NORTHERN TERRITORY OF AUSTRALIA

VALIDATION (NATIVE TITLE) ACT

As in force at 18 June 1999

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NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Act as in force at 18 June 1999. Any amendments that commence after that date are not included.

VALIDATION (NATIVE TITLE) ACT

An Act to validate certain acts attributable to the Territory, to make provision for the effect of certain acts attributable to the Territory on native title, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Validation (Native Title) Act*.

2 Act binds the Crown

This Act binds the Crown not only in right of the Territory but, to the extent that the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

3 Interpretation

(1) In this Act ***Commonwealth Act*** means the *Native Titles Act 1993* of the Commonwealth.

(2) Unless the contrary intention appears, a word or expression used in the Commonwealth Act has the same meaning in this Act as it has in the Commonwealth Act.

3A Previous exclusive possession acts

(1) For the purposes of this Act, a previous exclusive possession act is a previous exclusive possession act within the meaning of section 23B of the Commonwealth Act, which meaning in so far as it relates to the Territory is set out in Schedules 1 and 2 to this Act.

(2) In the event of an inconsistency between section 23B of the Commonwealth Act and Schedule 1 to this Act or between Schedule 1 to the Commonwealth Act and Schedule 2 to this Act, section 23B or Schedule 1 of the Commonwealth Act (as the case may be) prevails.

3B Previous non-exclusive possession acts

(1) For the purposes of this Act, a previous non-exclusive possession act is a previous non-exclusive possession act within the meaning of section 23F of the Commonwealth Act, which meaning in so far as it relates to the Territory is set out in Schedule 3 to this Act.

(2) In the event of an inconsistency between section 23F of the Commonwealth Act and Schedule 3 to this Act, section 23F of the Commonwealth Act prevails.

3C Extinguishment apart from this Act

To avoid doubt, native title or native title rights and interests may have been extinguished other than by this Act.

Part 2 Validation of acts attributable to the Territory

4 Past acts

Every past act attributable to the Territory is valid and is taken always to have been valid.

4A Intermediate period acts

Every intermediate period act attributable to the Territory is valid and is taken always to have been valid.

Part 3 Effect of validation of certain past acts

4D Application

This Part applies to past acts to which Parts 3B and 3C do not apply.

5 Category A acts that are not public works

A category A past act, that is not a past act to which section 229(4) (which deals with public works) of the Commonwealth Act applies, extinguishes native title concerned.

6 Category A acts that are public works

(1) A category A past act to which section 229(4) of the Commonwealth Act applies extinguishes native title in relation to the land or waters on which the public work concerned (on completion of its construction or establishment) was or is situated.

(2) If section 229(4)(a) (which deals with works completed after 1 January 1994) of the Commonwealth Act applies to the past act, the extinguishment is taken to have happened on 1 January 1994.

7 Inconsistent category B acts

A category B past act wholly or partly inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests concerned, extinguishes the native title to the extent of the inconsistency.

8 Category C and D acts

The non-extinguishment principle applies to all category C and D past acts.

9 Extinguishment not of itself a right to eject from certain pastoral land

An extinguishment effected by this Part does not of itself confer a right to eject or remove an Aboriginal person who resides on or who exercises access over land or waters covered by a pastoral lease the grant, re-grant or extension of which is validated by Part 2.

Part 3A Effect of validation of certain intermediate period acts

9A Application

This Part applies to intermediate period acts to which Parts 3B and 3C do not apply.

9B Category A acts that are freehold or leasehold grants

Subject to section 9F, a category A intermediate period act to which section 232B(2),(3) or (4) of the Commonwealth Act (which deal with things such as the grant or vesting of freehold estates and certain leases) applies extinguishes all native title in relation to the land or waters concerned.

9C Category A acts that are public works

(1) Subject to section 9F, a category A intermediate period act to which section 232B(7) of the Commonwealth Act (which deals with public works) applies extinguishes the native title in relation to the land or waters on which the public work concerned (on completion of its construction or establishment) was or is situated.

(2) The extinguishment is taken to have happened when the construction or establishment began.

9D Inconsistent category B acts

Subject to section 9F, a category B intermediate period act that is wholly or partly inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests concerned extinguishes the native title to the extent of the inconsistency.

9E Category C and D acts

Subject to section 9F, the non-extinguishment principle applies to all category C and D intermediate period acts.

9F Effect changed by agreement

Sections 9B, 9C, 9D and 9E apply subject to section 24EBA(6) of the Commonwealth Act.

