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## Public Assemblies Ordinance 1982

No. 10 of 1982

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 25 March 1982.

ZELMAN COWEN  
Governor-General

By His Excellency's Command,

MICHAEL HODGMAN  
Minister of State for the Capital Territory

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An Ordinance relating to assemblies in public places

### Short title

1. This Ordinance may be cited as the *Public Assemblies Ordinance 1982*.<sup>1</sup>

### Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister of State for the Capital Territory by notice in the *Gazette*.

### Objects

3. The objects of this Ordinance are—

- (a) to recognize the right of peaceful assembly in accordance with Article 21 of the Covenant, a copy of the English text of which is set out in the Schedule; and
- (b) in conformity with that Article, to ensure, to the greatest extent that is practicable, that persons in the Territory enjoy the freedom to participate in public assemblies subject only to such restrictions as are necessary in the interests of public order and safety or to protect the rights and freedoms of other persons,

and this Ordinance shall be construed accordingly.

**Interpretation**

4. In this Ordinance, unless the contrary intention appears—

“authorized public assembly” means a public assembly that is, in pursuance of section 8, to be taken to be authorized for the purposes of this Ordinance;

“Commissioner” means the Commissioner of Police of the Australian Federal Police;

“court” means the Supreme Court;

“Covenant” means the International Covenant on Civil and Political Rights a copy of the English text of which is set out in Schedule 1 to the *Human Rights Commission Act* 1981;

“day of special significance” means—

- (a) the Saturday preceding the third Monday in March in any year (Canberra Day);
- (b) 25 April in any year (Anzac Day); or
- (c) a day declared under section 5 to be a day of special significance for the purposes of this Ordinance;

“limited participation assembly” means a prescribed public assembly the notification of which contains particulars indicating that it is proposed that only particular persons, or only persons included in particular classes of persons, participate in the assembly;

“notification” means a notification of a proposed public assembly referred to in section 9;

“organizer”, in relation to a public assembly, means the person designated in the relevant notification as the organizer of that assembly;

“police officer” means a member of the Australian Federal Police;

“prescribed public assembly” means a public assembly held on a day of special significance, being an assembly the common purpose of the participants in which is significantly related to the reason for which the day is a day of special significance;

“public assembly” means an assembly of not less than 3 persons who are assembled for a common purpose in a public place, whether or not other persons are assembled with them and whether the assembly is at a particular place or moving;

“public place” means any street, road, public park within the meaning of the *Public Parks Ordinance* 1928, reserve or other place which the public are entitled to use or which is open to, or used by, the public, whether on payment of money or otherwise.

**Declaration of day of special significance**

5. (1) Where the Minister is of the opinion that a day is a day of national, historic, religious or social significance or solemnity to or for the people of Australia, the community in the Territory or a section of that community, he may, by notice published in the *Gazette* not later than 21 days before that day,

declare that day to be a day of special significance for the purposes of this Ordinance.

(2) The Minister shall cause a copy of a notice published under sub-section (1) to be laid before each House of the Parliament within 15 sitting days of that House after the notice was published.

(3) If either House of the Parliament, within 15 sitting days of that House after a copy of a notice has been laid before that House in pursuance of sub-section (2), passes a resolution disapproving the declaration contained in the notice, the declaration shall not have any force or effect on or after the day on which the resolution was passed.

### **Legal immunity for participant in authorized public assembly**

6. Where an authorized public assembly is held substantially in accordance with the particulars specified in the relevant notification (except insofar as any of those particulars are inconsistent with any of the terms and conditions referred to in whichever of paragraphs (a), (b) and (c) is applicable) and—

- (a) the terms and conditions, if any, specified in the notice in writing from the Commissioner informing the organizer that the Commissioner does not oppose the holding of the assembly;
- (b) the terms and conditions referred to in paragraph (a) as varied by the court by an order made under sub-section 15 (4); or
- (c) the terms and conditions specified in an order of the court under this Ordinance as applicable to the holding of the assembly,

as the case requires, a person who participates in the assembly is not, by reason only of that participation, guilty of an offence against this Ordinance or against any law of the Territory relating to the movement or free passage of traffic or pedestrians or the obstruction of a person or vehicle in a public place.

