



AUSTRALIAN CAPITAL TERRITORY

Acts Revision (Position of Crown) Act 1993

No. 44 of 1993

An Act to revise the Acts of the Territory as a consequence of the Crown being generally bound by those Acts

[Notified in ACT Gazette S165: 27 August 1993]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Acts Revision (Position of Crown) Act 1993*.

Commencement

2. This Act commences on the day on which the *Interpretation (Amendment) Act (No. 2) 1993* commences.

Amendment of Acts

3. The Acts specified in Schedule 1 are amended as set out in that Schedule.

Repeals

4. Each provision specified in Schedule 2 is repealed.

SCHEDULE 1

Section 3

AMENDMENT OF ACTS***Building Act 1972*****Section 6A—**

Repeal the section, substitute the following section:

Position of Crown

“6A. (1) Subject to subsection (2), this Act does not bind the Territory Crown in its application in relation to—

- (a) buildings, or specialised systems in buildings, on unalienated Territory Land; or
- (b) building work carried out on unalienated Territory Land.

“(2) In their application in relation to the matters referred to in subsection (1), the following provisions bind the Territory Crown:

- (a) in so far as the sections apply in relation to substances containing *Legionella* bacteria—sections 9 and 9A;
- (b) sections 9B, 9C and 29;
- (c) Part IIIA;
- (d) in so far as the section applies in relation to warm water systems, mechanical ventilation systems and substances containing *Legionella* bacteria—section 46;
- (e) Division 2 of Part IVA.”.

Subsection 29 (2)—

Omit the subsection.

Cotter River Act 1914**Section 2—**

After subsection (1) insert the following subsection:

“(1A) Subsection (1) does not bind the Territory Crown.”.

Credit Act 1985**Subsection 4 (1)—**

Omit the subsection.

SCHEDULE 1—continued

Fishing Act 1967

Insertion—

After section 3 insert the following section:

Position of Crown

“4. The following provisions do not bind the Territory Crown:

Section 10, subsection 13 (2), section 16 and subsection 30 (2).”.

Section 35—

Add at the end the following subsection:

“(2) Subsection (1) does not apply in relation to property of the Territory.”.

**Forfeiture and Validation of Leases Act 1905
of the State of New South Wales in its application in the Territory**

Insertion—

Before section 6 insert the following section in Part III:

Position of Crown

“5A. This Part does not bind the Territory Crown.”.

Lakes Act 1976

Insertion—

After section 4A insert the following section:

Position of Crown

“4B. The following provisions do not bind the Territory Crown:

Subsections 12 (1) and (2), sections 16, 17 and 18, subsections 19 (2) and (3) and 20 (2), section 24, subsections 25 (2) and 29 (2) and section 32.”.

**Landlord and Tenant Act 1899
of the State of New South Wales in its application in the Territory**

Insertion—

After section 1 insert the following section before Part I:

Position of Crown

“2. This Act does not bind the Territory Crown.”.

SCHEDULE 1—continued***Limitation Act 1985*****Subsection 7 (1)**—

Omit the subsection.

Subsection 7 (3)—

Insert “Territory” before “Crown”.

Subsection 7 (4)—

Insert “Territory” before “Crown”.

Mining Act 1930**Section 5 (definition of “Crown lands”)**—

(a) Omit “lands vested in the Commonwealth and includes”, substitute “Territory land, including”.

(b) Omit “does not include”, substitute “not including”.

Subsection 8 (1)—

Omit “Minister”, substitute “Executive”.

Subsection 12 (1)—

Insert “Territory” before “Crown”.

Subsection 13 (1)—

Insert “Territory” before “Crown” (first occurring).

Subsection 20 (1)—

Omit “Minister”, substitute “Executive”.

Motor Traffic Act 1936**Subsection 5 (1)**—

Omit the subsection.

Perpetuities and Accumulations Act 1985**Subsection 4 (1)**—

(a) Omit “perpetuities,”, substitute “perpetuities and”.

(b) Omit “and this Act”.

SCHEDULE 1—continued

Pesticides Act 1989

Subsection 6 (1)—

Omit the subsection.

Plant Diseases Act 1934

Subsection 10 (2)—

Omit “Crown”, substitute “Territory”.

Subsection 13 (1)—

Omit “Crown”, substitute “Territory”.

Subsection 13 (2)—

Omit “Crown”, substitute “Territory”.

Protection of Lands Act 1937

Insertion—

After section 2 insert the following section:

Position of Crown

“2AA. The following provisions do not bind the Territory Crown:
Subsections 3 (1), 6A (3) and 7 (1).”.

Roads and Public Places Act 1937

Insertion—

After section 2 insert the following section:

Position of Crown

“2A. The following provisions do not bind the Territory Crown:
Sections 6 and 7.”.

Sale of Motor Vehicles Act 1977

Insertion—

After section 3 insert the following section:

Position of Crown

“3A. This Act does not apply in relation to dealings in motor vehicles
by the Territory.”.

