chief Minister”.

**Subsection 43 (6):**

Omit the subsection, substitute the following subsection:

“(6) Where the Agency has, in accordance with subsection (5), given information to the Chief Minister in relation to a recommendation, the Agency may also forward to the Presiding Officer for presentation to the Assembly copies of a report prepared by it concerning the recommendation for presentation to the Assembly.”.

**Section 44:**

Omit “Public Service Board” (wherever occurring), substitute “Head of Administration”.

**SCHEDULE 4—continued**

**Section 52:**

Omit “Prime Minister”, substitute “Chief Minister”.

**Section 53:**

Omit all words from and including “Prime Minister” to and including “Parliament”, substitute “Chief Minister in relation to a report concerning an investigation made by the Agency, the Agency may also forward to the Presiding Officer for presentation to the Assembly copies of a report prepared by it concerning the investigation for presentation to the Assembly”.

**Subsection 56 (1):**

Omit “Minister or the Public Service Board”, substitute “Chief Minister”.

**After subsection 59 (4):**

Insert the following subsection:

“(4A) Where the Chief Minister gives to the Director a certificate certifying that the disclosure to the Director of information concerning a specified matter (including the giving of information in answer to a question) or the disclosure to the Director of the contents of any documents or records would be contrary to the public interest because it would involve the disclosure of deliberations or decisions of the Executive or a Committee of the Executive, the Director is not entitled to require a person to give any information concerning the matter, to answer questions concerning the matter or to produce those documents or records to the Director.”.

**Subsection 61 (4):**

After “59 (4)” insert “or the Chief Minister has given a certificate under subsection 59 (4A)”.

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**SCHEDULE 5**

Section 32

**CONSEQUENTIAL AMENDMENTS OF ACTS**

***Administrative Appeals Tribunal Act 1975***

**Subsection 3 (1) (definition of “enactment”):**

After “means” insert “, subject to section 3A”.

**Subsection 3 (1):**

Insert the following definition:

“‘ACT enactment’ means an enactment as defined by section 3 of the *Australian Capital Territory (Self-Government) Act 1988*.”.

**SCHEDULE 5—continued**

**After section 3:**

Insert the following sections:

**Certain legislation relating to Australian Capital Territory not to be enactment**

“3A. (1) ACT enactments are not enactments.

“(2) The *Australian Capital Territory (Self-Government) Act 1988* and the *Canberra Water Supply (Googong Dam) Act 1974* are not enactments.

“(3) Part IV, sections 29 and 30, subsection 63 (2), section 66 and Division 5 of Part X of the *Australian Capital Territory Planning and Land Management Act 1988* are not enactments.

“(4) Where the whole of an Act or Ordinance is not an enactment, an instrument made under it is not an enactment.

“(5) Where part of an Act or Ordinance is not an enactment, an instrument made under the Act or Ordinance, as the case may be, is not an enactment unless made for the purposes of the other part of the Act or Ordinance, as the case may be.

**Members may be appointed to be members of Administrative Appeals Tribunal for the ACT**

“3B. If an ACT enactment establishes a body or tribunal for the purpose of reviewing specified administrative decisions, nothing in this Act prevents:

- (a) the President from being appointed to be the President (however described) of that body or tribunal; or
- (b) a member other than the President from being appointed to be a member other than the President (however described) of that body or tribunal.”.

**Paragraph 16 (5) (a):**

After “a State,” insert “the Australian Capital Territory,”.

**Paragraph 16 (5) (c):**

After “a State” insert “, the Australian Capital Territory”.

***Administrative Decisions (Judicial Review) Act 1977***

**Subsection 3 (1) (definition of “enactment”):**

After “means” insert “, subject to section 3A”.

**Subsection 3 (1):**

Insert the following definition:

“‘ACT enactment’ means an enactment as defined by section 3 of the *Australian Capital Territory (Self-Government) Act 1988*.”.

**SCHEDULE 5—continued**

**After section 3:**

Insert the following section:

**Certain legislation relating to Australian Capital Territory not to be enactment**

“3A. (1) ACT enactments are not enactments.

“(2) The *Australian Capital Territory (Self-Government) Act 1988* and the *Canberra Water Supply (Googong Dam) Act 1974* are not enactments.

“(3) Part IV, sections 29 and 30, subsection 63 (2), section 66 and Division 5 of Part X of the *Australian Capital Territory Planning and Land Management Act 1988* are not enactments.

“(4) Where the whole of an Act or Ordinance is not an enactment, an instrument made under it is not an enactment.

“(5) Where part of an Act or Ordinance is not an enactment, an instrument made under the Act or Ordinance, as the case may be, is not an enactment unless made for the purposes of the other part of the Act or Ordinance, as the case may be.”.

***Archives Act 1983***

**Subsection 3 (1) (definition of “authority of the Commonwealth”):**

Omit all words from and including “include”, substitute the following:

“include:

- (d) a court;
- (e) the Australian Capital Territory;
- (f) a body established by or under an enactment within the meaning of the *Australian Capital Territory (Self-Government) Act 1988*;
- (g) the Northern Territory; or
- (h) the Administration of an external Territory.”.

**Paragraph 6 (1) (a):**

After “State” insert “, the Australian Capital Territory”.

**Section 23:**

After “States” (wherever occurring) insert “, the Australian Capital Territory”.