Part 3B Extinguishment of native title by previous exclusive possession acts

9G Application

This Part applies to all previous exclusive possession acts attributable to the Territory.

9H Grant of freehold estates, scheduled interests, &c.

(1) A previous exclusive possession act under section 23B(2) of the Commonwealth Act (which is set out in clause 1 of Schedule 1 to this Act), including because of section 23B(3) of the Commonwealth Act (which is set out in clause 2 of Schedule 1 to this Act), extinguishes any native title in relation to the land or waters covered by the freehold estate, Scheduled interest or lease concerned.

(2) The extinguishment is taken to have happened when the act was done.

9J Public works

(1) A previous exclusive possession act under section 23B(7) of the Commonwealth Act (which deals with public works and which is set out in clause 3 of Schedule 1 to this Act) extinguishes native title in relation to the land or waters on which the public work concerned (on completion of its construction or establishment) was or is situated.

(2) The extinguishment is taken to have happened when the construction or establishment of the public work began.

9JA Confirmation of validity of use of certain land held by Crown, &c.

To avoid doubt, if an act is a previous exclusive possession act because of section 23B(9C)(b) of the Commonwealth Act (which deals with grants to the Crown, &c. and which is set out in clause 7(b) of Schedule 1 to this Act), the use of the land or waters concerned as mentioned in that section is valid.

9JB Attribution of certain acts

If:

(a) a previous exclusive possession act took place before the establishment of the Territory; and

(b) the act affected land or waters that, when this section commences, form part of the Territory,

for the purposes of this Part, the act is taken to be attributable to the Territory.

Part 3C Effect of previous non-exclusive possession acts on native title

9K Application

(1) Subject to subsection (2), this Part applies to all previous non-exclusive possession acts attributable to the Territory.

(2) This Part does not apply to the grant of a pastoral lease or an agricultural lease to which section 5 applies.

9L Rights and interests that are not inconsistent with native title

To the extent that a previous non-exclusive possession act involves the grant of rights and interests that are not inconsistent with native title rights and interests in relation to the land or waters covered by the lease concerned:

(a) the rights and interests granted by the act; and

(b) the doing of any activity in giving effect to them,

prevail over the native title rights and interests but do not extinguish them.

9M Rights and interests that are inconsistent with native title

(1) To the extent that a previous non-exclusive possession act involves the grant of rights and interests that are inconsistent with native title rights and interests in relation to the land or waters covered by the lease concerned:

(a) if, apart from this Act, the act extinguishes the native title rights and interests – the native title rights and interests are extinguished; and

(b) in any other case – the native title rights and interests are suspended while the lease concerned, or the lease as renewed, re-made, re-granted or extended, is in force.

(2) The extinguishment under subsection (1)(a) is taken to have happened when the act was done.

9N Notification

(1) In the case of a previous non-exclusive possession act to which section 23F(3)(c)(ii) of the Commonwealth Act (which is set out in clause 2(c)(ii) of Schedule 3 to this Act) applies:

(a) the Territory Minister must give notice, in the way determined in writing by the Commonwealth Minister, to:

(i) any representative Aboriginal/Torres Strait Islander bodies in relation to the land or waters that will be affected by the act;

(ii) any registered native title bodies corporate in relation to the land or waters that will be affected by the act; and

(iii) any registered native title claimants in relation to the land or waters that will be affected by the act,

about the doing or proposed doing of the act, or acts of that class, in relation to the land or waters concerned; and

(b) the Territory Minister must give the persons referred to in paragraph (a)(i), (ii) and (iii) an opportunity to comment on the act or class of acts.

(2) In subsection (1), ***Territory Minister*** means the Minister to whom responsibility for land administration and usage is allotted under an Administrative Arrangements Order.

9NA Attribution of certain acts

If:

(a) a previous non-exclusive possession act took place before the establishment of the Territory; and

(b) the act affected land or waters that, when this section commences, form part of the Territory,

for the purposes of this Part, the act is taken to be attributable to the Territory.

Part 4 Past grants of title

10 Validation of grants of title before 1911

(1) Every grant of title, whether freehold or leasehold, of land (whether or not covered by water) in the geographical area that now constitutes the Northern Territory made at any time before 1 January 1911 by the Crown in any capacity, to the extent that there could be any doubt about its validity because of the possibility of the existence of native title affecting the land at the time of the grant, is confirmed to be, and shall be taken always to have been, validly made.

(2) To the extent that the operation of subsection (1) constitutes an acquisition of property within the meaning of section 50 of the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, the property shall be acquired on just terms.

