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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Law and Justice Legislation Amendment
(Northern Territory Local Court) Bill
2016**

No. , 2016

(Attorney-General)

**A Bill for an Act to deal with consequential and
transitional matters arising from the enactment of
the *Local Court Act 2015* of the Northern Territory,
and for related purposes**

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A Bill for an Act to deal with consequential and transitional matters arising from the enactment of the *Local Court Act 2015* of the Northern Territory, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Law and Justice Legislation Amendment (Northern Territory Local Court) Act 2016*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with

column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, Part 1	At the same time as section 4 of the <i>Local Court Act 2015</i> (NT) commences.	
3. Schedule 1, Part 2	Immediately after the commencement of Part 1 of Schedule 2 to the <i>Norfolk Island Legislation Amendment Act 2015</i> .	1 July 2016

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

- (1) Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
- (2) The amendment of any regulation under subsection (1) does not prevent the regulation, as so amended, from being amended or repealed by the Governor-General.

Schedule 1—Amendments

Part 1—Main amendments

A.C.T. Self-Government (Consequential Provisions) Regulations

1 Schedule 1 (heading relating to the *Extradition Act 1988*)

Repeal the heading.

2 Schedule 1 (modifications relating to the *Extradition Act 1988*)

Repeal the modifications.

Acts Interpretation Act 1901

3 Section 2B

Insert:

judge has a meaning affected by section 16BA.

4 Section 2B (definition of *Magistrate*)

Omit “subsection 16C(2)”, substitute “subsections 16C(2) and (3)”.

5 Section 2B (definition of *Stipendiary Magistrate*)

Omit “subsection 16C(1)”, substitute “subsections 16C(1) and (3)”.

6 After section 16B

Insert:

16BA References to judge

In any Act, a reference (whether general or otherwise) to a judge does not include a reference to a Judge, or an acting Judge, of the Local Court of the Northern Territory.

7 At the end of section 16C

Add:

- (3) In any Act, a reference to a Stipendiary Magistrate or Magistrate includes a reference to a Judge, or an acting Judge, of the Local Court of the Northern Territory.

Bankruptcy Act 1966

8 Subsection 5(1) (paragraph (b) of the definition of *magistrate*)

Repeal the paragraph, substitute:

- (b) a person who holds office as a Judge of the Local Court of the Northern Territory, being a person in respect of whom an arrangement under subsection 17B(2) applies; or

9 Subsection 5(1) (paragraph (c) of the definition of *magistrate*)

Omit “(other than the Northern Territory)”.

10 Section 17B (heading)

Repeal the heading, substitute:

17B Arrangements for services of State Magistrates and Northern Territory Local Court Judges

11 Subsection 17B(2)

Omit “as Magistrates of the Territory”, substitute “as Judges of the Local Court of the Northern Territory”.

Customs Act 1901

12 Subsection 4(1) (paragraph (c) of the definition of *Division 1B Magistrate*)

Omit “Magistrate”, substitute “Judge of the Local Court”.

13 Paragraph 11(2)(b)

Omit “hold office as Magistrates in that Territory”, substitute “hold office as Judges of the Local Court of that Territory”.

14 Subsection 183UA(1) (definition of *magistrate*)

Repeal the definition.

15 After subsection 219ZL(3)

Insert:

- (3A) A Judge, or acting Judge, of the Local Court of the Northern Territory performing a function of, or connected with, issuing a warrant or giving an order under this Part has the same protection and immunity as if he or she were performing that function as that Local Court or as a Judge of that Local Court.

***Environment Protection and Biodiversity Conservation Act
1999***

16 Section 528 (at the end of the definition of *magistrate*)

Add “, and includes a Judge, or acting Judge, of the Local Court of the Northern Territory”.

Excise Act 1901

17 Section 107AA (at the end of the definition of *magistrate*)

Add “, and includes a Judge, or acting Judge, of the Local Court of the Northern Territory”.