### **Lawfulness of participation in public assemblies**

7. (1) Subject to sub-section (2), it shall be lawful for a person to participate in a public assembly that is not an authorized public assembly.

(2) Sub-section (1) does not operate so as to constitute a defence to a prosecution of a person for an offence against any law in force in the Territory consisting of an act or omission occurring in the course of participation by that person in a public assembly that is not an authorized public assembly.

### **Authorized public assembly**

8. (1) Subject to sub-section (2), a public assembly shall be taken to be authorized for the purposes of this Ordinance if a notification in relation to that assembly, being a notification that complies with the requirements specified in section 9, was served on the Commissioner in accordance with section 11 and—

- (a) the Commissioner has, by notice in writing, informed the organizer of the assembly that he does not oppose the holding of the assembly;

- (b) if the notification was served on the Commissioner not less than 7 days before the date on which the assembly is held—the Commissioner did not—

- (i) in the case of a limited participation assembly—within 7 days;  
or

- (ii) in any other case—within 3 days,

after the date on which the notification was served on him, inform the organizer of the assembly in writing that he opposed the holding of the assembly;

- (c) if the notification was served on the Commissioner not less than 7 days before the date on which the assembly is held—the court has not made an order under section 18 prohibiting the holding of the assembly; or
- (d) if the notification was served on the Commissioner less than 7 days before the date on which the assembly is held—the court has made an order under section 19 authorizing the holding of the assembly and that order has not been revoked by an order made under section 20.

(2) A limited participation assembly shall not be taken to be authorized for the purposes of this Ordinance if—

- (a) the notification in relation to that assembly was served on the Commissioner less than 14 days before the date on which the assembly is held; or
- (b) a copy of the notification in relation to that assembly was not, on the day on which that notification was served on the Commissioner, published in a daily newspaper circulating in the Territory.

### **Requirements for notification**

9. A notification shall—

- (a) be in writing;
- (b) be signed by the person designated in it as the organizer of the relevant public assembly; and
- (c) contain the following particulars:
  - (i) the name and residential or business address of the organizer;
  - (ii) the name of the organization or body, if any, on behalf of which the notification is served;
  - (iii) the date on which it is proposed that the assembly be held;
  - (iv) the time and place at which it is anticipated that persons will assemble to participate in the assembly and the time at which it is estimated that the assembly will disband;
  - (v) the proposed route, if any, to be taken by the assembly, and details of any proposed stoppages;
  - (vi) the anticipated number of participants;
  - (vii) in the case of a prescribed public assembly—whether it is proposed that only particular persons, or only persons included in particular classes of persons, participate in the assembly and,

- if so, the names of those persons or descriptions of those classes sufficient to enable those persons to be identified;
- (viii) the purpose for which the assembly is to be held;
- (ix) such other particulars as are prescribed.

**False or misleading information**

**10.** A person shall not, in a notification, knowingly furnish information that is false or misleading in a material particular.

Penalty: \$200.

**Service of document on Commissioner**

**11.** A document to be served on the Commissioner under this Ordinance may be served by delivering it to him personally or by leaving it at—

- (a) the office of the Commissioner; or
- (b) any police station in the Territory,

with any police officer of or above the rank of Sergeant.

**Restriction on approval of limited participation assembly**

**12.** The Commissioner shall not inform the organizer of a limited participation assembly in writing that he opposes or does not oppose the holding of the assembly until—

- (a) the expiration of a period of 4 days after the date on which a copy of the relevant notification was published in a daily newspaper circulating in the Territory; and
- (b) he has considered any applications referred to in sub-section 13 (1) served on him within that period.