Part 5 Other effects of validation

11 Preservation of beneficial reservations and conditions

If:

(a) an act attributable to the Territory contains a reservation or condition for the benefit of Aboriginal peoples or Torres Strait Islanders; or

(b) the doing of the act would affect rights or interests (other than native title rights and interests) of Aboriginal peoples or Torres Strait Islanders (whether arising under legislation, at common law or in equity and whether or not rights of usage),

nothing in Part 3, 3A, 3B or 3C affects that reservation or condition, or those rights or interests.

Part 6 Confirmation of certain rights under section 212 of Commonwealth Act

12 Confirmation of ownership of natural resources, &c.

(1) The existing ownership of all natural resources owned by the Territory is confirmed.

(2) All existing rights of the Territory to use, control and regulate the flow of water are confirmed.

(3) All existing fishing rights under Territory law are confirmed to prevail over other public or private fishing rights.

13 Confirmation of access to beaches, &c.

(1) Existing public access to and enjoyment of the following places is confirmed:

(a) waterways;

(b) beds and banks or foreshores of waterways;

(c) coastal waters;

(d) beaches;

(da) stock routes;

(e) areas that were public places at the end of 31 December 1993.

(2) The confirmation by subsection (1) of this section does not extinguish or impair any native title rights and interests and does not affect any conferral of land or waters, or an interest in land or waters, under a law that confers benefits only on Aboriginal peoples or Torres Strait Islanders.

Schedule 1 Previous exclusive possession acts

section 3A

1. An act is a previous exclusive possession act if:

   (a) it is valid (including because of Division 2 or 2A of Part 2 of the Commonwealth Act);

   (b) it took place on or before 23 December 1996; and

   (c) it consists of the grant or vesting of any of the following:

      (i) a Scheduled interest within the meaning of section 249C of the Commonwealth Act, being:

         (A) anything set out in Schedule 2 to this Act, other than a mining lease or anything whose grant or vesting is covered by clause 4, 5, 6, 7 or 8, of this Schedule; or

         (B) an interest, in relation to land or waters, of a type declared by a regulation under the Commonwealth Act for the purposes of section 249C(1)(b) of that Act;

      (ii) a freehold estate;

      (iii) a commercial lease that is neither an agricultural lease nor a pastoral lease;

      (iv) an exclusive agricultural lease or an exclusive pastoral lease;

      (v) a residential lease;

      (vi) a community purposes lease;

      (vii) what was taken by section 245(3) of the Commonwealth Act to be a separate lease in respect of land or waters mentioned in section 245(3)(a) of that Act, assuming that the reference in section 245(2) of that Act to "1 January 1994" were instead a reference to "24 December 1996";

      (viii) any lease (other than a mining lease) that confers a right of exclusive possession over particular land or waters.

2. If:

   (a) by or under legislation of the Territory, particular land or waters are vested in any person; and

   (b) a right of exclusive possession of the land or waters is expressly or impliedly conferred on the person by or under the legislation,

   the vesting is taken for the purposes of clause 1(c) to be the vesting of a freehold estate over the land or waters.

3. An act is a previous exclusive possession act if:

   (a) it is valid (including because of Division 2 or 2A of the Commonwealth Act); and

   (b) it consists of the construction or establishment of any public work that commenced to be constructed or established on or before 23 December 1996.

4. An act is not a previous exclusive possession act if it is:

   (a) the grant or vesting of any thing that is made or done by or under legislation that makes provision for the grant or vesting of such things only to, in or for the benefit of, Aboriginal peoples or Torres Strait Islanders;

   (b) the grant or vesting of any thing expressly for the benefit of, or to or in a person to hold on trust expressly for the benefit of, Aboriginal peoples or Torres Strait Islanders; or

   (c) the grant or vesting of any thing over particular land or waters, if at the time a thing covered by paragraph (a) or (b) is in effect in relation to the land or waters.

5. An act is not a previous exclusive possession act if the grant or vesting concerned involves the establishment of an area, such as a national or Territory park, for the purpose of preserving the natural environment of the area.

6. An act is not a previous exclusive possession act if it is done by or under legislation that expressly provides that the act does not extinguish native title.

7. If an act is the grant or vesting of an interest in relation to land or waters to or in the Crown in any capacity or a statutory authority, the act is not a previous exclusive possession act:

   (a) unless, apart from this Act, the grant or vesting extinguishes native title in relation to the land or waters; or

   (b) if the grant or vesting does not, apart from this Act, extinguish native title in relation to the land or waters – unless and until the land or waters are (whether before or after 23 December 1996) used to any extent in a way that, apart from this Act, extinguishes native title in relation to the land or waters.