SCHEDULE 1—continued***Weapons Act 1991*****Subsection 4 (1) (definitions of “corporate dangerous weapons licence” and “corporate licensee”)—**

Omit the definitions.

Subsection 4 (1)—

Insert the following definitions:

“ ‘composite entity’ means—

- (a) a body corporate;
- (b) a partnership; or
- (c) a government agency (other than a body corporate);

‘employee’, in relation to a government agency, means a public servant holding office, or a person employed, in the agency;

‘government agency’ means—

- (a) an administrative unit of the Public Service;
- (b) a Territory authority; or
- (c) a department or authority of a State or another Territory;

‘head’, in relation to a government agency, means the Head of Administration, Associate Head of Administration or other person who has administrative control of the agency;

‘principal’, in relation to a composite entity, means—

- (a) in the case of a body corporate—a director or manager;
- (b) in the case of a partnership—a partner; and
- (c) in the case of a government agency—the head;”.

Section 4—

Add at the end the following subsections:

“(6) For the purposes of this Act—

- (a) a licence granted to a partner or partners on behalf of the partnership shall be taken to have been granted to the partnership;
- (b) a licence granted to a person acting on behalf of a government agency shall be taken to have been granted to the agency;
- (c) a thing done on behalf of a composite entity shall be taken to have been done by the entity; and

SCHEDULE 1—continued

- (d) a thing done in relation to a principal or employee of a composite entity shall be taken to have been done in relation to the entity.

“(7) For the purposes of this Act (other than section 92), a weapon owned by the Territory or a State or another Territory, being a weapon for which the head of a government agency is responsible, shall be taken to be owned by the agency.”.

Paragraph 5 (1) (h)—

Omit “corporate licensee and is required by that employer”, substitute “composite entity that holds a dangerous weapons licence and is required by the entity”.

Subsection 5 (2)—

Omit the subsection, substitute the following subsection:

“(2) For the purposes of this Act, a composite entity has an approved reason for requiring a dangerous weapon if—

- (a) the entity—
- (i) carries on business in the Territory in the ordinary course of which an employee is required to carry, at any one time, a sum of money which, or goods the value of which, is not less than the prescribed amount;
 - (ii) carries on business in the Territory as a security organisation; or
 - (iii) is an approved club; or
- (b) in the case of a government agency—it is necessary for an employee to possess a dangerous weapon in the course of his or her employment.”.

Section 23—

Repeal the section, substitute the following section:

Application for licence

“23. An application for a dangerous weapons licence shall be—

- (a) in accordance with a form approved by the Registrar;
- (b) executed by the applicant; and
- (c) accompanied by the determined fee.”.

SCHEDULE 1—continued**Subsection 24 (3)**—

Omit the subsection, substitute the following subsections:

“(3) Subsection (1) does not apply in relation to an applicant acting on behalf of a government agency.

“(3A) Where an application for a dangerous weapons licence is made on behalf of a composite entity, the Registrar shall, subject to subsection (1) and section 25, grant the licence if satisfied that the entity requires a dangerous weapon for an approved reason.”.

Section 25—

Add at the end the following subsection:

“(2) Paragraph (1) (a) does not apply in relation to an applicant acting on behalf of a government agency.”.

Section 26—

Repeal the section, substitute the following section:

Issue of licences to composite entities

“26. (1) A dangerous weapons licence granted to a body corporate shall be issued in the name of the body corporate.

“(2) A dangerous weapons licence granted to a partner or partners on behalf of a partnership shall be issued in the name of the partnership.

“(3) A dangerous weapons licence granted to a person on behalf of a government agency shall be issued in the name of the agency.”.

Paragraph 28 (1) (a)—

Insert “(other than one referred to in paragraph (b))” after “dangerous weapons licence”.

Paragraph 28 (1) (b)—

Omit the paragraph, substitute the following paragraph:

“(b) a dangerous weapons licence granted to a composite entity, or to a person on behalf of a composite entity, authorises the licensee to possess a dangerous weapon registered on the licence; and”.

Section 36—

Omit “or corporate dangerous weapons licence”.

SCHEDULE 1—continued

Paragraph 51 (2) (c)—

Omit the paragraph, substitute the following paragraph:

“(c) in the case of a dangerous weapons licence granted to a composite entity—the entity has ceased to require a dangerous weapon for an approved reason;”.

Section 51—

After subsection (2) insert the following subsection:

“(2A) Paragraph (2) (g) does not apply in relation to a person holding a licence on behalf of a government agency.”.

Subsection 51 (3)—

Omit “paragraphs 25 (b) and (c)”, substitute “paragraph 25 (b) or (c)”.

Subsection 53 (1)—

Omit “or a corporate dangerous weapons licence”.

Subsection 53 (2)—

Omit “or corporate dangerous weapons licence”.

