

TOURISM COMMISSION BILL 1991

AUSTRALIAN CAPITAL TERRITORY

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1991
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

Mrs R.M. Nolan, MLA

TOURISM COMMISSION BILL 1991

An Act to constitute the Australian Capital Territory Tourism Commission and to define its objects and functions and for other purposes.

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Tourism Commission Act 1991.

Commencement

2. (1) Sections 1 and 2 commence on the day on which this Act is notified in the *Gazette*.

- (2) The remaining provisions commence on such days or respective days fixed by the Minister by notice in the *Gazette*.

- (3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection commences on the first day after the end of that period.

*Tourism Commission Act No. , 1991***Definitions**

3. (1) In this Act, unless a contrary intention appears:

"Chairperson" means the Chairperson of the Commission;

"Commission" means the Australian Capital Territory Tourism Commission constituted by this Act;

"Fund" means the Tourism Development Fund established under section 20;

"General Manager" means the General Manager of the Commission;

"member" means a member of the Commission;

(2) In this Act, a reference to:

(a) a function includes a reference to a power, authority and duty;

(b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty; and

(c) facilitating the development of tourism includes a reference to developing tourism.

PART II—THE AUSTRALIAN CAPITAL TERRITORY TOURISM COMMISSION**Establishment of the Commission**

4. (1) The Australian Capital Territory Tourism Commission is established by this Act.

(2) The Commission shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

3.

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(3) The Commission:

- (a) is a body corporate with perpetual succession;
- (b) shall have a common seal; and
- (c) may sue and be sued in its corporate name.

(4) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to a document and shall presume that it was duly affixed.

(5) The Commission is an agent of the Crown and shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

(6) The Commission shall consist of not fewer than 7 nor more than 9 members who shall be appointed by the Executive.

(7) The members shall all be appointed as part-time members.

(8) The Executive shall appoint one member as Chairperson.

(9) Schedule 1 has effect with respect to the members.

(10) Schedule 2 has effect with respect to the procedure of the Commission.

Functions of the General Manager

5. The General Manager:

- (a) shall be appointed by the Commission;

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- (b) is responsible, as the chief executive officer of the Commission, for the management of the affairs of the Commission subject to and in accordance with the policies and any directions of the Commission; and
- (c) shall have and may exercise such other functions as are conferred or imposed on the General Manager by or under this or any other Act.

Staff of the Commission

6. (1) The Commission may employ such staff as may be necessary to enable the Commission to exercise its functions.

(2) Subject to subsection (5), employment with the Commission (including employment of the General Manager) shall as far as possible be deemed to be employment in the Public Service and shall be on terms and conditions applicable to corresponding positions with the Public Service.

(3) The General Manager shall have the same powers in relation to the staff of the Commission as a Head of Administration has in relation to the public servants in an administrative unit under his or her control in accordance with Section 54 of the *Australian Capital Territory (Self-Government) Act 1988*.

(4) For the purpose of exercising its functions, the Commission may, with:

- (a) the approval of the Minister; and
- (b) the approval of:
 - (i) the Minister administering a government department or administrative office; or
 - (ii) a Territory authority, and on such terms and conditions as may be approved by the Head of Administration,

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arrange for the use of the services of any staff or facilities of the department, office or body, as the case may be.

(5) The Commission may, for any purpose approved by the Minister and on such terms and conditions as may be approved by the Head of Administration, appoint, employ or engage any person considered by the Commission capable of providing services, information or advice required by the Commission in exercising its functions.