8. An act is not a previous exclusive possession act if regulations under the Commonwealth Act provide that the act is not a previous exclusive possession act.

9. To avoid doubt, the fact that an act is, because of any of the previous clauses, not a previous exclusive possession act does not imply that the act is not valid.

Schedule 2 Scheduled interests in Territory

section 3A

1. TOWN LEASES, &c.

(1) A lease of town land under Division 4 of Part III of the *Crown Lands Ordinance 1912* (No. 3 of 1912) of the Commonwealth, Division 4 of Part III of the *Crown Lands Ordinance 1912* (No. 8 of 1912) of the Commonwealth, Division 4 of Part III of the *Crown Lands Ordinance 1924* of the Commonwealth, Division 4 of Part III of the *Crown Lands Ordinance 1927* (Territory of North Australia) of the Commonwealth, Division 4 of Part III of the *Crown Lands Ordinance 1927* (Territory of Central Australia) of the Commonwealth or section 25CF, 74A or 74D or Division 4 of Part III of the *Crown Lands Act 1931-1991*, other than a lease that:

(a) permits the lessee to use the land or waters covered by the lease solely or primarily for a harbour; or

(b) both:

(i) permits the lessee to use the land or waters covered by the lease solely or primarily for grazing or pastoral purposes; and

(ii) does not permit the lessee to use the land or waters solely or primarily for agriculture, horticulture, cultivation, or a similar purpose.

(2) A town land subdivision lease under Division 6 of Part III of the *Crown Lands Act 1931-1991*.

2. AGRICULTURAL LEASES, &c.

(1) A lease of agricultural land, or an agricultural lease, under Division 3 of Part III of the *Crown Lands Ordinance 1912* (No. 3 of 1912) of the Commonwealth, Division 3 of Part III of the *Crown Lands Ordinance 1912* (No. 8 of 1912) of the Commonwealth, Division 3 of Part III of the *Crown Lands Ordinance 1924* of the Commonwealth, Division 3 of Part III of the *Crown Lands Ordinance 1927* (Territory of North Australia) of the Commonwealth, Division 3 of Part III of the *Crown Lands Ordinance 1927* (Territory of Central Australia) of the Commonwealth, section 25CG, 25DAA, 74A or 74D or Division 3 of Part III of the *Crown Lands Act 1931-1991* or section 14 of the *Agricultural Development Leases Ordinance 1956* of the Commonwealth, or under the Agreement a copy of which is set out in the Schedule to the *Rice Development Agreement*

Ordinance 1956 of the Commonwealth, other than:

(a) an agricultural (mixed farming and grazing) lease; or

(b) a lease that:

(i) permits the lessee to use the land or waters covered by the lease solely or primarily for grazing or pastoral purposes; and

(ii) does not permit the lessee to use the land or waters solely or primarily for agriculture, horticulture, cultivation, or a similar purpose.

(2) An agricultural lease of an experimental farm under section 16A of the *Crown Lands Act 1931-1991*, other than a lease that:

(a) permits the lessee to use the land or waters covered by the lease solely or primarily for grazing or pastoral purposes; and

(b) does not permit the lessee to use the land or waters solely or primarily for agriculture, horticulture, cultivation, or a similar purpose.

(3) An agricultural development lease under the *Agricultural Development Leases Ordinance 1956* of the Commonwealth or under the Agreement a copy of which is set out in the Schedule to the *Rice Development Agreement Ordinance 1956* of the Commonwealth, other than:

(a) an agricultural (mixed farming and grazing) lease; or

(b) a lease that:

(i) permits the lessee to use the land or waters covered by the lease solely or primarily for grazing or pastoral purposes; and

(ii) does not permit the lessee to use the land or waters solely or primarily for agriculture, horticulture, cultivation, or a similar purpose.

