

AUSTRALIAN CAPITAL TERRITORY

Crown Suits Ordinance 1989

No. 35 of 1989

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 9 May 1989.

BILL HAYDEN
Governor-General

By His Excellency's Command,

CLYDE HOLDING
Minister of State for the Arts and Territories

An Ordinance relating to suits to which the Territory is a party and to other matters

Short title

1. This Ordinance may be cited as the *Crown Suits Ordinance 1989*.¹

(Ord. 40/89)—Cat. No.

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

Commencement

2. (1) Section 1 and this section commence on the day on which this Ordinance is notified in the *Gazette*.

(2) The remaining provisions commence on the date of commencement of section 22 of the *Australian Capital Territory (Self-Government) Act 1988*.

Interpretation

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

“Chief Solicitor” means the person for the time being occupying, or performing the duties of, the office of Chief Solicitor in the Public Service;

“officer of the Territory” means a person who is—

- (a) a Minister;
- (b) a public servant; or
- (c) a member of the transitional Territory staff;

“suit” includes any action or original proceeding between parties;

“transitional Territory staff” has the same meaning as in the *A.C.T. Self-Government (Consequential Provisions) Act 1988*.

Suits against the Territory

4. A person making a claim against the Territory, whether in contract or in tort, may, in respect of the claim, bring a suit against the Territory in—

- (a) the Supreme Court; or
- (b) any other court of competent jurisdiction, whether of the Territory or not.

Injunction against the Territory and its officers

5. In a suit against the Territory brought in the Supreme Court, the Supreme Court may grant an injunction against the Territory or against any officer of the Territory or any person acting under the authority of the Territory and may enforce the injunction against any such officer or person.

Suits by the Territory

6. Suits on behalf of the Territory may be brought in the name of the Territory by the Government Solicitor.

Service of process

7. Where the Territory is a party to a suit, all process in the suit to be served on the Territory may be served upon the Chief Solicitor.

Rights of parties

8. In any suit to which the Territory is a party, the rights of the parties shall as nearly as possible be the same, and judgment may be given and costs awarded on either side, as in a suit between subject and subject.

Satisfaction of judgments by the Territory

9. (1) No execution or attachment, or process in the nature of execution or attachment, shall be issued against the property or revenues of the Territory.

(2) Where final judgment has been given against the Territory in a suit to which the Territory is a party, the Chief Minister, or a Minister appointed by the Chief Minister for the purposes of this subsection, shall, on being served with—

- (a) an office copy, sealed copy or certified copy of the judgment or order of the court in which judgment was obtained;
- (b) a certificate of the judgment or order given under the seal of the court or the hand of the Registrar or other appropriate officer of the court; or
- (c) a copy of the entry of the judgment or order certified by an officer of the court to be a true copy of that entry;

cause the judgment to be satisfied out of moneys lawfully available.

Execution by the Territory

10. Where in any suit to which the Territory is a party judgment is given in favour of the Territory against a person, the Territory may enforce the judgment against that person by such execution, attachment or other process as would be available in a suit between subject and subject.

Pending proceedings

11. (1) Where proceedings—

- (a) that relate to an asset or right transferred to the Territory pursuant to subsection 5 (1) of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*; and
- (b) to which the Commonwealth, or a person representing the Commonwealth, is a party;

are pending in any court of the Territory or before any tribunal of the Territory on the day of the transfer of that asset or right to the Territory, the Territory is, on that day, by force of this subsection, substituted for the Commonwealth, or the person representing the Commonwealth, as a party to the proceedings.

(2) Where proceedings—

- (a) that relate to an estate or interest in land transferred to the Territory pursuant to subsection 5 (3) of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*; and
- (b) to which the Commonwealth, or a person representing the Commonwealth is a party;

are pending in any court of the Territory or before any tribunal of the Territory on the day of the transfer of that estate or interest to the Territory, the Territory is, on that day, by force of this subsection, substituted for the Commonwealth, or the person representing the Commonwealth, as a party to the proceedings.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 10 May 1989.