NORTHERN TERRITORY OF AUSTRALIA

VEXATIOUS PROCEEDINGS ACT

As in force at 24 April 2007

Table of provisions

Part 1 Preliminary matters

1 Short title 1
2 Definitions 1
3 Proceedings 2
4 Instituting proceedings 2
5 Acting in concert 3
6 Inherent jurisdiction and powers not affected 3

Part 2 Vexatious proceedings orders

7 Making vexatious proceedings orders 3
8 Order may be varied or set aside 4
9 Notification and register of orders 4

Part 3 Consequences of vexatious proceedings orders

10 Proceedings in contravention of vexatious proceedings order 5
11 Application for leave to institute proceedings 5
12 Dismissing application for leave 6
13 Granting application for leave 6

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Act as in force at 24 April 2007. Any amendments that commence after that date are not included.

VEXATIOUS PROCEEDINGS ACT

An Act to restrict vexatious proceedings

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Vexatious Proceedings Act*.

2 Definitions

In this Act:

Court means the Supreme Court.

court or ***tribunal*** means a court or tribunal of the Commonwealth or of a State or Territory.

institute, see section 4.

order includes declaration and injunction.

proceedings, see section 3.

vexatious proceedings includes:

(a) a proceeding that is an abuse of the process of a court or tribunal; and

(b) a proceeding instituted to harass or annoy, to cause delay or detriment, or for another wrongful purpose; and

(c) a proceeding instituted or pursued without reasonable ground; and

(d) a proceeding conducted in a way so as to harass or annoy, cause delay or detriment, or achieve another wrongful purpose.

vexatious proceedings order means an order made under section 7(3).

3 Proceedings

Proceedings include:

(a) any cause, matter, action, suit, proceeding, trial, complaint or inquiry of any kind within the jurisdiction of any court or tribunal; and

(b) any proceeding, including any interlocutory proceeding, taken in connection with or incidental to a proceeding pending before a court or tribunal; and

(c) any calling into question of a decision, whether or not a final decision, of a court or tribunal, and whether by appeal, challenge, review or in another way.

4 Instituting proceedings

(1) Institute, in relation to proceedings, includes:

(a) for civil proceedings – the taking of a step or the making of an application that may be necessary before the proceedings can be started against a party; and

(b) for proceedings before a tribunal – the taking of a step or the making of an application that may be necessary before the proceedings can be started before the tribunal; and

(c) for criminal proceedings – the making of a complaint, the laying of an information or the obtaining of a warrant for the arrest of an alleged offender; and

(d) for civil or criminal proceedings or proceedings before a tribunal – the taking of a step or the making of an application that may be necessary to start an appeal in relation to the proceedings or to a decision made in the course of the proceedings.

(2) A reference in this Act to instituting proceedings includes a reference to instituting:

(a) proceedings generally; or

(b) proceedings in relation to a particular matter; or

(c) proceedings against a particular person; or

(d) proceedings in a particular court or tribunal.

5 Acting in concert

A reference in this Act to a person acting in concert with another person in instituting or conducting proceedings does not include a reference to a person who is so acting as a legal practitioner or representative for the proceedings.

6 Inherent jurisdiction and powers not affected

To avoid doubt, this Act does not affect any inherent jurisdiction or other powers of a court or tribunal to restrict vexatious proceedings.

Part 2 Vexatious proceedings orders

7 Making vexatious proceedings orders

(1) This section applies if the Court is satisfied a person:

(a) has frequently instituted or conducted vexatious proceedings in Australia; or

(b) acting in concert with someone who is subject to a vexatious proceedings order or who is covered by paragraph (a), has instituted or conducted vexatious proceedings in Australia.

(2) For subsection (1), the Court may have regard to:

(a) proceedings in any court or tribunal, including proceedings instituted before the commencement of this section; and

(b) orders made by any court or tribunal, including orders made before the commencement of this section.

(3) The Court may make:

(a) either or both of the following orders:

(i) an order staying all or part of any proceedings in the Territory already instituted by the person;

(ii) an order prohibiting the person from instituting proceedings in the Territory; and

(b) another order the Court considers appropriate.

(4) If the Court makes an order prohibiting the person from instituting proceedings in the Territory:

(a) the person must not institute proceedings in the Territory without the leave of the Court under section 13; and

(b) no one else must, acting in concert with the person, institute proceedings in the Territory without the leave of the Court under section 13.

(5) The Court must not make a vexatious proceedings order without hearing the person or giving the person an opportunity of being heard.