3. LEASES FOR SPECIAL PURPOSES, &c.

(1) A lease for special purposes, or a special purposes lease, under section 83 of the *Northern Territory Land Act 1872* of South Australia, section 79 of the *Northern Territory Crown Lands Consolidation Act 1882* of South Australia, section 77 or 78 of the *Northern Territory Crown Lands Act 1890* of South Australia or section 4 of the *Special Purposes Leases Act* that permits the

lessee to use the land or waters covered by the lease solely or primarily for any of the following:

abattoir; Aboriginal hostel; accommodation; aerodrome; aged home; aged persons' flats; agricultural farm and garden; agriculture and mixed farming; airstrip; ambulance headquarters; ambulance station; amphitheatre; animal husbandry centre; animal shelter; archery club; archery range; art gallery; aviary; bakery; banana plantation; barge landing; barge terminal; basketball club; basketball court; bathing house; benevolent social work centre; blood centre and meeting rooms; blood transfusion centre; board headquarters; boatyard; botanic gardens; bowhunting club; bowhunting range; bowling club; bowling green; brick factory; brick yard; building or repairing boats; bulk cargo wharf; butcher; cafe; cannery; canteen; car parking; caravan park; caravan park and camping ground; cargo handling; cargo storage; carparking; cattle holding yard; centre for the spiritual and social welfare of children; child care; child minding centre; children's home; children's hostel; church; church hall; church manse; church rectory; cinema; civic centre; clinic; club building; club house; club room; college; community creche; community hall; community storage; community welfare centre; company headquarters; convent; convention centre; cooperative society; court house; craft complex; creche; crematorium; cricket club; cricket ground; croquet club; croquet pitch; dairy; depositing materials or produce; disposal of red mud; drive-in theatre; dry cleaners; educational institution; elderly persons' home; engineering workshop; equestrian club; equestrian field; erection of a wharf, berth, storehouse or slip for building or repairing ships and other vessels; explosive storage; factory; feed lot yard; ferry terminal; fish processing; food processing; football club; football ground; funeral home; game fishing club; game safari base; garage; gas storage facility; general store; Girl Guide accommodation cabin; Girl Guide hall; gliding club; golf club; golf course; greyhound racing; greyhound track; guest house; Guide hall; gun club; hall; headquarters of Australian Red Cross; hockey club; hockey pitch; holiday accommodation and facilities; holiday cabin; horse and pony club; horse stable; horse yard; horticulture; hostel; hotel; hotel/motel; housing units; industrial area; industrial purposes; inflammable materials storage; inn; institute of linguistics; jetty; kennel; kiln; landscaping supply depot; leadership centre; library; light industry; lime works; lodge hall; lodge room; lodge temple; mail station; manufacture of stockfood; marina; marina workshop; Masonic hall; meat packaging; meatwork effluent disposal; meatworks; meeting room; motel; motocross circuit; motorcycle racing; motor racing circuit; motor sports; municipal depot; museum; museum and art gallery; netball club; netball court; nursery; office; office of the Northern Territory Electricity Commission; on-shore tour boat base; on-shore trawler base; ore stockpile; orphanage; patrol headquarters; pearl culture land base;

pearling depot; permanent construction camp accommodation; petrol depot; petrol station; pistol club; pistol range; police station; police youth club; polocrosse club; polocrosse field; pony club; pony field; post office; poultry farm; pound; power station; pre-school; preservation and protection of artillery museum; preservation and restoration of well site; private sport site; private sports club; public swimming pool; punt house; quay; racecourse; racing club; radio communications building; radio communications tower; radio receiver station; radio transmitter; rail line; railway spurline; religious centre; research centre; research institute; residence; residential purposes; rest rooms; restaurant; retail store; rice growing; rifle club; rifle range; road house; road transport depot; rural residence; Salvation Army centre; sawmill; sawmilling depot; school; scientific research centre; Scout hall; seafarers' centre; seed processing plant; service station; sewage treatment; sheltered workshop; ship's chandlery; ship maintenance facility; shooting range; shore base for oyster cultivation; show ground; showroom; slaughter yard; slipway; speedway; sporting arena; sporting oval; sports club; sports complex; sports field, pitch, stadium or oval; sports ground; sports training ground; stockpiling and loading ore; storage; storage depot; storage of boats; store; studio; surgery; swimming club; swimming pool; television studio; tennis club; tennis court; theatre; toll house; tour base; tourist accommodation; tourist lodge; tourist theme park or facility; training centre; transport depot; warehouse; water treatment plant; watersports; wayside cafe; wayside inn; welfare centre; wharf; wholesale outlet; windmill; windmill servicing depot; wireless aerial site; workshop; youth services centre; zoo.

(2) A special purposes lease under section 6 of the *Mining (Gove Peninsula Nabalco Agreement) Act* or clause 4(2) of the Agreement a copy of which is set out in the Schedule to that Act that permits the lessee to use the land or waters covered by the leases solely or primarily for any of the following:

bulk cargo wharf; disposing of red mud and other effluents; general cargo wharf; industrial purposes; intake and discharge canal associated with plant cooling system; permanent construction camp accommodation; plant cooling system; sewage treatment plant; water reticulation plant.