Export Control Act 1982

18 Section 3 (at the end of the definition of *magistrate*)

Add “, and includes a Judge, or acting Judge, of the Local Court of the Northern Territory”.

Extradition Act 1988

19 Section 5 (definition of *magistrate*)

Repeal the definition, substitute:

magistrate means:

- (a) a magistrate of a Territory other than the Australian Capital Territory or Norfolk Island; or
- (b) a magistrate of a State, the Australian Capital Territory or Norfolk Island in relation to whom an arrangement is in force under section 46; or
- (c) a Judge, or an acting Judge, of the Local Court of the Northern Territory in relation to whom an arrangement is in force under section 46.

20 Paragraph 46(1)(b)

Repeal the paragraph, substitute:

- (b) arrange with the Chief Minister of the Australian Capital Territory or the Administrator of Norfolk Island for the performance, by all or any of the persons who from time to time hold office as magistrates of the Australian Capital Territory or of Norfolk Island, as the case may be, of the functions of a magistrate under this Act; or
- (c) arrange with the Administrator of the Northern Territory for the performance, by all or any of the persons who from time to time hold office as Judges of the Local Court of the Northern Territory, of the functions of a magistrate under this Act.

Fair Work Act 2009

21 Section 12 (at the end of the definition of *magistrates court*)

Add:

- ; or (c) the Local Court of the Northern Territory.

High Court of Australia Act 1979

22 At the end of paragraph 7(a)

Add “(other than a Judge or acting Judge of the Local Court of the Northern Territory)”.

Inspector-General of Intelligence and Security Act 1986

23 Subsection 3(1) (at the end of paragraph (a) of the definition of *Judge*)

Add “(other than a Judge or acting Judge of the Local Court of the Northern Territory)”.

International War Crimes Tribunals Act 1995

24 Section 4 (paragraph (b) of the definition of *magistrate*)

After “a State”, insert “(other than the Northern Territory)”.

25 Section 4 (at the end of the definition of *magistrate*)

Add:

; or (c) a Judge, or an acting Judge, of the Local Court of the Northern Territory in respect of whom an arrangement under section 82 is in force.

26 At the end of subsection 82(5)

Add “and references to persons who hold office as magistrates of a State are taken to be references to persons who hold office as Judges of the Local Court of the Northern Territory”.

Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Act 2012

27 Section 7 (at the end of paragraph (b) of the definition of *Commonwealth or State judicial officer*)

Add “(other than a Judge or acting Judge of the Local Court of the Northern Territory)”.

Law Enforcement Integrity Commissioner Act 2006

28 Subsection 5(1) (at the end of the definition of *magistrate*)

Add “, and includes a Judge, or acting Judge, of the Local Court of the Northern Territory”.

Marriage Act 1961

29 Subsection 5(1) (paragraph (b) of the definition of *magistrate*)

Omit “or Special Magistrate”, substitute “, Special Magistrate or Judge, or acting Judge, of a Local Court”.

Mutual Assistance in Criminal Matters Act 1987

30 Subsection 3(1) (paragraph (a) of the definition of *Magistrate*)

After “a State”, insert “(other than the Northern Territory)”.

31 Subsection 3(1) (after paragraph (a) of the definition of *Magistrate*)

Insert:

- (aa) a Judge, or an acting Judge, of the Local Court of the Northern Territory in respect of whom an arrangement under section 39 is in force; or

Quarantine Act 1908

32 Subsection 5(1) (at the end of the definition of *magistrate*)

Add “, and includes a Judge, or acting Judge, of the Local Court of the Northern Territory”.

Royal Commissions Act 1902

33 At the end of paragraph 4(6)(b)

Add “(other than a Judge, or an acting Judge, of the Local Court of the Northern Territory)”.

