

## AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE SUMMARY

The scope of this summary is to review Ordinances made under the Seat of Government (Administration) Act 1960-1963 and Regulations made pursuant to such Ordinances, which may be of interest to local practitioners in that they tie in with general schemes of legislation, and practitioners in general where they relate to the legal consequences of acts performed outside the Territory or are intended to provide a model for uniform legislation in the Commonwealth.

### **Business Names Ordinance 1963**

Following the introduction of uniform company legislation throughout the Commonwealth, an Ordinance making provision for the law relating to business names was promulgated in the Territory in 1963, though it has not yet come into operation. The Ordinance contains provisions usually included in similar legislation whereby persons who carry on business under a business name are required to register that name, the name must appear on all documents used in the course of business and must at all times be displayed outside every place where business is carried on under the name. Provisions which were not to be found in the previous Ordinance are that where a person wishes to register a business name and that person resides outside the Territory, an agent, resident in the Territory, must be appointed to act for that person in all matters arising under the Ordinance ; the registration of a business name will remain in force for a period of three years ; and, it is an offence for a person carrying on business in the Territory under a business name to make reference to that business name in any invitation to the public to deposit money with, or lend money to that person or firm.<sup>1</sup>

### **Courts (Hire-purchase Agreements) Ordinance 1963**

This Ordinance is directed at restricting the right to sue in the Courts of the Australian Capital Territory in relation to a matter arising out of a hire-purchase agreement unless the hirer resides or carries on business in the Territory at the commencement of the action and was in, resident in or carrying on business in, the Territory when he offered to hire the goods, entered into the agreement or accepted an offer to hire goods.<sup>2</sup>

The legislation will not restrict the normal activities of traders in the Territory nor will it restrict the right to sue people who came into the Territory to conduct business with local traders. Any action in the Territory against a Territory resident who enters into a hire-purchase agreement out of the Territory is also not affected by the Ordinance.

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<sup>1</sup> S. 26. A provision of this nature is to be found in the current Victorian and South Australian legislation and it is generally designed to prevent persons or firms from issuing documents which may be mistaken as prospectuses which are subject to the stricter conditions of the companies legislation.

<sup>2</sup> S. 6.

**Hire-purchase Ordinance 1964<sup>3</sup>**

The Ordinance provides that where an agreement has application in the Australian Capital Territory together with a State or other Territory certain acts and forms completed in accordance with the law of the other State or Territory will be recognised in the Australian Capital Territory as if the act had been done or the form completed pursuant to the hire-purchase law of the Australian Capital Territory. This principle of the recognition applies to the written statement required to be given to the proposed hirer by the proposed owner or the dealer in accordance with the First Schedule of the 1961 Ordinance;<sup>4</sup> the owner's inability to enforce the agreement owing to his failure to transmit to the hirer a statement of his position;<sup>5</sup> the notice required to be given where goods are repossessed<sup>6</sup> and the provisions in relation to guarantors.<sup>7</sup>

In addition the Ordinance gives to the hirer the right to go to a Court in the Australian Capital Territory for various forms of relief provided for in sections 14, 15, 17, 29 and 30 of the Hire-purchase Ordinance 1961 if he is, and was at the time the agreement was entered into, a resident of the Territory, and some negotiation or transaction relating to or preliminary to the agreement took place in the Territory, notwithstanding that the agreement was entered into outside the Territory.

**Partnership Ordinance 1963**

This Ordinance repeals the Partnership Act 1892 (N.S.W.) in its application to the Territory and replaces it with substantive legislation of the Territory based generally upon the provisions of the Act. Very little change has been made to the law relating to partnership as contained in the 1892 Act but some alterations have been necessary to bring the provisions into line with modern standards and to fit the provisions more closely to the circumstances of the Territory.

**Registration of Births, Deaths and Marriages Ordinance 1963**

Legislation providing for the registration of births, deaths and marriages in the Territory complimentary to the Marriage Act 1961 (Cth) came into operation on 1 September 1963.

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<sup>3</sup> Notified in the Commonwealth Gazette on 23 April 1964.

<sup>4</sup> S. 4 amends s. 7 of the Principal Ordinance of 1961.

<sup>5</sup> S. 6 repeals s. 12 of the Principal Ordinance.

<sup>6</sup> S. 10 repeals s. 18 of the Principal Ordinance.

<sup>7</sup> S. 13 amends s. 23 of the Principal Ordinance.