4. MISCELLANEOUS LEASES

(1) A miscellaneous lease under Division 5 of Part III of the *Crown Lands Ordinance 1912* (No. 3 of 1912) of the Commonwealth, Division 5 of Part III of the *Crown Lands Ordinance 1912* (No. 8 of 1912) of the Commonwealth, Division 5 of Part III of the *Crown Lands Ordinance 1924* of the Commonwealth, Division 5 of Part III of the *Crown Lands Ordinance 1927* (Territory of North Australia) of the Commonwealth, Division 5 of Part III of the *Crown Lands*

Ordinance 1927 (Territory of Central Australia) of the Commonwealth or section 25DAA, 74D or 74E or Division 5 of Part III of the *Crown Lands Act 1931-1991* that permits the lessee to use the land or waters covered by the lease solely or primarily for any of the following:

abattoir; Aboriginal hostel; accommodation; agricultural and mixed farming; agricultural farm and garden; agriculture; airstrip; amphitheatre; amusement hall; animal husbandry centre; archery club; archery range; art gallery; aviary; bakery; banana plantation; basketball club; basketball court; board and lodging house; board headquarters; boatbuilding; boatyard; bowhunting club; bowhunting range; bowling club; bowling green; brewery; brick factory; brick yard; brickmaking; Buffalo temple site; building or repairing boats; butchering; cafe; cannery; cargo storage; cinema; club; club house; club room; convalescent home; convent; convention centre; cotton farming; court house; crematorium; cricket club; cricket ground; croquet club; croquet pitch; cultivation; curing and storage of buffalo hides; dairy; depot; drive-in theatre; dry cleaners; dwelling house; engineering workshop; equestrian club; equestrian field; factory; feed lot yard; ferry terminal; fishing depot; flower seed plantation; football club; football ground; fruit growing; funeral home; game fishing club; game safari base; garage; garden; gas storage facility; general store; golf club; golf course; goods shed; guest house; hangar; hay production; hay shed; hockey club; hockey pitch; holding ground for cattle slaughtering; holiday accommodation and facilities; homestead; horse stable; horse yard; hostel; hotel; hotel store; industrial purposes; irrigation farming; kennel; kiln; kindergarten; landscaping supply depot; laundry; library; lodge room; market garden; motocross circuit; motor racing circuit; netball club; netball court; office; old men’s home; on-shore tour boat base; orchard; orchid garden; pasture seed plantation; permanent construction camp accommodation petrol depot; pig yard; piggery; pistol club; pistol range; plant nursery; plantation; polocrosse club; polocrosse field; pony club; pony field; poultry farm; pound; power station; racecourse; radio communications building; radio communications tower; radio transmission tower; rail line; recreation centre for women; religious centre; repair shop; research centre; residence; rice growing; rifle club; rifle range; rural residence; sawmilling; seafarers' centre; service station; ship's chandlery; ship maintenance facility; shop; showroom; slaughter yard; slipway; sports club; sports complex; sports field, pitch, stadium or oval; sports ground; stockyard; storage of boats; store; studio; surgery; swimming club; swimming pool; tank sinking plant; tannery; tennis club; tennis court; theatre; tour base; tourist camel farm; tourist theme park or facility; transport depot; tree farming; tropical agriculture; vineyard; viticulture; warehouse; water treatment plant; welfare centre; wholesale outlet; wireless station; wood yard; wool scouring; workshop.

(2) A miscellaneous lease of garden land under section 73A of the *Crown Lands Ordinance 1924* of the Commonwealth, section 69 of the *Crown Lands Ordinance 1927* (Territory of North Australia) of the Commonwealth, section 69 of the *Crown Lands Ordinance 1927* (Territory of Central Australia) of the Commonwealth or section 70 of the *Crown Lands Act 1931-1991*.

5. OTHER LEASES

(1) A lease under section 30 or 81 of the *Northern Territory Land Act 1872* of South Australia.

(2) A lease under section 30 or 77 of the *Northern Territory Crown Lands Consolidation Act 1882* of South Australia.

(3) A lease under Part II of the *Northern Territory Crown Lands Act 1890* of South Australia.

(4) A lease under section 54 of the *Northern Territory Crown Lands Act 1890* of South Australia.

