



BRITISH INDIAN OCEAN TERRITORY

**REVISED ORDINANCES OF THE  
BRITISH INDIAN OCEAN TERRITORY**

**THE INTERPRETATION AND GENERAL  
PROVISIONS ORDINANCE 1993**

**CHAPTER A.7**

**Revised Edition**

Showing the law as at 1 September 2020

Published by Authority

# **REVISED ORDINANCES OF THE BRITISH INDIAN OCEAN TERRITORY**

## **THE INTERPRETATION AND GENERAL PROVISIONS ORDINANCE 1993**

### **CHAPTER A.7**

#### **Revised Edition**

Showing the law as at 1 September 2020

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Ordinance 2015 and contains a consolidation of the following laws:

The Interpretation and General Provisions Ordinance 1993 - Ordinance No.3 of 1993

As amended by:

Ordinance No.3 of 2008  
Ordinance No.5 of 2014  
Ordinance No.6 of 2014  
Ordinance No.4 of 2016

The following revised orders and notices have been issued in pursuance of this Ordinance:

The Appointment of Immigration Officers Delegation Notice 1995	RRBIOT, c.I.1
The Appointment of Police Officers Delegation Notice 1995	RRBIOT, c.I.2
The Appointment of Superintendent of Prisons Delegation Notice 1996	RRBIOT, c.I.3
The Delegation of Powers (Appointment of Customs Officers) Order 2016	RRBIOT, c.I.8

© British Indian Ocean Territory Administration

All rights reserved. No part of this publication may be reproduced in any form or by any means (including photocopying or copying in electronic format) without the written permission of the Commissioner of the British Indian Ocean Territory, or otherwise as permitted under the terms of a licence from the British Indian Ocean Territory Administration.

**REVISED ORDINANCES OF THE BRITISH INDIAN OCEAN  
TERRITORY**

**THE INTERPRETATION AND GENERAL  
PROVISIONS ORDINANCE 1993**

**CHAPTER A.7**

ARRANGEMENT OF SECTIONS

Section		Page
	PART I – PRELIMINARY	
1.	Citation.	5
2.	<i>Deleted on revision.</i>	5
3.	Application.	5
	PART II – GENERAL PROVISIONS AS TO ENACTMENT AND OPERATION OF LAWS	
4.	Words of enactment.	6
5.	Judicial Notice.	6
6.	Publication and commencement of laws.	6
7.	The Crown.	7
	PART III – DEFINITIONS	
8.	Definitions.	7
	PART IV – INTERPRETATION AND CONSTRUCTION	
9.	Gender and number.	11
10.	References to service.	11
11.	References to distance.	12
12.	References to time of day.	12
13.	Computation of time.	12
14.	Power to extend time.	12
15.	Warrants, etc. operative at all times.	12
16.	References to public officers.	13
17.	References to the Sovereign.	13
18.	Construction of subsidiary legislation.	13
19.	References in enactments.	13

	PART V – REPEALING AND REVOKING ENACTMENTS	
20.	Repeal of repeal.	14
21.	General savings.	14
22.	Repeal and re-enactment.	14
	PART VI – STATUTORY POWERS AND DUTIES	
23.	Continuity of powers and duties.	15
24.	Anticipatory exercise of powers.	15
25.	Implied power to amend, etc.	16
26.	Implied power in relation to appointments, etc.	16
27.	Regulating or licensing powers, etc.	16
28.	Delegation of Commissioner’s powers.	17
29.	Signification of order, etc., by Commissioner.	17
	PART VII – BOARDS, TRIBUNALS AND SIMILAR BODIES	
30.	Power to appoint chairman, etc.	18
31.	Power to appoint public officers to boards, etc.	18
32.	Appointment of alternates and temporary members.	18
33.	Acts of boards, etc., not affected by vacancies, etc.	19
	PART VIII – FEES	
34.	Power to impose or remit fees and charges.	19
	PART IX – FORMS	
35.	Deviation from prescribed forms.	20
	PART X – EVIDENCE	
36.	Publication in <i>Gazette</i> to be evidence of making.	20
37.	Proof of authorisation of proceedings.	20
	PART XI – PROVISIONS AS TO PENALTIES	
38.	Provisions as to penalties.	21