(6) The Court may make a vexatious proceedings order on its own initiative or on the application of any of the following:

(a) the Attorney-General;

(b) the Solicitor-General;

(c) a Registrar of the Court;

(d) anyone against whom, in the Court's opinion, the person has instituted or conducted vexatious proceedings;

(e) anyone who, in the Court's opinion, has a sufficient interest in the matter.

(7) An application may be made by a person mentioned in subsection (6)(d) or (e) only with the leave of the Court.

8 Order may be varied or set aside

(1) The Court may, by order, vary or set aside a vexatious proceedings order on the application of:

(a) the person subject to the order; or

(b) a person mentioned in section 7(6).

(2) An application may be made by a person mentioned in section 7(6)(d) or (e) only with the leave of the Court.

9 Notification and register of orders

(1) This section applies to:

(a) a vexatious proceedings order; or

(b) an order varying or setting aside a vexatious proceedings order.

(2) A Registrar of the Court must arrange for a copy of the order to be entered in a publicly available register kept for this Act in the registry of the Court at Darwin within 7 days after the order is made.

(3) If a Registrar of the Court becomes aware that a person who is subject to the order has died, the Registrar must remove the copy of the order from the register.

Part 3 Consequences of vexatious proceedings orders

10 Proceedings in contravention of vexatious proceedings order

(1) If proceedings are instituted in contravention of section 7(4), the proceedings are permanently stayed.

(2) Without limiting subsection (1), the Court, or the court or tribunal in which the proceedings are instituted, may make:

(a) an order declaring the proceedings are proceedings to which subsection (1) applies; and

(b) another order for the proceedings it considers appropriate, including an order for costs.

(3) The Court, or the court or tribunal, may make an order under subsection (2) on its own initiative or on the application of a person mentioned in section 7(6).

(4) An application may be made by a person mentioned in section 7(6)(d) or (e) only with the leave of the Court.

11 Application for leave to institute proceedings

(1) This section applies to a person (the ***applicant***) who is:

(a) subject to an order made under section 7(3)(a)(ii); or

(b) acting in concert with a person who is subject to an order made under section 7(3)(a)(ii).

(2) The applicant may apply to the Court for leave to institute proceedings that are subject to the order.

(3) The applicant must file an affidavit with the application that:

(a) lists all the occasions on which the applicant has applied for leave under this section; and

(b) lists all other proceedings the applicant has instituted in Australia, including proceedings instituted before the commencement of this section; and

(c) discloses all relevant facts about the application, whether supporting or adverse to the application, that are known to the applicant.

(4) The applicant must not serve a copy of the application or affidavit on a person unless:

(a) an order is made under section 13(1)(a); and

(b) the copy is served under the order.

(5) The Court may dispose of the application by:

(a) dismissing the application under section 12; or

(b) granting the application under section 13.

(6) The applicant may not appeal from a decision disposing of the application.

12 Dismissing application for leave

(1) The Court must dismiss the application if it considers:

(a) the affidavit does not substantially comply with section 11(3); or

(b) the proceedings are vexatious proceedings.

(2) The application may be dismissed even if the applicant does not appear at the hearing of the application.

13 Granting application for leave

(1) Before the Court grants the application, it must:

(a) order that the applicant serve each of the relevant persons with a copy of the application and affidavit and a notice that the person is entitled to be heard on the application; and

(b) give the applicant and each of the relevant persons an opportunity to be heard at the hearing of the application.

(2) At the hearing of the application, the Court may receive as evidence any record of evidence given, or affidavit filed, in any proceedings in which the applicant is, or at any time was, involved either as a party or as a person acting in concert with a party.

(3) The Court may grant leave only if it is satisfied the proceedings are not vexatious proceedings.

(4) The Court may grant leave subject to the conditions the Court considers appropriate.

(5) In this section:

relevant person means:

(a) the person against whom the applicant proposes to institute the proceedings; or

(b) the Attorney-General; or

(c) the Solicitor-General; or

(d) any person mentioned in section 7(6)(d) or (e) who:

(i) made an application with the leave of the court under section 8 in relation to the applicant; and

(ii) the Court considers should be served.

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

Vexatious Proceedings Act 2006 (Act No. 29, 2006)

Assent date	19 September 2006
Commenced	19 September 2006

Justice Legislation Amendment Act 2007 (Act No. 5, 2007)

Assent date	24 April 2007
Commenced	s 37 (except amd of Criminal Code and *Legal Profession Act 2006*): 1 May 2007 (s 2(1), s 2 *Victims of Crime Assistance Act 2006* (Act No. 15, 2006) and *Gaz* G17, 26 April 2007, p 7); rem: 24 April 2007

3 LIST OF AMENDMENTS

s 9 amd No. 5, 2007, s 23