(5) A lease under section 78 of the *Northern Territory Crown Lands Act 1890* of South Australia that permits the lessee to use the land or waters covered by the lease solely or primarily for the purposes mentioned in subsection III, V, VIII, IX or X of that section or subsection II or III of section 81 of that Act.

(6) A lease under section 6A of the *Crown Lands Act 1931-1991*.

(7) A lease under paragraph 23(b) or (c) of the *Crown Lands Act 1931-1991*, or a Crown lease under paragraph 26(a) or (b) of the *Crown Lands Act*, that permits the lessee to use the land or waters covered by the lease solely or primarily for any of the following purposes:

aerial sports academy; agricultural and mixed farming; agricultural development and marketing; agricultural farm and garden; agriculture; aircraft landing strip; airstrip; ambulance headquarters; amphitheatre; animal husbandry centre; aquatic entertainment centre; archery club; archery complex; archery range; art gallery; ash disposal pond; aviary; aviation; aviation historical society; banana plantation; basketball club; basketball court; beacon site; bitumen plant; boat landing facility; boatyard; bombing range; bowhunting club; bowhunting range; bowling club; bowling green; brick factory; brick yard; building or repairing boats; bus depot; bus terminal; cannery; car park; car repair shop; car sales yard; car storage and parking; caravan park; cargo storage; cashew production; cement plant; cereal crops; child care centre; children's playground; church; church hall; cinema; club; club hall; club room; clubhouse; coach terminal; college; commercial building

development; commercial cropping; commercial property subdivision; community centre; community hall; community storage; compressor station; convention centre; council complex; council depot; council office; council works yard; court house; creche; crematorium; cricket club; cricket ground; crocodile research facility; cropping; crops; croquet club; croquet pitch; crushing plant; cultivation; cultural centre; Country Women's Association rest rooms; dairy; dam; day care centre; depot; development of tourist accommodation and facilities; disposal of dangerous goods; dog breeding; dressage-safe riding area; drive-in theatre; dry cleaners; dump; effluent disposal; equestrian centre; equestrian club; equestrian field; factory; feed hay agriculture; feed lot yard; fire station; fodder mill; football club; football ground; freight storage; fuel depot; funeral home; funeral parlour; game fishing club; game safari base; gaol; garbage dump; gas storage facility; Girl Guides cabin accommodation; Girl Guides hall; golf club; golf course; guest house; Guide hall; hall; hay production; hazardous industrial development; headquarters; health centre; health clinic; helicopter base; herb farm; Hindu temple; historic railway; hockey club; hockey pitch; holiday accommodation and facilities; homestead; horse and pony club; horse stable; horse yard; horticulture; hospital; hostel; hotel; indoor recreation; industrial development; industrial development on waterfront; industrial purposes; industrial subdivision; inn; Islamic centre; kennel; kiln; laboratory; land-based aquaculture; land-based commercial prawn farm; land-based fish culture; landscaping supply depot; library; lodge room; mango farm; manufacturing; marina; market gardening; medical centre; meeting room; motel; motor racing circuit; motor sports; motorcross circuit or track; municipal depot; museum; netball club; netball court; nursery; nursing home; office; on-shore fishing base; on-shore houseboat base; on-shore tour boat base; optical fibre regenerator site; orchard; orchid nursery; oval; permanent construction camp accommodation; pharmacy; picture theatre; pistol club; pistol range; polocrosse club; polocrosse field; pony club; pony field; port-related industry; post office; pound; private sports club; protection of heritage building; public car park; racecourse; racing club; radio broadcast aerial station; radio repeater; radio tower; radio transmission tower; railway; rail line; Red Cross centre; refuse tip; research centre; residential development; residential purposes; residential subdivision; resource centre; restaurant; restoration of police station; retail shop; retirement village; rice growing; rifle club; rifle range; roadhouse; rural residence; sailing club; satellite receiving station; school; scientific research centre; Scout hall; seafarers' centre; seed production; senior citizens' centre; service station; sheltered workshop; ship's chandlery; ship maintenance facility; shop; shopping complex; showground; showroom; silviculture; slipway; social club; solid waste disposal facility; sports club; sports complex; sports field, pitch, stadium or oval; sports

ground; sports training ground; stable; stock fodder production; stockyard; storage; storage of boats; studio; supermarket; surf life saving club; surgery; swimming club; swimming pool; table grape growing; tavern; temple; tennis club; tennis court; theatre; timber mill; tour base; tourist camel farm; tourist facilities; tourist information centre; tourist lodge; tourist theme park or facility; tower construction; transport depot; transport terminal; trucking yard; units for aged persons; university; vegetable production; vehicle sales yard; vehicle storage; warehouse; water retention basin; water treatment plant; wayside inn; weather station; wharf; wholesale outlet; women's refuge; workshop; yacht association; yacht club; youth centre; youth club; zoo.