**Subsection 32 (1):**

- (a) After “State” (first and second occurring) insert “, of the Australian Capital Territory”.
- (b) After “State” (last occurring) insert “, the Australian Capital Territory”.

**SCHEDULE 5—continued**

**Subsection 32 (2):**

After “State” insert “, with the Australian Capital Territory”.

**Subsection 33 (5):**

After “State” insert “, the Australian Capital Territory”.

**Paragraph 36 (4) (d):**

After “State” insert “, the Australian Capital Territory”.

***Audit Act 1901***

**Subsection 2A (1):**

Insert “the Australian Capital Territory,” before “the Northern Territory” (wherever occurring).

**Subparagraph 48B (4) (a) (vii):**

Omit “Australian Capital Territory Legislative Assembly”, substitute “Legislative Assembly for the Australian Capital Territory”.

**Section 48C:**

Add at the end the following subsection:

“(9) In this section:  
‘State’ includes the Australian Capital Territory.”.

**Section 48D:**

Add at the end the following subsection:

“(2) In this section:  
‘State’ includes the Australian Capital Territory.”.

**Section 48F:**

After subsection (10) insert the following subsection:

“(10A) In this section:  
‘State’ includes the Australian Capital Territory.”.

**Paragraph 63B (1) (b):**

Omit “a law”, substitute “an Ordinance”.

***Australian Antarctic Territory Act 1954***

**Section 4:**

Insert the following definitions:

“ ‘Act’ does not include an enactment;  
‘enactment’ has the same meaning as in the *Australian Capital Territory (Self-Government) Act 1988*;”.

**SCHEDULE 5—continued**

**Subsection 10 (2):**

- (a) After “Ordinance” (first occurring) insert “or enactment”.
- (b) After “Ordinance” (second occurring) insert “or enactment, as the case may be”.

***Australian Capital Territory Supreme Court Act 1933***

**Section 5:**

Insert the following definition:

“‘enactment’ has the same meaning as in section 3 of the *Australian Capital Territory (Self-Government) Act 1988*.”

**After section 7:**

Insert the following section:

**Appointments between 1 July 1990 and 30 June 1992**

“7AA. (1) This section applies to an appointment made under section 7 on or after 1 July 1990 at a time when this Act has not become an enactment within the meaning of the *Australian Capital Territory (Self-Government) Act 1988*.

“(2) Such an appointment shall not be made unless, before tendering advice to the Governor-General, the Attorney-General has consulted with the Australian Capital Territory Executive.

“(3) This section ceases to have effect on 1 July 1992.”

**Paragraph 11 (a):**

After “Ordinance” insert “or enactment”.

**Paragraph 11 (b):**

Omit “or by Ordinance”, substitute “, by Ordinance or by enactment”.

**Paragraph 11 (c):**

After “Ordinance” insert “or enactment”.

**Paragraph 12 (1) (d):**

After “Ordinance” insert “or enactment”.

**Subsection 15 (2):**

After “Ordinance” insert “, to any enactment”.

**Paragraph 20 (1) (b):**

After “Ordinance” insert “, any enactment”.

**Section 27:**

After “Ordinance” insert “, an enactment”.



**SCHEDULE 5—continued**

**Paragraph 28 (1) (d):**

After “Ordinance” insert “or enactment”.

**Subsection 31 (1):**

Omit “or Ordinance”, substitute “, Ordinance or enactment”.

**Subsection 34 (3):**

After “Ordinance” insert “, an enactment”.

**Subsection 35 (1):**

After “Ordinance” insert “, by enactment”.

**Subsection 37A (1):**

After “Ordinance” insert “, enactment”.

**Section 38:**

Omit “or by an Ordinance”, substitute “by an Ordinance or by an enactment”.

***Australian Federal Police Act 1979***

**Paragraph 8 (1) (a):**

Before “the provision” insert “subject to subsection (1A),”.

**After subsection 8 (1):**

Insert the following subsections:

“(1A) The Minister and the Australian Capital Territory may enter into arrangements for the provision of the police services in relation to the Australian Capital Territory that are in respect of Territory functions as defined by section 3 of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*, and, where the arrangements have been entered into, the provision of those services shall be in accordance with the arrangements.

“(1B) The Minister shall try to enter into the first such arrangement before 1 July 1990.”.

**Paragraph 40 (1) (e):**

(a) After “State,” insert “the Legislative Assembly for the Australian Capital Territory or”.

(b) Omit “or the Australian Capital Territory House of Assembly”.

***Australian National University Act 1946***

**Subsection 27A (3):**

After “Territory” insert “(including an enactment as defined in section 3 of the *Australian Capital Territory (Self-Government) Act 1988*);”.

**SCHEDULE 5—continued**

***Broadcasting Act 1942***

**Subsection 4 (1) (definition of “Parliament”):**

After paragraph (b) insert the following paragraph:

“(ba) the Legislative Assembly for the Australian Capital Territory;”.

***Canberra College of Advanced Education Act 1967***

**Subsection 21 (3):**

After “Territory” insert “(including an enactment as defined in section 3 of the *Australian Capital Territory (Self-Government) Act 1988*);”.