(6) The Commission's powers in relation to employment matters shall be exercised:

- (a) without patronage, favouritism or unjustified discrimination; and
- (b) with regard to the equal employment opportunity program for the Commission

(7) Without limiting the generality of paragraph (6)(a), and subject to paragraph (6)(b), the Commission's powers in relation to employment matters shall be exercised in accordance with procedures that ensure that where a person is to be selected for engagement for a period exceeding 3 months, or for advancement, by the Commission -

- (a) all persons who are eligible have, so far as practicable, a reasonable opportunity to apply for selection; and
- (b) the selection is made on the basis of an assessment of the relative suitability of the applicants having regard to -
 - (i) the nature of the duties to be performed; and

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- (ii) the abilities, qualifications, experience, personal qualities and potential for development of each applicant that are relevant to the performance of the duties.

(8) A reference in this section to the exercise of a power shall be read as including a reference to the making of a report or recommendation in relation to the exercise of that power.

(9) For the purposes of paragraph (6)(b), the Commission shall, after consulting with each relevant staff organisation and such other persons as the Commission considers appropriate -

- (a) develop an equal employment opportunity program for the Commission; and
- (b) from time to time, review that program.

(10) The Commission shall comply with paragraph (6)(a) as soon as practicable and, in any event, within 12 months after the commencement of this section.

(11) As soon as practicable after the development or review of the equal employment opportunity program, the Commission shall provide the Head of Administration with written particulars of the program.

(12) The Head of Administration may, from time to time, by notice in writing given to the Commission, issue guidelines to the Commission on the provisions to be made by the equal employment opportunity program, and on the development, implementation or review of the program.

(13) The Commission shall take any action necessary to give effect to the equal employment opportunity program and to comply with any guidelines issued under subsection (12).

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(14) The Commission shall furnish to the Minister a written report relating to the operation of this section during each financial year.

(15) In this section -

'advancement' means movement within the Commission relating in an employee undertaking work, and being remunerated, at a higher level than previously;

'designated group' means any of the following classes of persons:

- (a) members of the Aboriginal race of Australia or persons who are descendants of indigenous inhabitants of the Torres Strait Islands;
- (b) persons who have migrated to Australia and whose first language is a language other than English, and the children of such persons;
- (c) persons who are physically or mentally disabled;
- (d) any other class of persons declared by the regulations to be a designated group for the purposes of this definition;

'employment' means -

- (a) the selection of persons by the Commission for engagement and advancement;
- (b) the transfer of employees of the Commission;
- (c) training and staff development for employees of the Commission;
- (d) the conditions of service of employees of the Commission; or

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- (e) any other matter related to the employment of persons by the Commission;

'equal employment opportunity program', in relation to the Commission, means a program designed to ensure that

- (a) appropriate action is taken to eliminate unjustified discrimination against women and persons in designated groups in relation to employment matters; and
- (b) measures are taken to enable employees who are women or persons in designated groups:
- (i) to compete for engagement, transfer or advancement; and
 - (ii) to pursue careers;

as effectively as other persons and to have equal opportunities with others in relation to other employment matters;

'relevant staff organisation' means an organisation:

- (a) within the meaning of the *Industrial Relations Act 1988* of the Commonwealth;
- (b) in which persons employed by the Commission would be eligible for membership; and
- (c) that is a party to an industrial award that applies in relation to the salary payable in respect of that employment;

'unjustified discrimination' includes:

- (a) discrimination that is unlawful under the *Discrimination Act 1991*; and

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- (b) unjustified discrimination on the ground of age or social origin;

but does not include:

- (a) discrimination that is essential for the effective performance of the relevant duties, is not unlawful under the *Discrimination Act 1991* and is prescribed; or
- (b) discrimination that is not unlawful under the *Discrimination Act 1991* and is in accordance with the equal employment opportunity program for the Commission or with a prescribed program.

PART III—FUNCTIONS OF THE COMMISSION**Objects of the Commission**

7. (1) The principal object of the Commission is to achieve economic and social benefits for the people of the Australian Capital Territory through the development of tourism.

(2) Without affecting the generality of subsection (1), the Commission shall aim:

- (a) to promote travel to and within the Australian Capital Territory; and
- (b) to co-ordinate the development of ventures relating to tourism.

(3) The Commission shall determine the policies to be implemented by it in attaining its objects.