(8) A lease under section 68A, 68B, 68C, 68D, 68E, 68F, 68G or 68H of the *Crown Lands Act 1931-1991*.

(9) A lease under section 112A of the *Crown Lands Act 1931-1991*.

(10) A lease under section 2 of the *Darwin Leases (Special Purposes) Ordinance 1946* of the Commonwealth or section 3 of the *Darwin Short Term Leases Ordinance 1946* of the Commonwealth.

(11) A lease under section 3 of the *Church Lands Leases Ordinance 1947* of the Commonwealth.

(12) A lease under section 4 or 29A of the *Darwin Town Area Leases Act 1947-1979.*

(13) A lease under section 16A, 16AA, 16B, 16C or 16D of the *Darwin Town Area Leases Act 1947-1979*.

(14) A lease under section 5 of the *Crown Lands Act*.

Schedule 3 Previous non-exclusive possession acts

section 3B

1. An act is a previous non-exclusive possession act if:

   (a) it is valid (including because of Division 2 or 2A of Part 2 of the Commonwealth Act);

   (b) it takes place on or before 23 December 1996; and

   (c) it consists of the grant of a non-exclusive agricultural lease or a non-exclusive pastoral lease.

2. An act is also a previous non-exclusive possession act if:

   (a) it takes place after 23 December 1996;

   (b) it would be a previous non-exclusive possession act under clause 1 if that clause were not limited in its application to acts taking place on or before 23 December 1996; and

   (c) it takes place:

      (i) in exercise of a legally enforceable right created by any act done on or before 23 December 1996; or

      (ii) in good faith in giving effect to, or otherwise because of, an offer, commitment, arrangement or undertaking made or given in good faith on or before 23 December 1996, and of which there is written evidence created at or about the time the offer, commitment, arrangement or undertaking was made.

3. An act is not a previous non-exclusive possession act if regulations under the Commonwealth Act provide that the act is not a previous non-exclusive possession act.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = *Gazette*
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

Validation of Titles and Actions Act 1994 (Act No. 2, 1994)

Assent date	10 March 1998
Commenced	10 March 1998

Validation of Titles and Actions Amendment Act 1998 (Act No. 55, 1998)

Assent date	28 August 1998
Commenced	1 October 1998 (*Gaz* S37, 1 October 1998)

Lands and Mining (Miscellaneous Amendments) Act 1998 (Act No. 93, 1998)

Assent date	23 December 1998
Commenced	1 October 1998 (s 2)

Statute Law Revision Act 1999 (Act No. 27, 1999)

Assent date	18 June 1999
Commenced	18 June 1999

3 LIST OF AMENDMENTS

lt	sub No. 55, 1998, s 4; No. 93, 1998, s 262
s 1	sub No. 55, 1998, s 5
ss 3A – 3C	ins No. 55, 1998, s 6
pt 2 hdg	sub No. 55, 1998, s 7
s 4A	ins No. 55, 1998, s 8
s 4B	ins No. 55, 1998, s 8
	rep No. 93, 1998, s 263
s 4C	ins No. 55, 1998, s 8
	rep No. 93, 1998, s 263
pt 3 hdg	sub No. 55, 1998, s 9
s 4D	ins No. 55, 1998, s 10
pt 3A hdg	ins No. 55, 1998, s 11
ss 9A – 9E	ins No. 55, 1998, s 11
s 9F	ins No. 55, 1998, s 11
	sub No. 93, 1998, s 264

pt 3B hdg	ins No. 55, 1998, s 11
s 9G	ins No. 55, 1998, s 11
	amd No. 93, 1998, s 265
ss 9H – 9J	ins No. 55, 1998, s 11
ss 9JA – 9JB	ins No. 93, 1998, s 266
pt 3C hdg	ins No. 55, 1998, s 11
s 9K	ins No. 55, 1998, s 11
	amd No. 93, 1998, s 267
ss 9L – 9N	ins No. 55, 1998, s 11
s 9NA	ins No. 93, 1998, s 268
s 11	amd No. 55, 1998, s 12
s 13	amd No. 93, 1998, s 269
sch 1	ins No. 55, 1998, s 13
	amd No. 27, 1999, s 15
sch 2 – 3	ins No. 55, 1998, s 13