Australian Capital Territory (Self - Government) Bill 1988

Date Introduced: 19 October 1988
House: House of Representatives
Presented by: Hon. Clyde Holding, M.P., Minister for the Arts and Territories

Digest of Bill

Purpose
To establish a governmental system and Legislative Assembly (the Assembly) for the Australian Capital Territory (the Territory). The Bill also provides for the dismissal of the Assembly and details its powers.

Background
Refer to the Digest for the Australian Capital Territory (Elections) Bill 1988.

Main Provisions
Clause 7 will establish the Territory as a governmental system under the Crown.

Proposed Division 1 of Part III (clauses 8 - 15) deals with the constitution of the Assembly. The Assembly will consist originally of 17 members, though this number may be varied by regulation if the Assembly has passed a resolution approving such a change (clause 8). The Assembly is to elect a Presiding Officer (clause 11). The Governor-General may dissolve the Assembly if, in his opinion, the Assembly is incapable of effectively performing its functions, or is conducting its affairs in an improper manner. If the Governor-General dismisses the Assembly, a Commissioner will be appointed to carry out the functions of the Council until the next election, which is to be held not earlier than 36 days, nor later than 90 days after the dissolution of the Assembly.

Proposed Division 2 (clauses 16 - 20) deals with the procedure of the Assembly. Nine members will be considered a quorum (i.e. over 50% of original members) and meetings will be decided by a majority of votes. If votes on a motion are equal, it is rejected. The Assembly may establish standing rules and orders.

Proposed Part IV (clauses 21 - 34) deals with the powers of the Assembly. The Assembly will have the power to make laws for the peace, order and good government of the Territory and to control the Executive. The administration of companies and securities, courts, lawyers, police, and the classification of
materials for the purposes of censorship, are excluded from the legislative power of the Assembly. However, the scope of excluded matters may be varied by regulation. The Assembly has the power to make laws dealing with the privileges and immunities of the Assembly. However, the Assembly will not have power to imprison or fine a person. (clause 23). Electors at a referendum may approve Assembly laws which may only be amended or repealed in a similar manner (clause 25). Assembly laws will not bind the the Crown in right of the Commonwealth except as provided by the regulations (clause 26). Laws passed by the Assembly will take effect only if notified in the Territory Gazette.

Clause 33 provides for the Governor-General to disallow an Assembly law within six months. A Notice of Disallowance published in the Commonwealth Gazette will have the effect of repealing the law. Where a disallowed law repealed or amended a previous law, that previous law will be revived from the date of publication of the Notice of Disallowance. The present Bill does not limit the power of the Governor-General to make Ordinances under section 12 of the Seat of Government (Administration) Act 1910.

Proposed Part V (clauses 35–47) deals with the management and powers of the Australian Capital Territory Executive (the Executive). The Executive will consist of a Chief Minister and three other Ministers appointed by the Chief Minister. The Chief Minister will be elected by the Assembly. The Chief Minister may appoint one of the Ministers to be Deputy Chief Minister. The number of Ministers may be varied by regulation. The Executive has power to govern the Territory with respect to matters specified in proposed Schedule 4. Where there is a resolution of no confidence in the Chief Minister and the Assembly does not, within 30 days, elect a Chief Minister, and the Governor-General does not dissolve the Assembly, a general election will be held on a day specified by the Commonwealth Minister.

The management structure, administration and staff of the Executive is covered by proposed Part VI (clauses 48–55). A Head of Administration and Associate Head of Administration will be appointed by the Chief Minister and will be responsible for the general working and business of the public service of the Territory. The Head and Associate Head of Administration will hold office on the terms and conditions determined by the Chief Minister. The Head of Administration will be able to employ staff and, after consultation with the relevant Secretary of a Department, the services of members of the Australian Public Service may be made available to the Head of Administration. The Head of Administration also will be able to engage consultants.

Proposed Part VII (clauses 56–64) concerns finance. Revenues, loans and other money received by the Territory will be available for the expenditure of the Territory. The Territory will be able to borrow money from the Commonwealth, or from elsewhere with the Treasurer's approval. The Commonwealth may guarantee a repayment of money borrowed by the Territory. The Territory may
give security for a loan over any of its assets, subject to the Treasurer's approval, and providing, at the time the guarantee is made, the amount guaranteed is not more than 10% of the total of public money of the Territory. In its relations with the Commonwealth, the Territory is to be treated in the same manner as the States and Northern Territory. As well, the Territory will not be responsible for the cost of national projects.

Miscellaneous provisions are contained in proposed Part IX (clauses 68 – 73). Sub-clause 68(1) provides for freedom of trade between the Territory and the States. Validity is given to certain acts of the Chief Minister, Presiding Officer, and certain other members of the Assembly and Executive where discrepancies may have cast doubt on the validity of the acts. The procedures for setting the remuneration and allowances payable to Assembly members, and those employed in relation to the Assembly, are set out in clause 72. The Governor-General will be given power to make regulations.

For further information, if required, contact the Law and Government Group.

10 November 1988

Bills Digest Service
Legislative Research Service

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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