**Joining limited participation assembly**

**13. (1)** On receiving an application for approval of the participation of a particular person or particular persons in a limited participation assembly (being an application that complies with the requirements specified in sub-section (2) and was served within the period of 4 days referred to in section 12), the Commissioner shall determine that application in conjunction with his consideration of the relevant notification.

**(2)** An application referred to in sub-section (1) shall—

- (a) be in writing;
- (b) be signed by the applicant; and
- (c) contain the following particulars:
  - (i) the name and residential or business address of the applicant;
  - (ii) the name of the organization or body, if any, on behalf of which the application is made;
  - (iii) the name or names of the person or persons for whose participation approval is sought or, if approval is sought for the participation of persons included in a particular class of

persons, a description of that class sufficient to enable those persons to be identified;

- (iv) where approval is sought for the participation of persons included in a particular class of persons—an estimate of the number of persons for whose participation approval is sought;
- (v) the purpose for which the person or persons for whose participation approval is sought wishes or wish to participate in the assembly.

**(3) Where the Commissioner—**

- (a) does not oppose the holding of a limited participation assembly; and
- (b) has received an application referred to in sub-section (1) in relation to that assembly,

the Commissioner shall approve the participation in the assembly of the relevant person or persons unless he is of the opinion that that participation would not be in the public interest.

**(4)** In forming an opinion for the purposes of sub-section (3), the Commissioner shall have regard to—

- (a) the objects of this Ordinance specified in section 3 and, in particular, the right of peaceful assembly referred to in paragraph (a) of that section;
- (b) whether the purpose for which the person or persons for whose participation in the assembly approval is sought wishes or wish to participate in the assembly is consistent with the purpose for which the assembly is to be held; and
- (c) any likelihood that if that person or those persons were to participate in that assembly—
  - (i) serious public disorder would be occasioned;
  - (ii) the safety of any person would be placed in jeopardy;
  - (iii) damage to property would be occasioned; or
  - (iv) the assembly would cause an obstruction that would, in the circumstances, be of unreasonable size or duration.

**(5)** Where the Commissioner determines an application referred to in sub-section (1), he shall—

- (a) in the notice in writing informing the organizer of the relevant assembly that he does not oppose the holding of the assembly, inform the organizer; and
- (b) inform the applicant in writing,

of his decision and of the reasons for that decision.

**Review of decision of Commissioner on application under section 13**

**14. (1)** An organizer of a limited participation assembly or an applicant under section 13 in relation to such an assembly who is aggrieved by a decision of the Commissioner under that section approving or refusing to approve the

participation of a particular person or particular persons in the assembly may apply to the court for a review of the decision.

(2) On an application under sub-section (1), the court may, in its discretion, by order, affirm or set aside the decision of the Commissioner, and may make such other orders as it considers just.

#### **Imposition of terms and conditions by Commissioner**

15. (1) Subject to sub-section (2), the Commissioner may, in a notice in writing informing the organizer of a public assembly that he does not oppose the holding of the assembly, specify terms and conditions subject to compliance with which he does not oppose the holding of the assembly.

(2) The Commissioner is not entitled to specify, in a notice referred to in sub-section (1), terms and conditions compliance with which would have the effect of altering substantially the nature of the assembly to which the notice relates.

(3) An organizer of a public assembly may apply to the court for a review of any terms and conditions specified in a notice referred to in sub-section (1) in relation to the assembly.

(4) On an application under sub-section (3), the court may, in its discretion, by order, affirm, vary or set aside the terms and conditions under review, and the court may, in an order setting aside terms and conditions, specify other terms and conditions as applicable to the holding of the relevant assembly in substitution for the terms and conditions set aside.

#### **Matters to be taken into consideration by Commissioner**

16. (1) The Commissioner shall not oppose the holding of a public assembly unless he is of the opinion that it would not be in the public interest for the assembly to be held.

