WESTERN AUSTRALIA

INDIAN OCEAN TERRITORIES (ADMINISTRATION OF LAWS) ACT 1992

(No. 54 of 1992)

ARRANGEMENT

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AN ACT to authorize State authorities to exercise powers, perform functions and duties and provide services in or in relation to the Territories of Christmas Island and the Cocos (Keeling) Islands, to enable State courts and State judicial officers to exercise jurisdiction in or in relation to those Territories, and to authorize the State and State authorities to enter into arrangements with the Commonwealth for those purposes.

[*Assented to 10 December 1992.*]

The Parliament of Western Australia enacts as follows:

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Indian Ocean Territories (Administration of Laws) Act 1992.*

Commencement

2. (1) This Act, other than Part 4, comes into operation on the day on which it receives the Royal Assent.

(2) The provisions of Part 4 come into operation on a day to be fixed by proclamation.

Interpretation

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

"arrangement" means an arrangement entered into by the State or a State authority with the Commonwealth under Part 2;

"law in force in the Territory" means —

(a) in relation to the Territory of Christmas Island, any law that forms part of the "laws in force in the Territory" as that expression is defined in the *Christmas Island Act 1958* of the Commonwealth; or

(b) in relation to the Territory of Cocos (Keeling) Islands, any law that forms part of the "laws in force in the Territory" as that expression is defined in the *Cocos (Keeling) Islands Act 1955* of the Commonwealth;

"State authority" means —

(a) the Governor in Executive Council;

(b) a Minister of the Crown in right of the State;

(c) a department of the Public Service of the State;

(d) an agency, authority or instrumentality established under a written law of the State;

(e) a person holding or exercising the powers of an office established under a written law of the State;

(f) an officer or employee of —

(i) an agency, authority or instrumentality referred to in paragraph (d); or

(ii) a person referred to in paragraph (e);

(g) an officer appointed, or a person employed, under any other written law of the State;

(h) any other person or entity prescribed to be a State authority for the purposes of this Act;

"State court" means a court or other tribunal of this State;

"State judicial officer" means a Judge, master, registrar, magistrate (however described), justice, coroner or other member or officer of a State court;

"Territory" means —

(a) the Territory of Christmas Island; or

(b) the Territory of Cocos (Keeling) Islands.

PART 2 — ARRANGEMENTS WITH COMMONWEALTH

Arrangements relating to exercise of powers by State authorities

4. (1) The State, or a State authority with the approval of the Minister, may enter into arrangements with the Commonwealth for —

(a) the exercise of any power or the performance of any function or duty in or in relation to a Territory;

(b) the provision of any service in or in relation to a Territory; or

(c) any other purpose related to the application or administration in or in relation to a Territory of a law in force in the Territory.

(2) An arrangement may contain such provisions as the parties think fit and, without limiting the generality of the foregoing, may provide for —

(a) funding of the State or a State authority in respect of the exercise of any power, the performance of any function or duty or the provision of any service in or in relation to a Territory;

(b) the Commonwealth to indemnify the State or a State authority in respect of any liability incurred in the exercise of any power, the performance of any function or duty or the provision of any service in or in relation to a Territory.

(3) An arrangement may be varied or revoked in the manner provided in the arrangement.

Arrangements relating to exercise of jurisdiction by State courts

5. (1) The State may enter into arrangements with the Commonwealth relating to the exercise by State courts and State judicial officers of jurisdiction in or in relation to a Territory.

(2) An arrangement may contain such provisions as the parties think fit and, without limiting the generality of the foregoing, may provide for the Commonwealth to meet the cost of State courts and State judicial officers exercising jurisdiction in or in relation to a Territory.

(3) An arrangement may be varied or revoked in the manner provided in the arrangement.

PART 3 — STATE AUTHORITIES AUTHORIZED TO EXERCISE POWERS IN TERRITORIES

State authority may exercise powers in Territory

6. (1) A State authority may —

(a) exercise any power or perform any function or duty in or in relation to a Territory that is vested in, or delegated to, the State authority under a law in force in the Territory; and

(b) provide any service in or in relation to a Territory that the State authority has agreed to provide under an arrangement.

(2) Subsection (1) has effect notwithstanding any other provision in a written law of the State to the contrary.

