

EXPLANATORY STATEMENT

ISSUED UNDER THE AUTHORITY OF MINISTER FOR THE ARTS,
TOURISM AND TERRITORIES

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

**A.C.T. Self Government (Consequential Provisions)
Regulations (Amendment)**

1989 No. 396

Subsection 31(1) of the A.C.T. Self-Government (Consequential Provisions) Act 1988 provides that the Governor-General may make regulations making provision (including provision by way of modifications of an Act) in relation to any matter arising from, connected with or consequential upon the establishment of the Territory as a body politic under the Crown.

Subsection 31(2) provides that regulations made under 31(1) may be expressed to commence on and from a date earlier than the making of the regulations not being a date earlier than Self-Government day.

The Regulations provide for the modification of the following Acts:

Remuneration Tribunal Act 1973

Judiciary Act 1903

Prices Surveillance Act 1983

Public Accounts Committee Act 1951

Public Lending Right Act 1985

Racial Discrimination Act 1975

Referendum (Machinery Provisions) Act 1984

State and Territorial Laws and Records Act 1901

The details of the Regulations and the purpose of the Regulations are in the attachment.

ATTACHMENT

Details of the A.C.T. Self-Government (Consequential Provisions) Regulations (Amendment)

Regulation 1 provides that the following modifications to the following Acts are inserted in Schedule 1 of the ACT Self-Government (Consequential Provisions) Regulations:

Remuneration Tribunal Act 1973

Schedule 1 of the A.C.T. Self-Government (Consequential Provisions) Act is amended in relation to earlier modifications to the Remuneration Tribunal Act 1973. In particular, the schedule is modified to alter the title of the Act to be modified from the Remuneration Tribunals Act 1973 to the Remuneration Tribunal Act 1973 and to substitute the word "offices" for "officers" in paragraph 3(4)(fc) of the Remuneration Tribunal Act 1973.

These modifications correct errors in the Schedule.

Subsection 7(3) of the Remuneration Tribunal Act 1973 is modified to provide that the Remuneration Tribunal shall determine the remuneration to be paid to the Head of Administration and the Associate Head of Administration of the Australian Capital Territory.

Section 73 of the Australian Capital Territory (Self-Government) Act 1988 provides that the Head of Administration and Associate Heads of Administration may be paid such remuneration as is determined by the Remuneration Tribunal. The modification makes it clear that the making of such determinations is within the jurisdiction of the Remuneration Tribunal.

Paragraph 7(15)(b) of the Remuneration Tribunal Act 1973 (which was previously modified by the ACT Self-Government (Consequential Provisions) Regulations) is amended by deleting the word "subsisting".

This modification ensures that payment to ACT offices may be made out of ACT Consolidated Revenue rather than Commonwealth Consolidated Revenue.

Subsection 8(4) of the Remuneration Tribunal Act 1973 is modified by providing that the Head and the Associate Head of the Australian Capital Territory Administration are offices to which section 8 applies.

This modification ensures that the Head of Administration and Associate Heads of Administration are in the same position as other offices in relation to the Remuneration Tribunal's power to make reports and annual determinations.

Judiciary Act 1903

Section 78AA is modified to provide that a reference to "State" in Division 1, Part XI of the Act includes the Australian Capital Territory (presently such a reference includes the Northern Territory).

The purpose of this modification is to require that the Attorney-General of the Australian Capital Territory is notified about matters arising under or involving the interpretation of the Australian Constitution. Presently the Attorneys-General of the States and the Northern Territory are notified about such matters.

Prices Surveillance Act 1983

Subsection 3(1) (the Interpretation section) is modified as follows:

1. Authorities established under laws of the Australian Capital Territory are omitted from the definition of "Commonwealth authority". Authorities of the Northern Territory are not Commonwealth authorities for the purposes of the Act.
2. The Australian Capital Territory (Self-Government) Act 1988 is excluded as a "law of the Commonwealth". The Northern Territory (Self-Government) Act 1978 is not a law of the Commonwealth for the purposes of the Act.
3. A reference in the Act to a "prescribed authority" includes:
 - the Australian Capital Territory (presently each of the States, the Northern Territory and Norfolk Island are included);
 - authorities and bodies established for a public purpose under a law of the Australian Capital Territory; and
 - associations or companies in which the Australian Capital Territory has a controlling interest.

Presently each of the States, the Northern Territory and Norfolk Island are included in the meaning of prescribed authority (as are their authorities, bodies, associations and companies).

Paragraph 4(1)(f) is modified to provide that this Act does not extend to the supply of goods and services within the Australian Capital Territory. Presently the Act does not extend in this respect to the Northern Territory.

A new subsection 4(3) is added to the Act. This provision modifies the operation of paragraph 4(1)(e) to the effect that the Act does not extend to the supply of goods and services by a body corporate incorporated under a law of the Australian Capital Territory. The Act does not extend to Northern Territory bodies corporate.

Subsection 5(1) is modified to specifically provide that the Crown in the right of the Australian Capital Territory is not bound by this Act. The Crown in the right of the States, the Northern Territory and Norfolk Island are not bound by the Act.