Powers of the Commission**8. (1) The Commission may:**

- (a) construct, establish, maintain and operate tourist facilities, establish, maintain and conduct enterprises relating to tourism or enter into contracts, agreements or arrangements relating to any one or more of those activities;
- (b) provide travel and information services relating to tourism and undertake research into tourism;
- (c) market travel and related services;
- (d) appoint persons to act as agents of the Commission in the Australian Capital Territory or elsewhere;
- (e) act as agent for persons engaged in the provision of travel and tourist facilities and related services;
- (f) demand and receive fees, retainers or commissions:
 - (i) for acting as agent pursuant to the power conferred by paragraph (e);
 - (ii) for the provision or sale of travel or related services;
 - (iii) for the provision of tourist facilities or related services; or
 - (iv) for the provision of any other service by the Commission; and
- (g) provide funds for the undertaking of feasibility studies and research relating to the construction, maintenance or improvement of tourist facilities.

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(2) The Commission may agree to any condition that is not inconsistent with its objects being imposed on its acquisition of any property.

(3) Where, by gift inter vivos, devise or bequest, the Commission acquires property, it may retain the property in the form in which it is acquired, except as provided by any condition agreed to by the Commission under subsection (2) in relation to the property.

(4) The rule of law against remoteness of vesting does not apply to a condition to which the Commission has agreed under subsection (2).

(5) The Commission may exercise its functions within or outside the Australian Capital Territory jointly or in association with any other person (including a corporation constituted otherwise than under an Act of the Legislative Assembly of the Australian Capital Territory) situated within the Australian Capital Territory or elsewhere.

(6) Subject to this Act, the Commission shall have such functions, in addition to those specified elsewhere in this Act, as are reasonably necessary for the attainment of its objects.

Grants and loans — generally

9. (1) The Commission may, with the approval of the Minister make a grant or loan.

(2) Subject to section 13, the Commission may, in making a grant or loan, impose such conditions as, in the opinion of the Commission, are appropriate.

Acquisition of plant and machinery etc.

10. The Commission may purchase, lease or exchange, or otherwise acquire, plant, machinery or equipment for the purpose of making it available, on such terms and subject to such conditions as are determined by the Commission, to facilitate the development of tourism.

Grants and loans

11. (1) The Commission may, with the approval of the Minister, enter into, and give effect to, an agreement with a Territory authority to make to the Territory authority a grant or loan for the purpose of:

- (a) erecting on land vested in the Territory authority any building required to facilitate the development of tourism;
- (b) altering or extending a building erected on land vested in the Territory authority to make it suitable to facilitate the development of tourism;
- (c) erecting, on land vested in the Territory authority, dwelling houses for occupation by persons employed, or to be employed, on or about a project to facilitate the development of tourism;
- (d) improving any land vested in the Territory authority to make it suitable for use as a site for a project to facilitate the development of tourism; or
- (e) acquiring land for a purpose referred to in paragraph (a), (b), (c) or (d).

(2) The Commission may enter into, and give effect to, an agreement with a Territory authority for the construction, on land vested in the Commission or the Territory authority, or in the Commission and the Territory authority, of buildings

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suitable to facilitate the development of tourism and the sale, lease or exchange of any such land and buildings.

Provision of services

12. (1) The Commission may enter into an agreement with any person with respect to the construction or improvement of roads, works for the supply of water, gas or electricity, or sewerage or drainage works, or other works, whether of the same or of a different kind, to serve any project, being a project to facilitate the development of tourism.

(2) An agreement under this section may provide for:

- (a) the whole, or any specified part, of the cost of the roads or other works to be paid by the Commission; or
- (b) a loan to be made by the Commission to meet the whole, or any specified part, of the cost of the roads or other works.

