

NORTHERN TERRITORY OF AUSTRALIA

TOURISM NT ACT 2012

Act No. 22 of 2012

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 22 of 2012

An Act to reconstitute Tourism NT as a commission, and for related purposes

[Assented to 8 November 2012]
[Second reading 25 October 2012]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Tourism NT Act 2012*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

3 Definitions

In this Act:

appointed commissioner means a commissioner of Tourism NT mentioned in section 11(1)(b).

chairperson means the chairperson of Tourism NT mentioned in section 14.

chief executive officer means the chief executive officer of Tourism NT mentioned in section 12(1).

commissioner means a commissioner of Tourism NT mentioned in section 11(1)(a) or (b).

repealed Act means the *Tourism NT Act* as in force immediately before the commencement of this Act.

Tourism NT means the commission known as Tourism NT continued in existence by section 5.

4 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 4

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 2 Tourism NT

Division 1 General matters

5 Continuation of Tourism NT

- (1) The body corporate by the name of Tourism NT that was, immediately before the commencement of this Act, in existence because of section 5 of the repealed Act, continues in existence as a commission known as Tourism NT.
- (2) Tourism NT:
 - (a) is a body corporate with perpetual succession; and
 - (b) has a common seal; and
 - (c) is capable, in its corporate name, of acquiring, holding and disposing of real (including leasehold) and personal property and of suing and being sued.
- (3) All courts, judges and persons acting judicially are to take judicial notice of the common seal of Tourism NT affixed to a document and are to assume that it was duly affixed.

6 Use of alternate name

Tourism NT may perform its functions and exercise its powers under the name "Tourism Northern Territory".

Division 2 Functions and powers

7 Functions

The functions of Tourism NT are:

- (a) to market the Territory as a desirable visitor destination; and
- (b) to encourage and facilitate the sustainable growth of the tourism industry in the Territory; and
- (c) to advise the Minister on all matters relating to tourism in the Territory; and
- (d) any other functions conferred on it by this or any other Act.

8 Powers

- (1) Tourism NT has the powers necessary or convenient to perform its functions.
- (2) In particular, Tourism NT has power to:
 - (a) acquire, hold and dispose of real (including leasehold) and personal property; and
 - (b) improve any real or personal property owned by, or under the control of, Tourism NT; and
 - (c) enter into contracts.

9 Ministerial control

Tourism NT is subject to the directions of the Minister in the performance of its functions and exercise of its powers.

10 Delegation

Tourism NT may delegate any of its powers or functions under this or any other Act to:

- (a) the chief executive officer; or
- (b) an appointed commissioner; or
- (c) a member of the staff of Tourism NT; or
- (d) a public sector employee.

Division 3 Constitution and commissioners

11 Constitution

- (1) Tourism NT is a commission consisting of the following commissioners:
 - (a) the chief executive officer;
 - (b) at least 6 other commissioners appointed in writing by the Minister.
- (2) The Minister may appoint a person to be an appointed commissioner only if the Minister is satisfied that the person holds suitable qualifications, or has suitable knowledge or experience, relating to the functions of Tourism NT.

12 Chief executive officer

- (1) The Chief Minister may, in writing, appoint a person to be the chief executive officer of Tourism NT.
- (2) Notice of the appointment must be published in the *Gazette* as soon as practicable after it is made.
- (3) If Tourism NT is an Agency, the chief executive officer is the Chief Executive Officer of Tourism NT for the *Public Sector Employment and Management Act*.
- (4) The chief executive officer administers the day-to-day operations of Tourism NT.

13 Acting chief executive officer

- (1) The Minister may, in writing, appoint a person to act as chief executive officer of Tourism NT:
 - (a) during any period, or during all periods, when the chief executive officer is absent from duty; or
 - (b) during a vacancy in the office.
- (2) A person appointed to act as chief executive officer during a vacancy in the office must not continue to act for more than 12 months after the occurrence of the vacancy.

14 Chairperson

The Minister may, in writing, appoint an appointed commissioner to be the chairperson of Tourism NT.

15 Duration of appointment

- (1) An appointed commissioner holds office for 2 years or the shorter period specified in the appointment.
- (2) An appointed commissioner is eligible for reappointment.

16 Leave of absence

Tourism NT may grant a commissioner leave of absence on conditions determined by Tourism NT.

17 Vacation of office

- (1) A person who is an appointed commissioner ceases to be a commissioner if:
 - (a) the person resigns by giving written notice to the Minister; or
 - (b) the person's term of office comes to an end and the person is not reappointed; or
 - (c) the person's appointment is terminated under section 18(1) or (2).
- (2) The exercise of a power or performance of a function by Tourism NT is not affected only by a vacancy in its membership.

18 Termination of appointment

- (1) The Minister may terminate the appointment of an appointed commissioner for inability, inefficiency, misbehaviour or physical or mental incapacity.
- (2) The Minister must terminate the appointment of an appointed commissioner:
 - (a) if the commissioner is absent from 3 consecutive meetings of Tourism NT without leave granted under section 16; or
 - (b) if the commissioner is found guilty of an offence of such a nature that it would be inappropriate for the person to continue to be a commissioner; or
 - (c) if the commissioner:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of a law for the relief of bankrupt or insolvent debtors; or

(iii) compounds with creditors or makes an assignment of the commissioner's remuneration for their benefit.

(3) A termination of appointment must be made in writing.

Division 4 Procedures of Tourism NT

19 Procedures

Subject to this Act, Tourism NT may determine its own procedures.