**REVISED ORDINANCES OF THE BRITISH INDIAN OCEAN  
TERRITORY**

**THE INTERPRETATION AND GENERAL  
PROVISIONS ORDINANCE 1993**

**CHAPTER A.7**

*An Ordinance to make new provision relating to the interpretation, publication and operation of Ordinances and other instruments and the exercise and scope of statutory powers and duties and for matters connected with or incidental to those matters.*

**PART I**

**PRELIMINARY**

**Citation.**

1. This Ordinance may be cited as the Interpretation and General Provisions Ordinance 1993, ROBIOT c.A.7.

*Deleted on revision.*

2. *Deleted on revision.*

**Application.**

3. (1) Unless it is otherwise provided in this or some other Ordinance or in the subsidiary legislation concerned or unless the context otherwise requires, this Ordinance applies for the interpretation of, and otherwise in relation to, all Ordinances (including this Ordinance) and all subsidiary legislation, no matter when enacted or made or coming into force.

(2) This Ordinance does not apply for the interpretation of, or otherwise in relation to, any imperial law whether or not having effect in the Territory by virtue of any Ordinance or by virtue of any subsidiary legislation.

(3) This Ordinance binds the Crown.

**PART II**  
**GENERAL PROVISIONS AS TO ENACTMENT AND**  
**OPERATION OF LAWS**

**Words of enactment.**

4. Every section of an Ordinance and every corresponding provision of subsidiary legislation takes effect as a substantive enactment without introductory words.

**Judicial Notice.**

5. (1) Every Ordinance is a public Ordinance to be judicially noticed as such, unless the contrary is expressly provided by the Ordinance.

(2) Subsection (1) applies, *mutatis mutandis*, to every instrument constituting subsidiary legislation.

**Publication and commencement of laws.**

6. (1) Ordinances are published, and their provisions come into force, in accordance with section 10(3) and (4) of the British Indian Ocean Territory (Constitution) Order 2004.

(2) Where any provision of an Ordinance is expressed to come into force on a particular day, it shall come into force at the beginning of that day.

(3) A provision in an Ordinance regulating the coming into force of an Ordinance or of any part of it shall have effect whether or not the part of the Ordinance containing that provision has come into force.

(4) Every instrument constituting subsidiary legislation shall be published in the *Gazette* and shall come into force on the date when it is so published unless it is provided, either in the instrument or in some other law, that that instrument or any of its provisions shall come into force on some other date (whether earlier or later than the date of such publication) in which case the instrument or those provisions shall come into force on that other date:

Provided that no provision of subsidiary legislation may come into force earlier than the commencement of the provision of the Ordinance under or by virtue of which it was made.

(5) Despite the earlier commencement of any provision of an Ordinance or of subsidiary legislation, no person shall be guilty of an offence or be liable to any penalty thereunder by reason of anything done or omitted before the publication of the Ordinance or the subsidiary legislation in the *Gazette*.

(6) Subsections (2) and (3) apply, *mutatis mutandis*, to every instrument constituting subsidiary legislation.

### **The Crown.**

7. No Ordinance and no subsidiary legislation shall be binding on the Crown unless it so provides in express terms, and no subsidiary legislation shall so provide unless an Ordinance expressly authorises it to do so.

## **PART III**

### **DEFINITIONS**

#### **Definitions.**

8. (1) Unless the contrary intention appears, the following words and expressions, when used in an Ordinance or subsidiary legislation, shall have the meanings respectively assigned to them in this section, that is to say –

**Act** means an Act of Parliament of the United Kingdom;

**act** includes an omission and a series of acts or omissions;

**the Administrator** means the person for the time being appointed by the Commissioner to be the Administrator for the Territory;

**advocate** means a legal practitioner for the time being licensed under the Courts Ordinance 1983 to appear as counsel in any court of the Territory or to practice as a solicitor in the Territory;

**alien, British citizen, British subject, Commonwealth citizen** and other terms denoting the status of any person in respect of nationality or citizenship have the meanings which those terms respectively have under the British Nationality Acts 1981 and 1983;

**amend** includes repeal, revoke, rescind, cancel, replace, add to or vary and the doing of any two or more of such things simultaneously or in the same enactment or instrument;

**British possession** means any part of Her Majesty's dominions outside the United Kingdom, and where parts of such dominions are under both a central legislature and a local legislature, all parts under the central legislature are deemed, for the purposes of this definition, to be one British possession;