***Commonwealth Electoral Act 1918***

**Subsection 44 (1):**

Omit the subsection, substitute the following subsection:

“(1) If the place of a Senator for the Australian Capital Territory becomes vacant before the expiration of his or her term of service, the Legislative Assembly for the Australian Capital Territory shall choose a person to hold the place until the expiration of the term, but if the Legislative Assembly is not in session when the vacancy is notified, the Chief Minister for the Australian Capital Territory may appoint a person to hold the place until the expiration of 14 days from the beginning of the next session of the Legislative Assembly or the expiration of the term, whichever first happens.”.

**Paragraph 44 (5) (a):**

Omit “Governor-General”, substitute “Chief Minister for the Australian Capital Territory”.

**Subsection 44 (6):**

Omit the subsection, substitute the following subsection:

“(6) The name of any senator chosen or appointed under subsection (1) or (2) shall be certified by the Chief Minister for the Australian Capital Territory or the Administrator of the Northern Territory, as the case may be, to the Governor-General.”.

**Subsection 123 (1) (paragraph (d) of the definition of “Parliamentary party”):**

Omit the paragraph, substitute the following paragraph:

“(d) the Legislative Assembly for the Australian Capital Territory”.

**Paragraph 164 (c):**

Omit the paragraph, substitute the following paragraph:

“(c) the Legislative Assembly for the Australian Capital Territory”.

**SCHEDULE 5—continued**

**Subsection 353 (3):**

- (a) Omit all words from and including “members of the Senate” to and including “Governor-General” (first occurring), substitute “Legislative Assembly for the Australian Capital Territory”.
- (b) Omit “Governor-General” (second occurring), substitute “Chief Minister for the Australian Capital Territory”.

***Commonwealth Employees’ Rehabilitation and Compensation Act 1988***

**Subsection 4 (1) (paragraph (b) of the definition of “Commonwealth authority”):**

After “other than” insert “an ACT enactment or a law of”.

**Subsection 4 (1):**

Insert the following definitions:

“‘ACT enactment’ means an enactment as defined by section 3 of the ACT Self-Government Act;

‘ACT Self-Government Act’ means the *Australian Capital Territory (Self-Government) Act 1988*.”

**Subparagraph 5 (2) (c) (ii):**

After “other than” insert “an ACT enactment or a law of”.

**Subsection 5 (8):**

After paragraph (b) insert the following paragraph:

“(ba) a person who holds an office as defined by subsection 73 (1) of the ACT Self-Government Act or an office established by or under enactment;”.

***Commonwealth Grants Commission Act 1973***

**After subsection 5 (1):**

Insert the following subsection:

“(1A) References in this Act to the grant of special assistance to the Australian Capital Territory shall be read as references to the grant of financial assistance to that Territory for the purpose of making it possible for that Territory, having regard to the special circumstances arising from the location in it of the national capital and the seat of Government of the Commonwealth, by reasonable effort, to function in respect of matters for which the Australian Capital Territory Executive has responsibility, at standards not appreciably below the standards of the States and the Northern Territory.”.

**After section 16A:**

Insert the following section:

**SCHEDULE 5—continued**

**Inquiries relating to the Australian Capital Territory**

“16AA. The Commission shall inquire into and report to the Minister upon:

- (a) any application made by the Australian Capital Territory to the Commission for a grant of special assistance to that Territory;
- (b) any matters, being matters relating to a grant of financial assistance made by the Commonwealth to the Australian Capital Territory, that are referred to the Commission by the Minister; and
- (c) any matters, being matters relating to the making of a grant of financial assistance by the Commonwealth to the Australian Capital Territory, that are referred to the Commission by the Minister.”.

**Section 16B:**

Omit the section.

**Subsection 25 (2):**

After “16A” insert “, 16AA”.

***Commonwealth Teaching Service Act 1972***

**Paragraphs 19 (3) (b) and (5) (b):**

Omit the paragraphs.

**Division 9 of Part III:**

Omit the Division.

***Commonwealth Teaching Service Act 1973***

**Subsection 3 (1):**

Omit the subsection.

***Commonwealth Teaching Service Amendment Act 1988***

**Subsection 4 (1):**

Omit the subsection.

***Coral Sea Islands Act 1969***

**Subsection 2 (1):**

Insert the following definitions:

“ ‘Act’ does not include an enactment;

‘enactment’ has the same meaning as in the *Australian Capital Territory (Self-Government) Act 1988;*”.

**SCHEDULE 5—continued**  
***Freedom of Information Act 1982***

**Subsection 4 (1) (definition of “Department”):**

Add at the end “but does not include the branch of the Australian Public Service comprising the transitional staff as defined by section 3 of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*”.

**Subsection 4 (1) (definition of “enactment”):**

- (a) After “means” insert “, subject to section 4A”.
- (b) Add at the end “and includes an enactment as amended by another enactment”.

**Subsection 4 (1) (definition of “Ordinance”):**

After “enactment” insert “(other than a law that is, or provisions that are an ACT enactment)”.

**Subsection 4 (1) (definition of “State”):**

After “includes” insert “the Australian Capital Territory and”.

**Subsection 4 (1):**

Insert the following definition:

“‘ACT enactment’ means an enactment as defined by section 3 of the *Australian Capital Territory (Self-Government) Act 1988*”.

**Subparagraph 4 (3) (a) (i):**

Omit “Australian Capital Territory House of Assembly”, substitute “Legislative Assembly for the Australian Capital Territory”.

**After section 4:**

Insert the following section:

**Certain legislation relating to Australian Capital Territory not to be enactment**

“4A. (1) ACT enactments are not enactments.