(2) In forming an opinion for the purposes of sub-section (1), the Commissioner shall have regard to—

- (a) the objects of this Ordinance specified in section 3 and, in particular, the right of peaceful assembly referred to in paragraph (a) of that section; and
- (b) any likelihood that if the relevant assembly were to be held—
  - (i) serious public disorder would be occasioned;
  - (ii) the safety of any person would be placed in jeopardy;
  - (iii) damage to property would be occasioned; or
  - (iv) the assembly would cause an obstruction that would, in the circumstances, be of unreasonable size or duration.

#### **Withdrawal of objection by Commissioner**

17. Where—

- (a) the Commissioner has informed the organizer of a public assembly in writing that he opposes the holding of the assembly; and

- (b) at any time before the date specified in the relevant notification as the date on which it is proposed that the assembly be held, the Commissioner, having taken into consideration any matters put by the organizer at a conference held in pursuance of paragraph 18 (2) (c) or in any written representations made to him by the organizer or for any other reason, ceases to oppose the holding of the assembly,

the Commissioner shall forthwith, by notice in writing, inform the organizer that he does not oppose the holding of the assembly.

### **Application to court by Commissioner**

**18. (1)** Subject to sub-section (2), where a notification was served on the Commissioner not less than 7 days before the date specified in the notification as the date on which it is proposed that the relevant public assembly be held, the Commissioner may apply to the court for an order prohibiting the holding of the assembly.

**(2)** The Commissioner is not entitled to apply for an order referred to in sub-section (1) in relation to a proposed public assembly unless—

(a) within—

- (i) in the case of a limited participation assembly—7 days; or
- (ii) in any other case—3 days,

after the date on which the relevant notification was served on him, by notice in writing served on the organizer of the assembly in accordance with sub-section (3), he informed the organizer that he opposes the holding of the assembly;

(b) in the notice referred to in paragraph (a), he—

- (i) furnished the reasons for his opposition to the holding of the assembly; and
  - (ii) invited the organizer to confer at a specified time and place with him or with a police officer nominated by him with respect to the proposed assembly or to make written representations to him with respect to the proposed assembly within a specified time;
- (c) he, or the nominated police officer, made himself available so to confer at the time and place so specified; and
  - (d) he has taken into consideration any matters put by the organizer at a conference held in pursuance of paragraph (c) or in any written representations made to him by the organizer.

**(3)** A notice referred to in paragraph 2 (a) may be served on an organizer of a public assembly by delivering it to him personally or by leaving it at the address of the organizer specified in the notification with a person apparently resident or employed at that place and apparently over the age of 16 years.



(4) On an application under sub-section (1), the court may, in its discretion, by order —

- (a) prohibit the holding of the public assembly to which the application relates; or
- (b) specify terms and conditions as applicable to the holding of the public assembly to which the application relates.

(5) Where —

- (a) the court refuses to make an order under sub-section (4) prohibiting the holding of a public assembly (being a limited participation assembly); and
- (b) an application referred to in sub-section 13 (1) in relation to that public assembly has been received by the Commissioner,

sub-section 14 (2) applies in relation to that application as if the Commissioner had determined that application under section 13 and the applicant had applied to the court under sub-section 14 (1) for a review of the decision of the Commissioner determining that application.

#### **Application to court by organizer**

19. (1) Where

- (a) a notification was served on the Commissioner less than 7 days before the date specified in the notification as the date on which it is proposed that the relevant public assembly be held; and
- (b) the Commissioner has informed the organizer in writing that he opposes, or has not informed the organizer in writing that he does not oppose, the holding of the assembly,

the organizer may apply to the court for an order authorizing the holding of the assembly.

(2) On an application under this section, the court may, in its discretion, by order, authorize the holding of the public assembly to which the application relates subject to such terms and conditions, if any, as are specified in the order.