These modifications place the ACT in the same position as the Northern Territory in relation to this Act.

Public Accounts Committee Act 1951

Subsection 8(2) is modified to provide that the duties of the Joint Committee of Public Accounts do not extend to the examination of the financial affairs of the Australian Capital Territory. This is also the case with respect to the Northern Territory.

Subparagraph 8(2)(b)(i) is modified to provide that duties of the Committee do not extend to the examination of an Auditor-General's report which relates to the financial affairs of the Australian Capital Territory. This is also the case with respect to the Northern Territory.

Subsection 8(6) is modified to provide that for the purposes of section 8, "State" includes the Australian Capital Territory. This is also the case with respect to the Northern Territory.

These modifications place the ACT in the same position as the Northern Territory in relation to this Act.

Public Lending Right Act 1985

Subsection 8(2) is modified to permit the Public Lending Right Committee to consult or co-operate with bodies established by the Australian Capital Territory for the purpose of assisting the Committee to carry out its functions. Presently the Committee may consult or co-operate with bodies established by a State, the Northern Territory and local governments.

Racial Discrimination Act 1975

Section 6 is modified to provide that Crown in the right of the Australian Capital Territory is bound by this Act but cannot be prosecuted under the Act. This puts the Crown in the right of the Australian Capital Territory in the same position as the Crown in the right of the Commonwealth, the States, the Northern Territory and Norfolk Island.

Subsection 24F(9) is modified to provide that a reference to "State" in section 24F includes the Australian Capital Territory (presently such a reference includes the Northern Territory).

This modification places the Australian Capital Territory in the same position as the States and the Northern Territory with respect to the appointment of Judicial Officers of the Australian Capital Territory by the Commonwealth and any reimbursement flowing to the Australian Capital Territory as a consequence.

Referendum (Machinery Provisions) Act 1984

Section 3B is modified to provide that the Crown in the right of the Australian Capital Territory is bound by the Act. The Crown in the right of, the Commonwealth, each of the States and the Northern Territory is bound by the Act.

Paragraph 12(a) is modified to provide that the Governor-General shall cause a copy of the writ and a copy of the proposed law to be sent to the Chief Minister of the Australian Capital Territory upon the issuing of the writ for a referendum. Presently these are sent to the Governors of each State and the Administrator of the Northern Territory.

Subsection 27(2A) is added to provide that the Chief Minister of the Australian Capital Territory (or a person authorised by the Chief Minister) may appoint scrutineers for referenda. Presently the Governor-General, the Governors of each State and the Administrator of the Northern Territory may do the same.

Subsections 89(2A) is added to provide that the Chief Minister of the Australian Capital Territory (or a person authorised by the Chief Minister) may appoint scrutineers during a scrutiny of the vote. Presently the Governor-General, the Governors of each State and the Administrator of the Northern Territory may do the same.

Subsection 95(2) is modified to provide that the Chief Minister may request the Electoral Commissioner to direct a recount of any ballot-papers. Presently the Governor-General, the Governors of each State and the Administrator of the Northern Territory may do the same.

Section 99 is modified to provide that the Electoral Commissioner shall forward to the Chief Minister of the Australian Capital Territory copies of the result of a referendum. Presently the results are forwarded to the Governors of each State and the Administrator of the Northern Territory.

Part VIII of the Act is modified to provide that the Australian Capital Territory may dispute the result of a referendum or be effected by a dispute of the result of a referendum, in the same way as the Commonwealth, the States and the Northern Territory may dispute or be effected by a dispute of the result of a referendum. As a consequence the following modifications are made:

- Section 100 is modified to allow the Australian Capital Territory to dispute a referendum result by petition to the High Court.

- Paragraph 101(c) is modified to require the Attorney-General of the Australian Capital Territory to sign the petition.

- Section 105 is modified by adding subsection 105(2A) which requires the Attorney-General of the Australian Capital Territory to notify the Attorneys-General of each of the States, the Commonwealth and the Northern Territory as well as the Electoral Commission of the filing of a petition with the High Court.

- Subsections 105(1), 105(2) and 105(3) are modified to provide that the Attorney-General of the Australian Capital Territory will be notified of a petition to the High Court by the Attorney-General of the jurisdiction responsible for petitioning the High Court.

- Subsection 105(4) is modified to provide that the Electoral Commissioner will notify the Attorney-General of the Australian Capital Territory of a petition made to the High Court by the Electoral Commission.

- Section 106 is modified to provide that the Australian Capital Territory may on application to the High Court be joined as a party petitioning or responding.

These modifications place the Australian Capital Territory in the same position as the States and the Northern Territory while taking into account the unique structure of the Australian Capital Territory and the unique position of the Chief Minister under the ACT Self-Government legislation.

State and Territorial Laws and Records Recognition Act 1901

Section 2 (the Interpretation section) of the State and Territorial Laws and Records Recognition Act 1901 is modified to provide that a reference to "Court" in the Act includes a reference to arbitrators appointed under an Australian Capital enactment. Presently, "Court" includes State arbitrators and arbitrators appointed under a Northern Territory ordinance.

This modification places ACT arbitrators in the same position as State and Northern Territory arbitrators .