“(2) The *Australian Capital Territory (Self-Government) Act 1988* and the *Canberra Water Supply (Googong Dam) Act 1974* are not enactments.

“(3) Part IV, sections 29 and 30, subsection 63 (2), section 66 and Division 5 of Part X of the *Australian Capital Territory Planning and Land Management Act 1988* are not enactments.

“(4) Where the whole of an Act or Ordinance is not an enactment, an instrument made under it is not an enactment.

“(5) Where part of an Act or Ordinance is not an enactment, an instrument made under the Act or Ordinance, as the case may be, is not an

**SCHEDULE 5—continued**

enactment unless made for the purposes of the other part of the Act or Ordinance, as the case may be.”.

***Heard Island and McDonald Islands Act 1953***

**Section 2:**

Insert the following definitions:

“ ‘Act’ does not include an enactment;

‘enactment’ has the same meaning as in the *Australian Capital Territory (Self-Government) Act 1988*;”.

**Subsection 9 (2):**

(a) After “Ordinance” (first occurring) insert “or enactment”.

(b) After “Ordinance” (second occurring) insert “or enactment, as the case may be”.

***Industrial Relations Act 1988***

**Subsection 4 (1) (definition of “public sector employment”):**

After paragraph (b) insert the following paragraphs:

“(ba) under a law of the Australian Capital Territory relating to employment by that Territory;

(bb) in the teaching service as defined by section 3 of the A.C.T. Consequential Provisions Act; and

(bc) by or in the service of:

(i) an enactment authority as defined by section 3 of the A.C.T. Consequential Provisions Act; or

(ii) a body corporate incorporated under a law of the Australian Capital Territory and in which the Australian Capital Territory has a controlling interest;

other than a prescribed authority or body;”.

**Subsection 4 (1):**

Insert the following definition:

“ ‘A.C.T. Consequential Provisions Act’ means the *A.C.T. Self-Government (Consequential Provisions) Act 1988*;”.

**Section 6:**

(a) Omit “and each of the States”, substitute “, each of the States, the Australian Capital Territory”.

(b) Omit “or a State”, substitute “, a State, the Australian Capital Territory”.

**SCHEDULE 5—continued**

***Jervis Bay Territory Acceptance Act 1915***

**After section 2:**

Insert the following section:

**Interpretation**

“2A. In this Act, unless the contrary intention appears:

‘Act’ does not include an enactment;

‘enactment’ has the same meaning as in the *Australian Capital Territory (Self-Government) Act 1988*;

‘Ordinance’ means an Ordinance made under this Act;

‘Territory’ means the Jervis Bay Territory.”.

**Subsections 4 (2) and (3):**

Omit the subsections.

**After section 4:**

Insert the following sections:

**Laws of Australian Capital Territory to be in force**

“4A. (1) Subject to this Act, the laws (including the principles and rules of common law and equity) in force from time to time in the Australian Capital Territory are, so far as they are applicable to the Territory and are not inconsistent with an Ordinance, in force in the Territory as if the Territory formed part of the Australian Capital Territory.

“(2) Subsection (1) extends to:

(a) sections 6 and 7 of the *Seat of Government Acceptance Act 1909*;  
and

(b) the whole of the *Seat of Government (Administration) Act 1910* except sections 9 and 12 of that Act;

but does not extend to any other Act or provision of an Act.

**Powers and functions under adopted laws**

“4B. (1) Subject to subsection (2), where, by a law of the Australian Capital Territory in force in the Territory because of section 4A, a power or function is vested in a person or authority (not being a court), that power or function is, in relation to the Territory, vested in, and may be exercised or performed by, that person or authority.

“(2) The Governor-General may direct that a power or function vested in a person or authority (not being a court) by a law of the Australian Capital Territory in force in the Territory because of section 4A shall, in relation to the Territory, be vested in, and may be exercised or performed by, such other person or authority as the Governor-General specifies.

**SCHEDULE 5—continued**

**Ordinance may amend or repeal adopted laws**

“4C. A law in force in the Territory because of section 4A may be amended or repealed by an Ordinance or by a law made under an Ordinance.

**Supreme Court of Australian Capital Territory to have jurisdiction in Territory**

“4D. (1) The Supreme Court of the Australian Capital Territory has jurisdiction in and in relation to the Territory, and the *Australian Capital Territory Supreme Court Act 1933* and the practice and procedure of that court for the time being in force apply in the Territory as if the Territory formed part of the Australian Capital Territory.

“(2) For the purposes of subsection (1), a reference in the *Australian Capital Territory Supreme Court Act 1933* to an Ordinance or enactment is a reference to an Ordinance or enactment, as the case may be, in force under this Act.

**Supply of water or electricity to persons outside the Territory**

“4E. The Minister may, on such terms and conditions as are agreed upon, supply water or electricity from the Territory to any person outside the Territory.

**Ordinances**

“4F. (1) The Governor-General may make Ordinances for the peace, order and good government of the Territory.

“(2) Notice of the making of an Ordinance shall be published in the *Gazette*, and an Ordinance shall, unless the contrary intention appears in the Ordinance, come into operation on the date of publication of the notice.

**Tabling of Ordinances in Parliament**

“4G. (1) An Ordinance shall be laid before each House of the Parliament within 15 sitting days of that House after the making of the Ordinance, and, if it is not so laid before each House of the Parliament, ceases to have effect.