34 Application provisions

- (1) Section 16BA of the *Acts Interpretation Act 1901*, as inserted by item 6 of this Schedule, applies in relation to Acts enacted before, on or after the commencement of this subitem.
- (2) Subsection 16C(3) of the *Acts Interpretation Act 1901*, as inserted by item 7 of this Schedule, applies in relation to Acts enacted before, on or after the commencement of this subitem.

35 Arrangements—transitional provisions

Arrangements under the Customs Act

- (1) If an arrangement in relation to persons who hold office as Magistrates of the Northern Territory for the purposes of paragraph 11(2)(b) of the *Customs Act 1901* was in force immediately before the commencement of this subitem, the arrangement has effect, after that commencement, as if it had been made in relation to persons who hold office as Judges of the Local Court of the Northern Territory.

Arrangements under the Extradition Act

- (2) If an arrangement between the Governor-General and the Chief Minister of the Australian Capital Territory:
 - (a) was made under subsection 46(1) of the *Extradition Act 1988* (as modified by the *A.C.T. Self-Government (Consequential Provisions) Regulations*); and
 - (b) was in force immediately before the commencement of this item;the arrangement has effect, after the commencement of this item, as if it had been made under subsection 46(1) of the *Extradition Act 1988* as amended by this Act.
- (3) For the purposes of subsection 46(1) of the *Extradition Act 1988* as amended by item 20 of this Schedule, an arrangement made under that subsection between the Governor-General and the Administrator of Norfolk Island that was in force immediately before the commencement of this item is not affected by the amendments of that Act made by this Schedule.

- (4) If an arrangement in relation to persons who hold office as magistrates of the Northern Territory for the purposes of subsection 46(1) of the *Extradition Act 1988* was in force immediately before the commencement of this subitem, the arrangement has effect, after that commencement, as if it had been made in relation to persons who hold office as Judges of the Local Court of the Northern Territory.

Arrangements under the International War Crimes Tribunals Act

- (5) If an arrangement in relation to persons who hold office as magistrates of the Northern Territory for the purposes of section 82 of the *International War Crimes Tribunals Act 1995* was in force immediately before the commencement of this subitem, the arrangement has effect, after that commencement, as if it had been made in relation to persons who hold office as Judges of the Local Court of the Northern Territory.

Arrangements under the Mutual Assistance in Criminal Matters Act

- (6) If an arrangement in relation to persons who hold office as Magistrates of the Northern Territory for the purposes of subsection 39(1) of the *Mutual Assistance in Criminal Matters Act 1987* was in force immediately before the commencement of this subitem, the arrangement has effect, after that commencement, as if it had been made in relation to persons who hold office as Judges of the Local Court of the Northern Territory.

Other arrangements in which the Commonwealth is a party

- (7) If:
- (a) any other arrangement was in force immediately before the commencement of this subitem; and
 - (b) the arrangement was made in relation to persons who held office as magistrates of the Northern Territory; and
 - (c) the Commonwealth is a party to the arrangement;
- the arrangement has effect after that commencement as if had been made in relation to persons who hold office as Judges of the Local Court of the Northern Territory.

Part 2—Other amendments

Extradition Act 1988

36 Section 5 (definition of *magistrate*)

Repeal the definition, substitute:

magistrate means:

- (a) a magistrate of a Territory other than the Australian Capital Territory; or
- (b) a magistrate of a State or the Australian Capital Territory in relation to whom an arrangement is in force under section 46; or
- (c) a Judge, or an acting Judge, of the Local Court of the Northern Territory in relation to whom an arrangement is in force under section 46.

37 Paragraph 46(1)(b)

Repeal the paragraph, substitute:

- (b) arrange with the Chief Minister of the Australian Capital Territory for the performance, by all or any of the persons who from time to time hold office as magistrates of the Australian Capital Territory, of the functions of a magistrate under this Act; or

38 Transitional provision

For the purposes of subsection 46(1) of the *Extradition Act 1988* as amended by item 37 of this Schedule, an arrangement entered into under that section that was in force immediately before the commencement of this item is not affected by the amendments of that Act made by that item.