Interest on loans and rentals under leases

13. (1) A loan made by the Commission shall be at the rate of interest for the time being fixed by the Territory Treasurer generally for the purposes of this Part or, if the Territory Treasurer so approves, at such rate of interest as may be fixed by the Territory Treasurer in respect of that loan or without interest.

(2) The rental or other consideration to be received by the Commission in respect of a lease of real or personal property acquired for the purposes of this Part shall be fixed by the Commission so as to produce an amount per annum which represents not less than such percentage as the Minister may direct, in respect of that lease, or of leases of the class to which that lease belongs, of the value of the real or personal property leased.

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PART IV—ACQUISITION OF LAND

Acquisition of land

14. The Commission may:

- (a) for the purpose of providing a site for a project, being a project to facilitate the development of tourism, or a site that, in the opinion of the Commission, is likely to be required for such a project; and
- (b) with the approval of the Minister

acquire land, including land previously appropriated or resumed for any purpose, by lease, purchase or exchange or by resumption or appropriation in accordance with this Part.

Resumption and appropriation

15. For the purposes of section 14, the Executive may, on just terms, resume any land, and appropriate any land vested in the Territory, or in any person in trust for the Territory.

Subdivision

16. The Commission may cause a plan to be made of any land acquired by the Commission under this Part showing the proposed roads, and reserves for public recreation or other public purposes, and the land to be set apart as sites for buildings or works.

Improvements and dedication**17. The Commission may:**

- (a) cause any work to be done on or in relation to any land acquired by the Commission pursuant to this Part for the purpose of improving it to make it suitable to be used as a site for a project to facilitate the development of tourism or for a dwelling house for occupation by a person employed or to be employed on or about any such project;
- (b) dedicate by notification in the *Gazette* any such land as a reserve for public recreation or for other public purposes, and fence, plant and improve any such reserve, and by notification in the *Gazette* vest the reserve in a Territory authority or in trustees; and
- (c) set apart any such land as sites for buildings or works.

Erection, alteration and extension of buildings

18. (1) The Commission may cause to be erected, on land acquired by the Commission under this Part for the purpose referred to in section 14, buildings suitable to facilitate the development of tourism.

(2) The Commission may cause any building erected on land acquired by the Commission under this Part for the purpose referred to in section 14 to be altered or extended to make it suitable to facilitate the development of tourism.

Disposal of land

19. (1) The Commission, with the approval of the Minister, may, in such manner and subject to such terms and conditions as in the opinion of the Commission are appropriate, sell, lease, exchange or otherwise deal with or dispose of any real or personal property that has been acquired by the Commission under this

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Part and grant easements or rights-of-way over any land or any part thereof that has been so acquired by the Commission.

(2) Any money received by the Commission in respect of any transaction that is entered into by the Commission under subsection (1) and that relates to any land acquired by the Commission for the purpose referred to in section 14 shall be paid into the Fund.

PART V—FINANCE AND AUDIT**Tourism Development Fund**

20. (1) There shall be established and maintained a Tourism Development Fund into which shall be paid:

- (a) any money appropriated by the Legislative Assembly for the purposes of the Fund;
- (b) money borrowed by the Commission;
- (c) principal money repaid in respect of loans referred to in paragraph (2) (d) and interest received in respect of any such loan;
- (d) the proceeds of any transaction affecting real or personal property acquired with money from the Fund; and
- (e) such fees or other amounts received by the Commission as may be determined by the Minister with the concurrence of the Territory Treasurer.

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(2) Money in the Fund may be expended by the Commission for the purpose of:

- (a) paying such of the expenses of administering this Act as relate to the collection and expenditure of money in the Fund;
- (b) promoting and assisting the development of tourism;
- (c) making grants or loans in aid of projects to facilitate the development of tourism and becoming a member of a company where, in the opinion of the Minister, the company's objects provide principally for projects of that kind;
- (d) repaying money borrowed by the Commission, paying interest on money so borrowed and paying the expenses of the Commission in borrowing money;
- (e) discharging any liability of the Commission whether under a guarantee given by the Commission or otherwise;
- (f) acquiring land pursuant to Part IV; and
- (g) making any other payments that the Commission is, by or under this Act or the regulations, required or authorised to make from the Fund.