“(2) If either House of the Parliament, in pursuance of a motion of which notice has been given within 15 sitting days after an Ordinance has been laid before that House, passes a resolution disallowing the Ordinance or a part of the Ordinance, the Ordinance or part so disallowed thereupon ceases to have effect.

“(3) If, at the expiration of 15 sitting days after notice of a motion to disallow an Ordinance or part of an Ordinance has been given in a House of the Parliament, being notice given within 15 sitting days after the Ordinance has been laid before that House:

- (a) the notice has not been withdrawn and the motion has not been called on; or



**SCHEDULE 5—continued**

(b) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of;  
the Ordinance or part, as the case may be, specified in the motion shall thereupon be deemed to have been disallowed.

“(4) If, before the expiration of 15 sitting days after notice of a motion to disallow an Ordinance or part of an Ordinance has been given in a House of the Parliament:

- (a) the House of Representatives is dissolved or expires, or the Parliament is prorogued; and
- (b) at the time of the dissolution, expiry or prorogation, as the case may be:
  - (i) the notice has not been withdrawn and the motion has not been called on; or
  - (ii) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of;

the Ordinance shall, for the purposes of subsections (2) and (3), be deemed to have been laid before that first-mentioned House on the first sitting day of that first-mentioned House after the dissolution, expiry or prorogation, as the case may be.

“(5) Where an Ordinance is disallowed, or is deemed to have been disallowed, under this section or ceases to have effect by virtue of the operation of subsection (1), the disallowance of the Ordinance or the operation of subsection (1) in relation to the Ordinance, as the case may be, has the same effect as a repeal of the Ordinance.

“(6) Where:

- (a) an Ordinance (in this subsection called the ‘relevant Ordinance’) is disallowed, or is deemed to have been disallowed, under this section or ceases to have effect by virtue of the operation of subsection (1); and
- (b) the relevant Ordinance repealed, in whole or in part, another Ordinance or any other law that was in force immediately before the relevant Ordinance came into operation;

the disallowance of the relevant Ordinance or the operation of subsection (1) in relation to the relevant Ordinance, as the case may be, has the effect of reviving that other Ordinance or law, as the case may be, from and including the date of the disallowance or the date on which the relevant Ordinance ceased to have effect by virtue of that operation of subsection (1), as the case may be, as if the relevant Ordinance had not been made.

“(7) A reference in subsection (5) or (6) to an Ordinance shall be read as including a reference to a part of an Ordinance and a reference in subsection (6) to a law has a corresponding meaning.

**SCHEDULE 5—continued**

**Ordinance not to be re-made while required to be tabled**

“4H. (1) Where an Ordinance (in this section called the ‘original Ordinance’) has been made, no Ordinance containing a provision being the same in substance as a provision of the original Ordinance shall be made during the period defined by subsection (2) unless both Houses of the Parliament by resolution approve the making of an Ordinance containing a provision the same in substance as that provision of the original Ordinance.

“(2) The period referred to in subsection (1) is the period starting on the day on which the original Ordinance was made and ending at the end of 7 days after:

- (a) if the original Ordinance has been laid, in accordance with subsection 4G (1), before both Houses of the Parliament on the same day—that day;
- (b) if the original Ordinance has been so laid before both Houses on different days—the later of those days; or
- (c) if the original Ordinance has not been so laid before both Houses—the last day on which subsection 4G (1) could have been complied with.

“(3) If a provision of an Ordinance is made in contravention of this section, the provision has no effect.

**Ordinance not to be re-made while subject to disallowance**

“4J. (1) Where notice of a motion to disallow an Ordinance has been given in a House of the Parliament within 15 sitting days after the Ordinance has been laid before that House, no Ordinance containing a provision being the same in substance as a provision of the first-mentioned Ordinance shall be made unless:

- (a) the notice has been withdrawn;
- (b) the Ordinance is deemed to have been disallowed under subsection 4G (3);
- (c) the motion has been withdrawn or otherwise disposed of; or
- (d) subsection 4G (4) has applied in relation to the Ordinance.

“(2) Where:

- (a) because of subsection 4G (4), an Ordinance is deemed to have been laid before a House of the Parliament on a particular day; and
- (b) notice of a motion to disallow the Ordinance has been given in that House within 15 sitting days after that day;

no Ordinance containing a provision being the same in substance as a provision of the first-mentioned Ordinance shall be made unless:

- (c) the notice has been withdrawn;
- (d) the Ordinance is deemed to have been disallowed under subsection 4G (3);

**SCHEDULE 5—continued**

- (e) the motion has been withdrawn or otherwise disposed of; or
- (f) subsection 4G (4) has applied again in relation to the Ordinance.

“(3) If a provision of an Ordinance is made in contravention of this section, the provision has no effect.

“(4) This section does not limit the operation of section 4H or 4K.

“(5) In this section:

‘Ordinance’ includes a part of an Ordinance.

