ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL 1979

Date Introduced: 24 May 1979
House: Senate
Presented by: Senator the Honourable F.M. Chaney,
Minister for Aboriginal Affairs.

Short Digest of Bill

Purpose

To amend the Aboriginal Land Rights (Northern Territory) Act 1976 in relation to certain financial and administrative problems associated with the Act.

Background

On 13 February 1979 the Minister for Aboriginal Affairs announced that the Government intended to legislate to provide financial assistance in appropriate cases to individuals, groups, associations or corporate bodies which wished to be represented in future hearings before the Aboriginal Land Commissioner. This decision followed representations by some non-Aboriginal groups that, through financial hardship, they were unable to retain adequate legal counsel to present their case at land claim hearings, and similar concern expressed by the Aboriginal Land Commissioner, Mr. Justice Toohey, consequent to the Borroloola land claim hearing. This Bill amends the Aboriginal Land Rights (Northern Territory) Act 1976 to give effect to the decision.

As the Act now stands there is some doubt on whether the Minister has the power to accept all or part of a recommendation of the Land Commissioner and this Bill clarifies the position.

The Principal Act provides that the administrative expenses of the Land Councils are to be met from the royalty payments paid to the Aboriginal Benefit Trust Account. Since royalty payments sufficient to meet the administrative expenses are not yet being paid into the Trust Account, special payments were made from Commonwealth appropriations to Land Councils to enable them to meet administrative expenses. This Bill enables the Commonwealth to recoup these payments from the Aboriginal Benefit Trust Account.
Provisions

Clause 3 amends s.11 in order to ensure that the power of the Minister to establish a Land Trust for an area of Crown Land on the recommendation of the Aboriginal Land Commissioner includes the power in relation to any part of that land.

Clause 4 amends s.27 of the Principal Act by adding to paragraph (b) of subsection (1) the power of the Land Council to obtain assistance in connection with the administration of the affairs of the Council.

Clause 5 which inserts a new subsection 35 (2A) and sub-clause 10 (b) which inserts a new sub-section 64 (7) must be read together. Effectively they provide that the Minister may, if he is satisfied that the Land Council is unable to meet its administrative costs, direct that amounts be paid from the Aboriginal Benefit Trust Account to meet these costs. Sub-clause 10 (a) inserts a new subsection 4A of s.64 which provides that payments from the Trust Account on the direction of the Minister may be by way of a secured or unsecured loan by the Commonwealth on such conditions as the Minister thinks fit. Clause 9 amends s.63 of the Principal Act to provide that any interest received by the Commonwealth on such a loan shall be paid into the Trust Account. Clause 12 provides for the repayment to Consolidated Revenue from the Trust Account of the amounts paid by the Commonwealth to meet the administrative costs of the Land Councils since 1 July 1978 till the commencement of this Bill.

Clause 6 inserts a new s.37A which requires each Land Council to produce an annual report to the Minister with audited financial statements.

Clause 8 inserts a new s.54C which empowers the Attorney General to provide financial assistance to a person or unincorporated association of persons who wishes to be legally represented at an inquiry by the Aboriginal Land Commissioner into an Aboriginal land claim but who is not making an application by or on behalf of Aboriginals claiming to have a traditional land claim to an area of land. In making his decision the Attorney-General shall have regard to the reasonableness of the request, including whether refusal of the application would cause hardship to the applicant. Clause 8 (2) provides that any person or persons legally represented at an inquiry on or after 13 February 1979 may apply for such assistance and, if it is granted, it shall be deemed to have been validly authorised for that period.

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Clause 18 repeals s.19 of the Principal Act, and Clause 23 inserts a new s.30E to replace that which was repealed. The effect of this change is to enable state instrumentalities as well as colleges of advanced education to be eligible for grants for TAFE teacher training initiatives.

Clause 22 of the Bill makes provision for grants to the States for the funding of non-government business colleges. The essential features of this program are:

a) colleges shall receive assistance at a rate of $55 per student per month to a maximum of $550 per student per annum. [s.30D(2) and (3)]

b) assistance for 1979 will only be given for those colleges with students undertaking courses which have been approved by the Minister and which were in existence in 1978. [s.30B]

c) colleges receiving assistance will be required to achieve non-profit status by the end of 1979. [s.30D(6)]