(3) The Commission shall, at such times as the Territory Treasurer directs, pay to the Territory Treasurer such part as the Territory Treasurer specifies, when given the direction, of money paid as interest on any transaction referred to in paragraph (1)(e) or on loans made under paragraph (2)(d), other than loans made from money borrowed by the Commission.

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(4) There shall be paid, at such times as the Territory Treasurer directs, from the Fund to the Territory Treasurer for credit of the Territory's Consolidated Revenue such percentage of such income, or such classes or descriptions of income, received by the Commission as may be prescribed.

(5) In subsection (4), "income" includes, but is not limited to:

(a) rentals or other consideration in respect of leases; and

(b) fees or other revenue in respect of licences or agreements.

Financial year

21. The financial year of the Commission shall be the year commencing on 1st July.

Audit Act to apply

22. For the purposes of subsection 87 (2) of the *Audit Act 1989*, the Commission is declared to be a public authority to which Divisions 1 and 3 of Part IX of that Act apply.

PART VI—MISCELLANEOUS**Disclosure of information**

23. A person shall not disclose any information obtained in connection with the administration or execution of this Act (or any other Act conferring or imposing functions on the Commission) unless that disclosure is made:

- (a) with the consent of the person from whom the information was obtained;

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- (b) in connection with the administration or execution of this Act (or any such other Act);
- (c) for the purposes of any legal proceedings arising out of this Act (or any such other Act) or of any report of any such proceedings;
- (d) in accordance with a requirement made under the *Ombudsman Act 1989*; or
- (e) with other lawful excuse.

Penalty: \$ 1,000.

Delegation

24. (1) The Commission may, by instrument in writing, delegate to:

- (a) the General Manager;
- (b) a committee comprised of members, including the General Manager or a member nominated by the General Manager;
- (c) an officer or temporary employee of the Commission;
- (d) a person for the time being holding or acting in a specified position in the staff establishment of the Commission; or
- (e) any person of whose services the Commission makes use pursuant to this or any other Act,

the exercise of such of the functions of the Commission (other than this power of delegation) as are specified in the instrument.

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(2) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time by the delegate in accordance with the terms of the delegation.

(3) Without limiting the operation of subsection (2), a function the exercise of which has been delegated under this section to the General Manager may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by:

- (a) an officer or temporary employee of the Commission;
- (b) a person for the time being holding or acting in a specified position in the staff establishment of the Commission; or
- (c) any person of whose services the Commission makes use pursuant to this or any other Act, as authorised by instrument in writing by the General Manager in that behalf either generally or in a particular case or class of cases.

(4) A delegation or authorisation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances, as may be specified in the instrument of delegation or authorisation.

(5) Notwithstanding any delegation under this section, the Commission may continue to exercise any function delegated.

(6) Any act or thing done or suffered by a delegate acting in the exercise of a delegation under this section, or by a person duly authorised in that behalf by the General Manager under this section, has the same force and effect as it would have if

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it had been done or suffered by the Commission and shall be deemed to have been done or suffered by the Commission.

(7) The Commission may, by instrument in writing, revoke wholly or in part any delegation under this section, and the General Manager may, by instrument in writing, revoke wholly or in part any authorisation under this section.

(8) An instrument purporting to have been signed by a person in the capacity of delegate of the Commission, or as a person authorised under this section, shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument duly executed by the Commission and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of the Commission or by a person duly authorised under this section, as the case may be.

(9) In subsection (8), a reference to a delegate includes a reference to the chairperson of a committee to which the exercise of a function has been delegated under subsection (1).

Annual report

25. (1) As soon as practicable after 30th June, but on or before 31st December, in each year, the Commission shall prepare and forward to the Minister a report of its work and activities for the 12 months ending on 30th June in that year.