**Disallowed Ordinance not to be re-made unless resolution rescinded or House approves**

“4K. If an Ordinance or a part of an Ordinance is disallowed, or is deemed to have been disallowed, under section 4G, and an Ordinance containing a provision being the same in substance as a provision so disallowed, or deemed to have been disallowed, is made within 6 months after the date of the disallowance, that provision has no effect, unless:

- (a) in the case of an Ordinance, or a part of an Ordinance, disallowed by resolution—the resolution has been rescinded by the House of the Parliament by which it was passed; or
- (b) in the case of an Ordinance, or a part of an Ordinance, deemed to have been disallowed—the House of the Parliament in which notice of the motion to disallow the Ordinance or part was given has approved, by resolution, the making of a provision the same in substance as the provision deemed to have been disallowed.

**Regulations, rules and by-laws**

“4L. (1) All regulations made under an Ordinance shall be laid before each House of the Parliament within 15 sitting days of that House after the day on which the regulations are made and, if they are not so laid before each House of the Parliament, have no effect.

“(2) Sections 4G, 4H, 4J and 4K apply in relation to regulations laid before a House of the Parliament as if, in those provisions, references to an Ordinance were references to regulations and references to a provision of an Ordinance were references to a regulation.

“(3) In this section:

‘regulations’ includes rules and by-laws.”

***Judiciary Act 1903***

**Subsection 55E (3):**

Omit “or a law of a Territory other than the Northern Territory” (wherever occurring), substitute “(other than the *Australian Capital*”

**SCHEDULE 5—continued**

*Territory (Self-Government) Act 1988*) or by a law of a Territory (other than the Australian Capital Territory or the Northern Territory)”.

***Long Service Leave (Commonwealth Employees) Act 1976***

**Subsection 4 (1) (definition of “public authority of the Commonwealth”):**

After “Territory” insert “, other than an ACT enactment”.

**Subsection 4 (1):**

Insert the following definitions:

“‘ACT enactment’ means an enactment as defined by section 3 of the *Australian Capital Territory (Self-Government) Act 1988*;”.

‘ACT teaching service’ means the service known on 1 November 1988 as the Commonwealth Teaching Service.”.

**Subsection 4 (8):**

After “Territory” insert “, other than an ACT enactment”.

**Subsection 6 (2):**

Omit “the Northern Territory were a State”, substitute “the Australian Capital Territory and the Northern Territory were States”.

**Subsection 7 (4):**

Omit “the Northern Territory were a State”, substitute “the Australian Capital Territory and the Northern Territory were States”.

**Paragraph 10 (6) (d):**

After “Territory” (first occurring) insert “, in the ACT teaching service”.

**After paragraph 10 (6) (e):**

Insert the following paragraph:

“(ea) who is temporarily transferred to the service of the Commonwealth from the service of the Australian Capital Territory or an authority of that Territory, or whose services are temporarily loaned to the Commonwealth by that Territory or an authority of that Territory;”.

**Paragraph 11 (2) (c):**

After “Territory” (first occurring) insert “, the ACT teaching service”.

**After paragraph 11 (2) (ca):**

Insert the following paragraph:

“(cb) any service of an authority of the Australian Capital Territory, not being employment at a time when the authority was a public authority of the Commonwealth;”.

**SCHEDULE 5—continued**

**After section 24:**

Insert the following section:

**Commonwealth Teaching Service—transitional**

“24A. (1) In this section, unless the contrary intention appears:

‘long service leave’ includes long leave, furlough, extended leave and any other leave in the nature of long service leave (however described);

‘member of the Service’ has the same meaning as in the *Commonwealth Teaching Service Act 1972* as in force on 1 November 1988;

‘prescribed teacher’ means:

(a) a member of the Service who became such a member after 13 September 1973 and before 1 January 1974 and was, immediately before becoming such a member:

(i) employed in the teaching service of New South Wales and engaged in teaching duties in a Commonwealth school in the Australian Capital Territory; or

(ii) employed in the teaching service of South Australia and engaged in teaching duties in a Commonwealth school in the Northern Territory; or

(b) a member of the Service who became such a member after 31 December 1976 and before 1 April 1977 and was, immediately before becoming such a member, employed in the teaching service of New South Wales and engaged in full-time teaching duties in the Australian Capital Territory in connection with the provision of technical and further education, that is to say, education provided by way of a course of instruction or training:

(i) that is, or that is preparatory to, a course of a kind relevant to a trade, technical or other skilled occupation; or

(ii) that otherwise meets the educational needs of persons who are not enrolled in a full-time course of education at a primary school, a secondary school or a secondary college;

‘relevant date’ means:

(a) in relation to a prescribed teacher referred to in paragraph (a) of the definition of ‘prescribed teacher’—1 January 1974; and

(b) in relation to a prescribed teacher referred to in paragraph (b) of that definition—1 April 1977;

‘relevant State’ means, in relation to a prescribed teacher, the State in the teaching service of which he or she was employed immediately before becoming a member of the Service;

‘Service’ means the Commonwealth Teaching Service established by the *Commonwealth Teaching Service Act 1972*.

“(2) Where, at any time, in the application to or in relation to a prescribed teacher of this Act, the period of long service leave to which he or she would,

**SCHEDULE 5—continued**

but for this section, be entitled, or the amount of pay in lieu of long service leave that would, but for this section, be payable to or in relation to him or her, under this Act is less than the period of leave to which he or she would be entitled, or the amount that would be payable to or in relation to him or her, as the case may be, if the scale of accrual of long service leave that would have been applicable in relation to him or her under the law of the relevant State as in force on the relevant date if he or she had continued to be employed in the teaching service of the relevant State were substituted for the scale of accrual of long service leave applicable to him or her at that time under this Act, the period of long service leave to which he or she is entitled, or the amount of pay in lieu of long service leave payable to or in relation to him or her, as the case may be, shall be determined in accordance with the first-mentioned scale of accrual.