20 Meetings

The chairperson may convene a meeting of Tourism NT at any time but must convene at least 4 meetings each financial year.

21 Quorum

Subject to section 26(1)(c), the quorum for a meeting of Tourism NT is a majority of commissioners.

22 Presiding at meeting

A meeting of Tourism NT is to be presided over by:

- (a) the chairperson; or
- (b) in the absence of the chairperson, another commissioner elected by the commissioners present at the meeting.

23 Voting at meeting

- (1) A decision at a meeting of Tourism NT must be determined by the majority vote of commissioners present and voting.
- (2) If there is an equality of votes, the person presiding at the meeting has a casting vote in addition to his or her deliberative vote.

24 Records of meetings

Tourism NT must keep accurate records of its meetings.

25 Disclosure of personal interest

- (1) This section applies if a commissioner has a personal interest in a matter being considered or about to be considered by Tourism NT.

- (2) The commissioner must disclose the following at a meeting of Tourism NT as soon as practicable after the relevant facts come to the commissioner's knowledge:
 - (a) the nature and extent of the personal interest;
 - (b) how the interest relates to the matter mentioned in subsection (1).
- (3) The disclosure must be recorded in the minutes of the meeting.
- (4) For this section, a commissioner has a personal interest in a matter if the commissioner:
 - (a) has a direct or indirect financial interest in the matter otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons and of which the commissioner is not a director; or
 - (b) has a personal, professional, commercial or other relationship with a person and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the commissioner from exercising independent judgment about the matter.

26 Effect of a personal interest

- (1) If a commissioner has a personal interest in a matter that is required to be disclosed under section 25:
 - (a) the commissioner must not take part in any deliberation or decision of Tourism NT about the matter; and
 - (b) the commissioner must be disregarded for the purpose of constituting the quorum of Tourism NT for the deliberation or decision; and
 - (c) the quorum for the deliberation or decision is a majority of commissioners entitled to participate in the deliberation or decision.
- (2) However, a failure by the commissioner to disclose the interest in the matter does not, on its own, invalidate any decision of Tourism NT about the matter.

Part 3 Miscellaneous matters

27 Appointment of staff

In addition to staff employed under the *Public Sector Employment and Management Act*, Tourism NT may, on the terms and conditions it considers appropriate, employ any other persons it considers necessary for the purposes of Tourism NT.

28 Annual report

- (1) The chief executive officer must prepare and give to the Minister a report on the performance by Tourism NT of its functions during each financial year.
- (2) The report must be given to the Minister within 6 months after the end of the financial year or such other period as the Minister determines.
- (3) The Minister must table a copy of the report, together with the financial statement and report of the Auditor-General on the financial statement required under section 10 or 11 of the *Financial Management Act*, in the Legislative Assembly within 6 sitting days of the Assembly after the delivery of the later of the reports to the Minister.

29 Protection from liability

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:
 - (a) the chief executive officer;
 - (b) a commissioner;
 - (c) a member of the staff of Tourism NT.
- (2) In addition, the person is not civilly or criminally liable for an act done or omitted to be done by Tourism NT in the exercise of a power or performance of a function under this Act.
- (3) Subsections (1) and (2) do not affect any liability the Territory or Tourism NT would, apart from those subsections, have for the act or omission.
- (4) In this section:

exercise, of a power, includes the purported exercise of the power.

performance, of a function, includes the purported performance of a function.

30 Confidentiality of information

(1) A person commits an offence if:

(a) the person:

- (i) obtains information in the course of carrying out functions connected with the administration of this Act; or
- (ii) obtained information in the course of carrying out functions connected with the administration of the repealed Act; and

(b) the person engages in conduct that results in the disclosure of the information.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) Subsection (1) does not apply if:

(a) the person discloses the information:

- (i) for the administration of this Act; or
- (ii) with the consent of the person to whom the information relates; or
- (iii) for legal proceedings arising out of the operation of this Act; or

(b) the information is otherwise available to the public; or

(c) the person is authorised by law to disclose the information.

31 Regulations

The Administrator may make regulations under this Act.

Part 4 Repeals

32 Repeals

The Acts specified in the Schedule are repealed.

Part 5 Consequential amendments

**33 *Public Sector Employment and Management Regulations*
amended**

This Part amends the *Public Sector Employment and Management Regulations*.

34 Schedule 1 amended

Schedule 1, at the end

insert

8 Persons employed under section 27 of the *Tourism NT Act* Whole Act

35 Expiry of Part

This Part expires on the day after it commences.

Schedule Repealed Acts

section 32

<i>Northern Territory Tourist Commission Act 1979</i>	Act No. 124 of 1979
<i>Northern Territory Tourist Commission Amendment Act 1982</i>	Act No. 36 of 1982
<i>Northern Territory Tourist Commission Amendment Act 1986</i>	Act No. 31 of 1986
<i>Northern Territory Tourist Commission Amendment Act 1992</i>	Act No. 57 of 1992
<i>Northern Territory Tourist Commission Amendment Act 1994</i>	Act No. 5 of 1994
<i>Northern Territory Tourist Commission Amendment Act (No. 2) 1994</i>	Act No. 64 of 1994
<i>Northern Territory Tourist Commission Amendment Act 1998</i>	Act No. 75 of 1998
<i>Northern Territory Tourist Commission Amendment Act 2000</i>	Act No. 57 of 2000
<i>Northern Territory Tourist Commission Amendment Act 2006</i>	Act No. 4 of 2006