(2) The Minister shall lay the report or cause it to be laid before the Legislative Assembly for the Australian Capital Territory as soon as practicable after receiving the report.

Shortened references to Commission

26. In any other Act, in any instrument made under any Act or in any other instrument of any kind, except in so far as the context or subject-matter otherwise indicates or requires, a reference to the "Tourism Commission" or to the "Tourism Commission of Australian Capital Territory" shall be read and construed as a reference to the the Australian Capital Territory Tourism Commission constituted by this Act.

Service of documents

27. (1) A document may be served on the Commission by leaving it at, or by sending it by post to:

- (a) the office of the Commission; or
- (b) if it has more than one office—any one of its offices.

(2) Nothing in subsection (1) affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Commission in a manner not provided for by subsection (1).

Authentication of certain documents

28. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Commission may be sufficiently authenticated without the seal of the Commission if signed by the General Manager or by any officer or temporary employee of the Commission authorised to do so by the General Manager.

Recovery of charges etc. by Commission

29. Any charge, fee or money due to the Commission may be recovered by the Commission as a debt in a court of competent jurisdiction.

Proof of certain matters not required

30. In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of: (a) the constitution of the Commission; (b) any resolution of the Commission; (c) the appointment of, or the holding of office by, any member; or (d) the presence or nature of a quorum at any meeting of the Commission.

Proceedings for offences

31. Proceedings in respect of an offence against the Act may be heard and determined in a court of summary jurisdiction.

Regulations

32. (1) The Executive may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A provision of a regulation may:

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or

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- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body, or may do any combination of those things.

Savings and transitional provisions

33. Schedule 3 has effect.

**SCHEDULE 1—PROVISIONS RELATING TO THE MEMBERS OF THE
COMMISSION**

(Sec. 4(5

Chairperson of the Commission

1. (1) Of the members, one shall, in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Executive be appointed as Chairperson of the Commission.

(2) The Executive may remove a member from the office of Chairperson.

(3) A person who is a member and Chairperson shall be deemed to have vacated office as Chairperson if the person:

- (a) is removed from that office by the Executive under subclause (2);
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to be a member.

Acting members and acting Chairperson

2. (1) The Executive may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member.

(2) The Executive may, from time to time, appoint a member to act in the office of Chairperson during the illness or absence of the Chairperson, and the

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member, while so acting, shall have and may exercise all the functions of the Chairperson.

(3) The Executive may remove any person from any office to which the person was appointed under subclause (1) or (2).

(4) Subject to clause 3 of Schedule 3, a person while occupying or acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Remuneration Tribunal may from time to time determine in respect of the person.

(5) For the purposes of this clause:

- (a) a vacancy in the office of a member or the Chairperson shall be deemed to be an absence from office of the member or Chairperson, as the case may be; and
- (b) a member shall be deemed to be absent from office as a member during any period that the member acts in the office of the General Manager.

(6) In subclause (2), clauses 9 and 10 and Schedule 2:

- (a) a reference to a member includes a reference to a person acting in the office of a member;
- (b) a reference to the appointment of a member includes a reference to the appointment of a person to act in the office of a member; and
- (c) a reference to the office of a member includes a reference to the office of a person appointed to act in the office of a member.

Term of Office

3. Subject to this Schedule and Schedule 3, a member holds office for such term (not exceeding 5 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Filling of vacancy in office of member

4. In the event of the office of any member becoming vacant a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies

5. (1) A member shall be deemed to have vacated office if the member:

- (a) dies;
- (b) absents himself or herself from 4 consecutive meetings of the Commission of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings;
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (d) is convicted in Australian Capital Territory of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted

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elsewhere than in Australian Capital Territory of an offence which if committed in Australian Capital Territory would be an offence so punishable;

- (e) resigns the office by instrument in writing addressed to the Minister; or
 - (g) is removed by the Executive under this clause.
- (2) The Executive may remove a member from office.

