

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

CROWN SUITS ORDINANCE 1989

ORDINANCE NO. 35 OF 1989

Section 7 of the Australian Capital Territory (Self-Government) Act 1988 establishes the Territory as a body politic under the Crown. Without other provision being made, the Territory would be immune from suit and there would be doubt about the conduct of suits to which the Territory was a party.

The Ordinance relaxes the Territory Crown's immunity to suit in contract and tort. It also makes provision in relation to formal matters in suits to which the Territory is a party. The Ordinance, which will become a Territory law on its commencement on Self-Government Day, may be amended or repealed by the Territory Legislative Assembly.

The Attachment contains details of the individual provisions of the Ordinance.

**ISSUED UNDER THE AUTHORITY
OF THE MINISTER FOR THE ARTS
AND TERRITORIES**

ATTACHMENT

CROWN SUITS ORDINANCE 1989

Section 1 cites the short title of the Ordinance as the Crown Suits Ordinance 1989.

Section 2 provides that the formal parts of the Ordinance commence on gazettal and that the remaining parts of the Ordinance commence on the day section 22 of the Australian Capital Territory (Self-Government) Act 1988 commences.

Section 3 defines terms used in the Ordinance.

Section 4 provides that a person may make a claim in contract or tort against the Territory in a court of competent jurisdiction.

Section 5 provides that the Supreme Court may grant injunctive relief against the Territory and its officers.

Section 6 declares that suits on behalf of the Territory may be brought in the name of the Territory by the Government Solicitor.

Section 7 provides that 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.

Section 8 declares that where the Territory is a party to a suit, the procedural rights of the parties shall as nearly as possible be the same. It is not intended by this provision to bind the Territory Crown to laws in the Territory to which it is not bound. The section provides that judgment may be given and costs awarded on either side, as in a suit between subject and subject.

Sub-section 9(1) provides that, notwithstanding section 8, no execution or attachment, or process in the nature of execution or attachment, shall be issued against the property or revenues of the Territory.

Sub-section 9(2) makes provision relating to the satisfaction of a judgement against the Territory.

Section 10 provides that the Territory shall not enforce a judgement through ancient Crown writs but shall only use such execution, attachment or other process as would be available in a suit between subject and subject.

Section 11 makes transitional provision in relation to proceedings which transfer to the Territory following the transfer of an asset or right to the Territory pursuant to section 5 of the A.C.T. Self-Government (Consequential Provisions) Act 1988.