“(3) This section ceases to apply on the commencement of the amendment of the definition of ‘public authority of the Commonwealth’ in subsection 4 (1) of this Act by the *A.C.T. Self-Government (Consequential Provisions) Act 1988*.”.

***Maternity Leave (Commonwealth Employees) Act 1973***

**Paragraph 5 (1) (a):**

Omit “or the *Commonwealth Teaching Service Act 1972*”.

**Paragraph 5 (1) (b):**

After “other than” insert “an enactment as defined by section 3 of the *Australian Capital Territory (Self-Government) Act 1988* or a law”.

**Paragraph 5 (2) (b):**

After “other than” insert “an enactment as defined by section 3 of the *Australian Capital Territory (Self-Government) Act 1988* or a law”.

**After paragraph 5 (3) (a):**

Insert the following paragraph:

“(aa) a person who holds an office defined by section 73 of the *Self-Government Act* or an office established by or under enactment;”.

**Paragraph 11 (1) (c):**

Omit the paragraph.

***Merit Protection (Australian Government Employees) Act 1984***

**Subsection 3 (1) (definition of “Commonwealth authority”):**

(a) Omit “(other than the Northern Territory)” (wherever occurring).

(b) Add at the end:

“but does not include:

**SCHEDULE 5—continued**

- (a) an enactment authority as defined by section 3 of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*, incorporated or established for a public purpose; or
- (b) a body corporate incorporated, or an authority or body (not being a body corporate), incorporated or established for a public purpose by or in accordance with a law of the Northern Territory, being a body or authority employing staff otherwise than under the *Public Service Act 1922*;

**Subsection 3 (1):**

Insert the following definitions:

“‘ACT enactment’ means an enactment as defined by section 3 of the Self-Government Act;

‘Self-Government Act’ means the *Australian Capital Territory (Self-Government) Act 1988*;

‘Territory authority’ has the same meaning as in section 3 of the Self-Government Act;”.

**After section 6:**

Insert the following section in Division 1 of Part II:

**ACT enactments may apply Act to Territory employees**

“6A. (1) Where an ACT enactment declares that section 15, 21, 26A, 39, 47, 50 or 56 of this Act is, or some or all of those sections are, to apply as if the Australian Capital Territory or a specified Territory authority were a Commonwealth authority and the employees or a specified class of the employees of the Territory or authority, as the case may be, were Commonwealth employees, that enactment has effect accordingly.

“(2) An ACT enactment to which subsection (1) applies that relates to section 15, 21, 26A, 39 or 47 of this Act shall, for the purposes of that section, be taken to be an enactment within the meaning of this Act.

“(3) An ACT enactment to which subsection (1) applies may apply sections 15, 21, 26A, 39, 47, 50 and 56 of this Act subject to any further modifications of this Act required for the purposes of applying the sections in relation to employees of the Australian Capital Territory or a Territory authority, as the case may be.”.

**Paragraph 59 (4) (b):**

After “State” (wherever occurring) insert “, of the Australian Capital Territory”.

**Subparagraph 85 (2) (k) (ii):**

Omit the subparagraph.

**SCHEDULE 5—continued**

***Ombudsman Act 1976***

**Subsection 3 (1) (definition of “Department”):**

Add at the end “but does not include the branch of the Australian Public Service comprising the transitional staff, as defined by section 3 of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*”.

**Subsection 3 (1) (definition of “Deputy Ombudsman for the Australian Capital Territory”):**

Omit the definition.

**Subsection 3 (1) (definition of “enactment”):**

After “means” insert “, subject to section 3AA”.

**Subsection 3 (1) (definition of “Ordinance”):**

After “enactment” insert “(other than a law that is, or provisions that are, an ACT enactment)”.

**Subsection 3 (1):**

Insert the following definition:

“‘ACT enactment’ means an enactment as defined by section 3 of the *Australian Capital Territory (Self-Government) Act 1988*”.

**Paragraph 3 (7B) (a):**

- (a) After “including” insert “a reference to the Australian Capital Territory and”.
- (b) Omit “and”.

**Paragraph 3 (7B) (b):**

After “including” insert “a reference to an ACT enactment and”.

**Subsection 3 (7B):**

Add at the end the following word and paragraph:

- “; and (c) a reference to a Department or authority of a State, in relation to the Ombudsman of a State, shall be read as including a reference to:
- (i) the Australian Capital Territory; or
  - (ii) a Territory authority as defined by section 3 of the *Australian Capital Territory (Self-Government) Act 1988*;
- as the case requires.”.

**After section 3:**

Insert the following section:



**SCHEDULE 5—continued**

**Certain legislation relating to Australian Capital Territory not to be enactment**

“3AA. (1) ACT enactments are not enactments.

“(2) The *Australian Capital Territory (Self-Government) Act 1988* and the *Canberra Water Supply (Googong Dam) Act 1974* are not enactments.

“(3) Part IV, sections 29 and 30, subsection 63 (2), section 66 and Division 5 of Part X of the *Australian Capital Territory Planning and Land Management Act 1988* are not enactments.

“(4) Where the whole of an Act or Ordinance is not an enactment, an instrument made under it is not an enactment.