Disclosure of pecuniary interests

6. (1) A member who has a direct or indirect pecuniary interest:

- (a) in a matter that is being considered, or is about to be considered, at a meeting of the Commission; or
- (b) in a thing being done or about to be done by the Commission,

shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Commission.

(2) A disclosure by a member at a meeting of the Commission that the member:

- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person, shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company

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or other body or to that person which may arise after the date of the disclosure.

(3) The Commission shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Commission from time to time.

(4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not unless the Minister otherwise determines:

- (a) be present during any deliberation of the Commission, or take part in any decision of the Commission, with respect to that matter; or
- (b) exercise any function under this Act with respect to that thing,

as the case may require.

(5) Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of the Commission or the exercise of any function under this Act.

(6) Nothing in this clause applies to or in respect of an interest of a member in a matter or thing which arises by reason only that the member is a member of any body concerned in the promotion of tourism.

(7) A reference in this clause to a meeting of the Commission includes a reference to a meeting of a committee of the Commission.

Effect of certain other Acts

7.(1). A member is not, by reason of such membership, a member of the Territory public service, and is not thereby subject to obligations nor entitled to benefits applying to public servants.

(2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member

(3) The office of a member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Liability of members etc.

8. No matter or thing done by the Commission, and no matter or thing done by any member or by any person acting under the direction of the Commission shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever.

**SCHEDULE 2—PROVISIONS RELATING TO THE PROCEDURE OF THE
COMMISSION**

(Sec. 4 (10))

General procedure

1. The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Commission.

Quorum

2. A majority of the members shall form a quorum and any duly convened meeting of the Commission at which a quorum is present shall be competent to transact any business of the Commission and shall have and may exercise all the functions of the Commission.

Presiding member

3. (1) The Chairperson or, in the absence of the Chairperson, another member elected as chairperson for the meeting by the members present shall preside at a meeting of the Commission.

(2) The person acting as chairperson at any meeting of the Commission shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

Voting

4. A decision supported by a majority of the votes cast at a meeting of the Commission at which a quorum is present shall be the decision of the Commission.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Minutes

5. The Commission shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Commission.

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 33)

Definitions**1. In this Schedule:**

"appointed day" means the day appointed and notified under subsection 2 (2);

"new authority" means the Commission;

"old authority" means the Australian Capital Territory Tourism Commission which existed immediately before the commencement of this Act.

Continuity of authority

2. The new authority is a continuation of, and the same legal entity as, the old authority.

Continuity of membership

3. Notwithstanding any other provision of this Act (including the Schedules), each member of the old authority immediately before the commencement of this Act shall be deemed to have been appointed under this Act to the new authority for the balance of his or her term on the same terms and conditions as applied in respect of the old authority, and is eligible (if otherwise qualified) for re-appointment.

References to old authority

4. On and from the appointed day, a reference in any Act, in any instrument made under any Act or in any other instrument of any kind (enacted, made or

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executed before the appointed day) to the old authority shall be read and construed as a reference to the new authority.

Activities commenced by old authority

5. Any act, matter or thing done or commenced to be done by or in relation to the old authority before the appointed day shall be deemed to have been done or commenced to be done and, in the latter case, may be completed, under the relevant provision of this Act, by or in relation to the new authority.

First meeting of new authority

6. The Minister shall call the first meeting of the new authority on or after the appointed day in such manner as the Minister thinks fit.

Disposition of former Fund

7. The Australian Capital Territory Tourism Commission Fund existing immediately before the commencement of this Act shall be deemed to have been established under section 20 as the Tourism Development Fund.

Regulations

8. (1) The Executive may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the *Gazette*, the provision does not operate so as:

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- (a) to affect, in a manner prejudicial to any person (other than the Territory or an authority of the Territory), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the Territory or an authority of the Territory) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule (clause 2 excepted).