

1982

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

ABORIGINAL LAND RIGHTS LEGISLATION AMENDMENT BILL 1982

EXPLANATORY MEMORANDUM

(Circulated by the Minister for Aboriginal Affairs,  
Senator The Hon. Peter E. Baume)

The purpose of this Bill is to:

- . allow the Minister to establish a number of Land Trusts in respect of land to be granted at Hermannsburg and to approve a different system of membership for those Trusts
- . grant an additional area of land (Clift Island) to be included in the description of Bathurst Island and provide for the consolidation of the title to that island and Melville Island held by the Tiwi Land Trust
- . provide for the costs of legal representation in respect of closure of seas applications under the Aboriginal Land Act 1978 N.T.
- . allow the Minister to make progressive recommendations to the Governor-General for the grant of land to an Aboriginal Land Trust
- . provide that the Minister may, upon application by a Land Council and where he is satisfied that it is appropriate, establish more or fewer Land Trusts than the Aboriginal Land Commissioner recommended
- . provide for the repayment to the Consolidated Revenue Fund from the Aboriginals Benefit Trust Account of amounts previously advanced for administrative expenses of Land Councils.

#### PART 1 - PRELIMINARY

##### Clause 1 - Short Title

The Aboriginal Land Rights Act Legislation Amendment Act 1982.

##### Clause 2 - Commencement

Commencement date will be the date the Act receives the Royal Assent.

#### PART 11 - AMENDMENT OF THE ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) ACT 1976

##### Clause 3 - Principal Act

The Principal Act is the Aboriginal Land Rights (Northern Territory) Act 1976 as amended by amendment Acts No. 21, 70 and 83, 1978; No. 189, 1979; and No. 72, 1980.

Clause 4 - Land Trusts

This provision amends Section 4 to allow the Minister to create more than one Land Trust to hold the area described as "Hermannsburg" in Schedule 1 so that that land may be held by five separate Land Trusts in accordance with the wishes of traditional owners.

Clause 5 - Membership of Land Trust

This provision amends Section 7 and is also designed to meet the wishes of traditional owners at Hermannsburg. It allows the Minister upon application by a Land Council to vary the usual membership arrangements for Land Trusts and/or to allow Trusts to function without a Chairman where the Minister is satisfied that that is appropriate, but in all cases the minimum requirement will be a membership of three.

Clause 6 - Recommendation for Grants of Crown Land Described in Schedule 1

Amendment to Section 10 is necessary to permit the Minister to recommend to the Governor-General the grant of the land described in Schedule 1 as "Hermannsburg" to more than one Land Trust.

Clause 7 - Recommendations for Grants of Crown Land Other Than That Described in Schedule 1

This clause amends Section 11 to allow the Minister (in respect of recommendations by the Aboriginal Land Commissioner) upon application by a Land Council to establish more or fewer Land Trusts to hold the land the Minister intends to recommend for grant to the Governor-General, and to enable the Minister to make recommendations for land to be granted to a Land Trust on a step by step basis.

Clauses 8 and 11 - Additional Grant to Tiwi Land Trust - Schedule 1 Land

Clause 8 inserts a new Section 12 AAA providing the mechanism for the consolidation of the titles to Bathurst and Melville Islands held by the Tiwi Land Trust and for registration of the consolidated title under Northern Territory law.

Clause 11 takes out the description of Bathurst Island in Schedule 1 and replaces it with the new description that comprises the land already appearing in the Schedule and the additional area (Clift Island) to be granted to the Tiwi Land Trust.

Clause 9 - Transfer of Amounts from Trust Account to Consolidated Revenue Fund in Certain Circumstances

The new Section 64A gives the Minister a discretion to direct amounts to be transferred to the Consolidated Revenue Fund from the Aboriginals Benefit Trust Account periodically to repay amounts previously advanced to Land Councils for administrative expenses because of a shortfall of royalties in the Trust Account. This arrangement ensures that the Trust Account is capable of funding any amounts to be transferred.

Amounts so transferred to the Consolidated Revenue Fund are treated as if they had been paid to a Land Council under sub-section 64(1) (i.e. payments to a Land Council for administrative purposes). Where applicable the Minister may direct the transfer of amounts from the Aboriginals Benefit Trust Account to the Consolidated Revenue Fund to discharge any liability for mining withholding tax under the Income Tax Assessment Act 1936.

Clause 10 - Financial Assistance in Respect of Legal Representation in Closure of Seas Applications

This clause inserts new Section 74A to provide for payment of the cost of legal representation in closure of seas hearings under the Northern Territory Aboriginal Land Act 1978 where it is reasonable to do so on the same basis that applies in respect of costs incurred in Land Claim hearings under Section 54C of the Commonwealth Act.

PART 111 - AMENDMENT OF THE ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT ACT 1979

Clause 12 - Principal Act

The principal Act in this part is the Aboriginal Land Rights (Northern Territory) Amendment Act 1979.

Clause 13 - Repeal of Section 13 of the Aboriginal Land Rights (Northern Territory) Amendment Act 1979

Section 13 of the abovementioned Act is repealed.