#### **Revocation of order authorizing assembly**

20. (1) Where the court has made an order under sub-section 19 (2) authorizing the holding of a public assembly, the Commissioner may apply to the court for an order revoking the first-mentioned order on the ground that —

- (a) further information in relation to the proposed assembly has come into his possession after the date on which the first-mentioned order was made; and
- (b) having regard to that information, he is of the opinion that it would not be in the public interest for the assembly to be held.

(2) On an application under sub-section (1), the court may, in its discretion, by order —

- (a) revoke the previous order to which the application relates; or

- (b) specify terms and conditions (including terms and conditions varying, in addition to or in substitution for any terms and conditions specified in the previous order to which the application relates) as applicable to the holding of the assembly to which the application relates.

### **Regard for public interest**

**21. (1)** In determining an application under section 18, 19 or 20, the court shall consider whether it would not be in the public interest for the public assembly to which the application relates to be held.

- (2) For the purposes of sub-section (1), the court shall have regard to—
  - (a) the objects of this Ordinance specified in section 3 and, in particular, the right of peaceful assembly referred to in paragraph (a) of that section; and
  - (b) any likelihood that if the relevant assembly were to be held—
    - (i) serious public disorder would be occasioned;
    - (ii) the safety of any person would be placed in jeopardy;
    - (iii) damage to property would be occasioned; or
    - (iv) the assembly would cause an obstruction that would, in the circumstances, be of unreasonable size or duration.

### **Jurisdiction of court**

**22.** Jurisdiction to hear and determine applications under this Ordinance is vested in the court.

### **Parties to applications**

**23. (1)** The Commissioner shall be the respondent to an application to the court under this Ordinance made by an organizer of a public assembly.

(2) The organizer of a public assembly shall be the respondent to an application to the court under this Ordinance in relation to that assembly made by the Commissioner.

(3) The Commissioner and the organizer of a public assembly (being a limited participation assembly) shall each be a respondent to an application to the court under sub-section 14 (1) by an applicant under section 13 in relation to that assembly.

### **Breaches of the peace**

**24. (1)** A person shall not, in or near a public assembly, engage in conduct that causes or provokes or is intended to cause or provoke a breach of the peace by any person.

Penalty: \$200.

(2) When a police officer of or above the rank of Sergeant has reasonable grounds for believing that the conduct of a person in or near a public assembly

is likely to cause or provoke a breach of the peace by any person, he may direct the first-mentioned person to leave the vicinity of the public assembly.

(3) A person who contravenes a direction given to him under sub-section (2) is guilty of an offence and punishable, on conviction, by a fine not exceeding \$200.

(4) Nothing in this section affects the power of any court to require a person to enter into a recognizance, with or without sureties, to keep the peace or to be of good behaviour.

### **Unauthorized participation in limited participation assemblies**

25. (1) Where a person other than a person who is an entitled person in relation to an authorized public assembly that is a limited participation assembly participates or attempts to participate in that assembly, a police officer of or above the rank of Sergeant may direct that person not to participate in the assembly.

(2) A person who contravenes a direction given to him under sub-section (1) is guilty of an offence and punishable, on conviction, by a fine not exceeding \$200.

(3) In sub-section (1), "entitled person", in relation to an authorized public assembly that is a limited participation assembly, means—

- (a) a person who is specified, or who is included in a class of persons described, in the relevant notification in pursuance of sub-paragraph 9 (c) (vii); or
- (b) a person whose participation in that assembly is approved by the Commissioner under sub-section 13 (3) or by order of the court under sub-section 14 (2).

### **Delegation**

26. (1) The Commissioner may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a police officer of or above the rank of Sergeant any of his powers under this Ordinance, other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Ordinance, be deemed to have been exercised by the Commissioner.

(3) A delegation under this section does not prevent the exercise of a power by the Commissioner.

### **Regulations**

27. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

**SCHEDULE**

Section 3

**INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS***Article 21*

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

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**NOTE**

1. Notified in the *Commonwealth of Australia Gazette* on 26 March 1982.