Paragraph 64 (c)—

Omit the paragraph, substitute the following paragraph:

“(c) if the applicant is a licensed dealer or composite entity, or an employee or person acting on behalf of a licensed dealer or composite entity—the applicant requires the dangerous weapon for the purposes of the dealership or entity.”.

Section 65—

Repeal the section, substitute the following section:

Endorsement

“65. Where the Registrar approves an application for endorsement—

(a) if the applicant is employed by a dealer who holds a dangerous weapons licence—the Registrar shall endorse the licence to the effect that the applicant is entitled to possess and use a dangerous weapon to which the dealer’s licence relates in the course of that employment;

SCHEDULE 1—continued

- (b) if the applicant is employed by a composite entity that holds a dangerous weapons licence—the Registrar shall endorse the licence to the effect that the applicant is entitled to possess and use any weapon registered on the entity’s dangerous weapons licence in the course of that employment;
- (c) if the applicant is a member of an approved club—the Registrar shall endorse the licence to the effect that the applicant is authorised to possess and use a dangerous weapon registered on the club’s dangerous weapons licence while the member is on a shooting range owned or occupied by that or any other approved club for the purpose of taking part in competitions in, or activities relating to, the use of such weapons; and
- (d) in any other case—the Registrar shall endorse the licence with a description of the dangerous weapon to which the application relates.”.

Subsection 66 (3)—

Omit the subsection, substitute the following subsection:

“(3) Where a person whose licence has been endorsed under section 65 ceases to be—

- (a) a member of an approved club to which the endorsement relates;
or
- (b) a principal or employee of a composite entity to which the endorsement relates;

the endorsement shall be taken to have been cancelled on the day on which the person ceases to be such a member, principal or employee.”.

Subsection 67 (1)—

Omit “director, partner”, substitute “principal”.

Subsection 67 (2)—

Omit “body corporate or partnership, the body corporate or partnership”, substitute “composite entity, the entity”.

Subsection 77 (5)—

Omit “corporate licensee”, substitute “composite entity that holds a dangerous weapons licence”.

SCHEDULE 2

Section 4

REPEALS

Adoption Act 1993, section 5
Air Pollution Act 1984, section 3
Animal Welfare Act 1992, section 5
Australia and New Zealand Banking Group Limited (NMRB) Act 1991, section 5
Buildings (Design and Siting) Act 1964, section 5
Canberra Advance Bank Limited (Merger) Act 1992, section 6
Careless Use of Fire Act 1936, section 2A
Civil Liability (Animals) Act 1984, section 2
Clinical Waste Act 1990, sections 4 and 5
Commercial Arbitration Act 1986, section 5
Compensation (Fatal Injuries) Act 1968, section 6
Consumer Affairs Act 1973, section 3A
Crown Proceedings Act 1992, section 4
Dangerous Goods Act, 1975 of the State
of New South Wales in its application in the Territory, section 5A
Dangerous Goods Act 1984, section 5
Disability Services Act 1991, section 5
Discrimination Act 1991, section 6
Dog Control Act 1975, section 35A
Electoral Act 1992, section 4
Electricity and Water Act 1988, section 3A
Fair Trading Act 1992, section 4
Financial Institutions (Application of Laws) Act 1992, Part VI
Financial Institutions Duty Act 1987, section 3A
Financial Institutions (Supervisory Authority) Act 1992, section 4
Food Act 1992, section 3
Gas Act 1992, section 5
Government Solicitor Act 1989, section 4
Heritage Objects Act 1991, section 3
Inquiries Act 1991, section 4
Land (Planning and Environment) Act 1991, section 3
Law Reform (Miscellaneous Provisions) Act 1955, section 3
Listening Devices Act 1992, section 3

SCHEDULE 2—continued

Machinery Act 1949, section 3
Medical Practitioners Act 1930, section 6
Motor Vehicles (Dimensions and Mass) Act 1990, section 5
National Crime Authority (Territory Provisions) Act 1991, section 4
Nature Conservation Act 1980, section 4
Noise Control Act 1988, section 3
NRMA—ACT Road Safety Trust Act 1992, section 4
Occupational Health and Safety Act 1989, section 4
Ozone Protection Act 1991, section 4
Poisons and Drugs Act 1978, section 4
Proceeds of Crime Act 1991, section 12
Public Trustee Act 1985, section 3
Rabbit Destruction Act 1919, section 23
Radiation Act 1983, section 4
Rates and Land Tax Act 1926, section 4A
Real Property Act 1925, section 72
Royal Commissions Act 1991, section 4
Sale of Goods (Vienna Convention) Act 1987, section 4
Scaffolding and Lifts Act 1957, section 5
Taxation (Administration) Act 1987, section 4A
Territory Owned Corporations Act 1990, section 5
Tobacco Act 1927, section 2
Trade Measurement Act 1991, section 5
Vocational Training Act 1989, section 4
Water Pollution Act 1984, section 4
Weights and Measures (Sale of Bread) Act 1929, section 6

[Presentation speech made in Assembly on 17 June 1993]