“(5) Where part of an Act or Ordinance is not an enactment, an instrument made under the Act or Ordinance, as the case may be, is not an enactment unless made for the purposes of the other part of the Act or Ordinance, as the case may be.”.

**Section 9:**

Add at the end the following subsection:

“(7) In this section:

‘State’ includes the Australian Capital Territory and the Northern Territory.”.

**Paragraph 9 (3) (b):**

(a) Omit “or of the Northern Territory” (first occurring).

(b) Omit “or of the Northern Territory, as the case may be”.

**Paragraph 19 (1) (a):**

(a) Omit “, including operations referred to in paragraph (b)”.

(b) Omit “and”.

**Paragraph 19 (1) (b):**

Omit the paragraph.

**Subsections 19 (3), (3A) and (3B):**

Omit the subsections.

**Subsection 19 (6) and (7B):**

Omit “or (b)”.

**Subsection 19 (8):**

Omit “, (2) or (3) “, substitute “or (2)”.

**Subsection 19 (9):**

Omit the subsection.

**SCHEDULE 5—continued**

**Paragraph 23 (1) (a):**

Omit the paragraph.

**Subsections 23 (2) and (4):**

Omit the subsections.

***Public Service Act 1922***

**Subsection 7 (1) (paragraph (a) of the definition of “Commonwealth authority”):**

Insert “an enactment within the meaning of the *Australian Capital Territory (Self-Government) Act 1988* or a law of” after “other than”.

**Subparagraph 47C (1) (a) (i):**

After “State,” insert “of the Legislative Assembly for the Australian Capital Territory,”.

**Subparagraph 82B (1) (a) (i):**

After “State,” insert “of the Legislative Assembly for the Australian Capital Territory,”.

**After paragraph 87 (3) (a):**

Insert the following paragraph:

“(aa) employment as the holder of an office or appointment in the service of the Australian Capital Territory, being an office or appointment prescribed for the purposes of this paragraph;”.

***Remuneration Tribunals Act 1973***

**Subsection 3 (3):**

Omit the subsection, substitute the following subsection:

“(3) A reference in this Part to an office includes a reference to an office that, within the meaning of the *Australian Capital Territory (Self-Government) Act 1988*, is an office of member of the Assembly or Minister and any office in or in connection with that Assembly that can be held only by a member of that Assembly.”.

***Seat of Government (Administration) Act 1910***

**After section 2:**

Insert the following section in Part I:

**Interpretation**

“2A. In this Act, unless the contrary intention appears:

**SCHEDULE 5—continued**

‘enactment’ has the same meaning in the *Australian Capital Territory (Self-Government) Act 1988*.”.

**Section 4:**

After “such law” insert “(other than such law that is an enactment)”.

**Subsection 5 (3):**

- (a) After “this Act” insert “or by an enactment”.
- (b) After “made” insert “or passed”.

**Subsection 5 (4):**

After “this Act” insert “or an enactment”.

**Subsection 12 (1):**

Omit the subsection, substitute the following subsections:

“(1) Subject to subsection (1B), the Governor-General may make Ordinances for the peace, order and good government of the Territory with respect to:

- (a) the establishment, jurisdiction, practice and procedure of courts;
- (b) the classification of materials for the purposes of censorship;
- (c) evidence;
- (d) National Land as defined by the *Australian Capital Territory (Planning and Land Management) Act 1988*;
- (e) companies;
- (f) close corporations;
- (g) foreign companies;
- (h) the acquisition of shares in bodies corporate;
- (j) the regulation of the securities industry and the futures industry; and
- (k) the subject matter of laws specified in Schedule 3 to the *Australian Capital Territory (Self-Government) Act 1988*.

“(1A) An Ordinance made under paragraph (1) (d) has no effect to the extent that it is inconsistent with the National Capital Plan in effect under the *Australian Capital Territory (Planning and Land Management) Act 1988*, but an Ordinance shall be taken to be consistent with the Plan to the extent that it is capable of operating concurrently with the Plan.

“(1B) Subject to subsection (1C), paragraphs (1) (a), (1) (c) and (1) (k) cease to have effect on and after 1 July 1990 or after regulations made in the manner referred to in the *Australian Capital Territory (Self-Government) Act 1988* come into effect, whichever sooner occurs.

“(1C) Paragraph (1) (k) does not cease to have effect on and after 1 July 1990 in regard to any matter referred to in Schedule 5 to the *Australian Capital Territory (Self-Government) Act 1988*.”.

**SCHEDULE 5—continued**

**Section 12B:**

Omit the section.

***Territory Authorities (Financial Provisions) Act 1978***

**Subsection 4 (1):**

Omit the subsection, substitute the following subsection:

“(1) In this Act, unless the contrary intention appears:

‘authority’ means:

- (a) except in sections 6 and 7—a body corporate established for a public purpose by or under a law of a Territory; and
- (b) in sections 6 and 7—a body corporate established for a public purpose by or under a law of a Territory, other than an enactment within the meaning of the *Australian Capital Territory (Self-Government) Act 1988*.”.

**Subsections 9 (4) and (5):**

Omit the subsections.

**Schedule (Part II):**

Omit “Canberra Commercial Development Authority”.

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[*Minister's second reading speech made in—  
House of Representatives on 1 November 1988  
Senate on 7 November 1988*]