Keeping of records

7. Where a State authority exercises any power, performs any function or duty or provides any service in or in relation to a Territory that involves the keeping of records, then, unless the contrary intention appears in a law in force in the Territory or an arrangement, those records may be kept and administered by the authority as part of any records of the State that are kept under a corresponding law of the State or for a corresponding purpose.

Funds and accounts

8. Where a State authority exercises any power, performs any function or duty, or provides any service in or in relation to a Territory that involves the establishment or maintenance of any fund or account, then, unless the contrary intention appears in a

law in force in the Territory or an arrangement, the authority may use any fund or account in this State that is kept under a corresponding law of the State or for a corresponding purpose.

Exemption from, and modification of, laws

9. (1) The Governor may by order —

(a) exempt a State authority from complying with any provision of a written law of the State in so far as the State authority is exercising any power, performing any function or duty or providing any service in or in relation to a Territory; or

(b) modify the effect of any provision of a written law of the State in so far as that provision applies to or in relation to a State authority exercising any power, performing any function or duty or providing any service in or in relation to a Territory.

(2) An order under subsection (1) is "subsidiary legislation" for the purposes of the *Interpretation Act 1984*.

(3) Section 42 of the *Interpretation Act 1984* applies to and in relation to an order under subsection (1) as if the order were a regulation.

PART 4 — JURISDICTION OF STATE COURTS AND STATE JUDICIAL OFFICERS IN RELATION TO TERRITORIES

Interpretation

10. In this Part, unless the contrary intention appears —

"jurisdiction" includes powers and functions;

"law of the Commonwealth" includes any law in force in the Territory;

"Territory court" means —

(a) in relation to the Territory of Christmas Island —

(i) the Supreme Court of the Territory constituted under the *Christmas Island Act 1958* of the Commonwealth;

(ii) the Magistrate's Court of the Territory established by the *Magistrate's Court Ordinance 1958* of the Territory; or

(iii) the Children's Court of the Territory established by the *Children's Court Ordinance 1972* of the Territory;

and

(b) in relation to the Territory of Cocos (Keeling) Islands —

(i) the Supreme Court of the Territory established by the *Supreme Court Ordinance 1955* of the Territory; or

(ii) the Magistrate's Court of the Territory established by the Courts Ordinance of the Colony of Singapore (in its application to the Territory).

State courts and State judicial officers may exercise jurisdiction in Territories

11. A State court and a State judicial officer may —

(a) exercise any jurisdiction in or in relation to a Territory that is conferred on or vested in the State court or State judicial officer under a law of the Commonwealth; and

(b) hear and determine any proceeding that is transferred to the State court or State judicial officer from a Territory court under a law of the Commonwealth.

Conduct of proceedings

12. Unless the contrary intention appears in a law of the Commonwealth, the rules of evidence, practice and procedure applicable to a State court or State judicial officer exercising any jurisdiction, or hearing and determining any proceeding, referred to in section 11, are the rules of evidence, practice and procedure in force from time to time in relation to that State court or State judicial officer in this State.

State court and State judicial officers may sit in this State or Territory

13. (1) Unless the contrary intention appears in a law of the Commonwealth, a State court or a State judicial officer may in exercising any jurisdiction, or hearing and determining any proceeding, referred to in section 11, sit in this State or in a Territory.

(2) Subsection (1) has effect notwithstanding any other provision in a written law of the State to the contrary.

Transferred proceedings

14. Where a proceeding (whether completed or uncompleted) is transferred from a Territory court to a State court or a State judicial officer under a law of the Commonwealth —

(a) any documents filed of record in the Territory court in the proceeding and transmitted to the State court shall be taken to have been filed of record in the State court;

(b) any money lodged in the Territory court in relation to the proceeding and transferred to the State court shall be taken to have been lodged with the State court; and

(c) everything done in or in relation to the proceeding in the Territory court shall be taken to have been done in the State court.

Orders as to costs in proceedings before transfer

15. Where a proceeding is transferred to a State court or State judicial officer from a Territory court under a law of the Commonwealth, the State court or State judicial officer may make an order as to costs that relates to the conduct of the proceeding before the transfer if those costs have not already been dealt with by the Territory court.

Keeping of court records

16. Where a State court receives any documents filed of record in a Territory court and transferred to the court under a law of the Commonwealth then, unless the contrary intention appears in a law of the Commonwealth, those documents may be kept together with any court documents of this State.

PART 5 — MISCELLANEOUS

Regulations

17. The Governor may make regulations for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.