

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

**SELF-GOVERNMENT (CONSEQUENTIAL AMENDMENTS)
ORDINANCE 1989**

ORDINANCE NO. 38 OF 1989

Section 7 of the Australian Capital Territory (Self-Government) Act 1988 (the Act) establishes the Australian Capital Territory as a body politic under the Crown. Sections 8 and 36 of the Act respectively create a Legislative Assembly and an Executive for this body.

Under section 34 of the Act, ACT Ordinances which are not listed in Schedule 3 of the Act shall be taken to be laws made by the Legislative Assembly.

The Self-Government (Consequential Amendments) Ordinance 1989 (the Ordinance) makes necessary changes to ACT Ordinances and Regulations in order to give effect to arrangements for self government for the Territory made under the Act.

The Ordinance primarily amends ACT Ordinances by:

- (a) Transferring the powers and responsibilities of the Governor-General under ACT Ordinances either to the Executive or the Chief Minister of the Australian Capital Territory.
- (b) Transferring the powers, responsibilities and immunities at present expressed to be conferred on officers employed under the Public Service Act 1922 to "public servants", as that term is defined in Section 3 of the Act (a definition which includes transitional staff made available to the ACT Government and members of a future ACT Public Service).
- (c) Transferring the powers and responsibilities conferred on the Secretary of the Department which administers a particular Ordinance to an "administrative head" who may be either:
 - i) the Head of Administration, appointed under subsection 49(1) of the Act if he or she is responsible for the particular legislation, or
 - ii) the Associate Head of Administration, appointed under subsection 49(2) of the Act, who will be responsible for the particular legislation.

- (d) Transferring the powers and responsibilities of the Commonwealth to the Australian Capital Territory or to the Executive.
- (e) Substituting references to the Legislative Assembly for references to the Parliament and to the former House of Assembly.
- (f) Replacing any provisions for the appointment to statutory bodies of members of the former House of Assembly with provisions for the appointment of nominees of the ACT Minister who is responsible for the relevant provision.
- (g) Preventing legal action being brought against anyone because they report proceedings of;
 - i) the Legislative Assembly, or
 - ii) an inquiry made under the authority of the Legislative Assembly or the Executive.
- (h) Substituting references to the Minister for references to the Attorney-General, the Treasurer or the Minister for Finance. (Under paragraph 8(b) of the Interpretation (Amendment) Ordinance 1989 references to the "the Minister" mean from self government day references to a Minister for the Territory).
- (i) Transferring to the Executive the powers granted by existing Ordinances to prescribe regulations.
- (j) Substituting appropriate references to the Administrative Appeals Tribunal Act 1989 for references to the Administrative Appeals Tribunal Act 1975.

The Ordinance also makes other consequential amendments to Ordinances, introduces provisions relating to Equal Employment Opportunity Programs for two Territory Authorities, repeals otiose laws and makes some minor technical improvements to certain Ordinances.

Details of the Ordinance are set out in the Attachment.

ISSUED BY THE AUTHORITY
OF THE MINISTER OF STATE
FOR THE ARTS AND
TERRITORIES

Section 1 provides for the citation of the Ordinance.

Subsection 2(1) provides that it and section 1 shall commence on the date that the Ordinance is gazetted.

Subsection 2(2) provides that the remaining provisions of the proposed Ordinance commence on self government day.

Section 3 to 54 amends ACT Ordinances, in ways consequent upon self government previously outlined, where amendments also involve complementary changes to the headings of provisions. These provisions are included in separate sections rather than in the Schedules in order to facilitate the reprinting of headings as amended by this Ordinance.

In addition, certain exceptional changes are provided for:

- a) Sections 5, 6, 15 and 16 provide that leases can be granted under the ANU (Leases) Ordinance 1967 and the CCAE (Leases) Ordinance 1977 for a period of 999 years rather than in perpetuity. This is necessary because 999 years will be the relevant period prescribed for such leases under the Australian Capital Territory (Planning and Land Management) Regulations currently in preparation. (A similar amendment appears in Schedule 1 for the Church Lands Leases Ordinance 1924).
- b) Section 19 amends the Community and Health Service Ordinance 1985 (the Health Ordinance) by introducing a new Part VII which reiterates, with some modifications, Schedule 1A to the Public Service Regulations which now apply to the Community and Health Service. These provisions concern the development, implementation and review of the equal employment opportunity program for the Community and Health Service.
- c) Section 21 introduces a new Part IV in the Electricity and Water Ordinance 1988 which is the same, *mutatis mutandis*, as the new Part VII which has been introduced in the Health Ordinance. Previous provisions along these lines were contained in the Public Service Regulations referred to above.
- d) Section 31 introduces a new section 307A in the Magistrates Court (Civil Jurisdiction) Ordinance 1982 which reiterates a provisions that will be repealed on self government day: section 27 of the Workmen's Compensation Ordinance 1951. The introduction of the new section will preserve the Commonwealth Attorney-General's power to prescribe matters which may be prescribed by Rules of Court for giving effect to the latter Ordinance.

Sections 55 to 57 amends NSW laws, which have continued in force in the ACT in ways previously outlined, where amendments also involve complementary changes to the headings of provisions.

Section 58 amends regulation 3 of the Motor Omnibus Regulations by inserting in subregulation 1 "Territory or" before "Commonwealth".

Section 59 amends regulation 19 of the Pounds Regulations by making the relevant fees payable to the "Territory" rather than the Receiver of Public Moneys.

Section 60 provides that the Ordinances specified in Schedule 1 will be amended as set out in that Schedule in the ways outlined above.

Section 61 provides that the NSW laws which have continued in force in the ACT specified in Schedule 2 are amended as set out in that Schedule in the ways outlined above.

Section 62 provides that the regulations specified in Schedule 3 are amended as set out in that Schedule in the ways outlined above.

Section 63 provides that the Ordinances specified in Schedule 4 are repealed. These provisions were otiose.