**colonial legislature and legislature**, in relation to a British possession, mean the authority, other than the Parliament of the United Kingdom or Her Majesty in Council, competent to make laws for the possession;

**colony** means any part of Her Majesty's dominions outside the United Kingdom, the Channel Islands and the Isle of Man except –

(a) countries having fully responsible status within the Commonwealth; and

(b) territories for whose external relations a country other than the United Kingdom is responsible,

and where parts of such dominions are under both a central legislature and a local legislature, all parts under the central legislature are deemed, for the purposes of this definition, to be one colony;

**commencement**, in relation to an Ordinance or to subsidiary legislation or to any enactment, means the time when it comes into force;

**the Commissioner** means the person holding the office of Commissioner for the Territory under section 4(1) of the British Indian Ocean Territory (Constitution) Order 2004 and includes any person for the time being performing the functions of that office under section 4(2) of that Order and any person exercising an authority conferred on him by a delegation of the Commissioner's powers or duties made under section 28 of this Ordinance;

**the Commissioner's Representative** means the person for the time being appointed by the Commissioner to act in that capacity in the Territory;

**the Commonwealth** means the United Kingdom, all British possessions and all other countries mentioned in Schedule 3 to the British Nationality Act 1981;

**consular officer** has the meaning assigned by Article 1 of the Vienna Convention set out in Schedule 1 of the Consular Relations Act 1968;

**contravention**, in relation to any requirement or condition, includes a failure to comply with that requirement or condition;

**the Coroner** means the person for the time being appointed as Coroner under the Coroners Ordinance 1985 and includes a Deputy Coroner acting as Coroner under that Ordinance;

**the Court of Appeal** means the court established by the British Indian Ocean Territory (Court of Appeal) Order 1976;

**document** includes any matter written, expressed or described upon any substance by means of letters, figures or marks which are intended to be used, or may be used, for the purpose of recording that matter;

**financial year** means the twelve months ending with 31st March;

**the Gazette** means the *Official Gazette* for the Territory and includes any supplement thereto and any *Special Gazette* or any *Gazette Extraordinary*, and



a reference to the date on which any matter is published in the Gazette shall be taken to be a reference to the date which is shown in the issue of the *Gazette* in which it is so published as the date of that issue unless it is proved that that issue was published on some other date;

**the General Counsel** means the person for the time being appointed by the Commissioner to hold, to act in, the office of the General Counsel to the Government of the Territory;

**the Governor**, in relation to any British possession, means the officer for the time being administering the government of that possession;

**imperial law** means –

(a) any Act;

(b) any statutory instrument (as defined in the Statutory Instruments Act 1946); or

(c) any prerogative instrument having legislative force,

and **imperial enactment** and **United Kingdom enactment** shall be similarly construed;

**land** includes buildings and other structures, land covered with water and any estate, interest, easement, servitude or right in or over land;

**Law Officer** means the person holding the office of either General Counsel or Principal Legal Adviser;

**Magistrate** means a person for the time being appointed to be a Magistrate under the Courts Ordinance 1983 and includes a Senior Magistrate;

**the Magistrate's Court** means the Magistrate's Court established by the Courts Ordinance 1983;

**month** means calendar month;

**oath** and **affidavit** include affirmation and declaration, and **swear** includes affirm and declare;

**Police Officer** means a person appointed to be a Police Officer under section 52 of the Courts Ordinance 1983;

**person** includes a body of persons corporate or unincorporate;

**prescribed** means prescribed by, or by an instrument made under the authority of, the Ordinance or the subsidiary legislation in which the word occurs;

**the Principal Legal Adviser** means the person for the time being appointed by the Commissioner to hold, or to act in, the office of the Principal Legal Adviser to the Government of the Territory;

**Proclamation** means a Proclamation made by the Commissioner;

**public office** means an office in the public service;

**public officer** means a person holding or acting in a public office;

**the public service** means the service of the Crown in a civil capacity in respect of the government of the Territory, and (for the avoidance of doubt) an office may be an office in the service of the Crown in a civil capacity where the person for the time being holding or acting in it is a member of Her Majesty's armed forces;

**regulations** includes rules and by-laws and also rules of court;

**repeal** includes rescind, revoke, cancel or replace;

**rules of court**, in relation to any court, means rules made by the authority having power to make rules or orders regulating the practice and procedure of that court, and the power of the authority to make rules of court (as so defined) includes power to make such rules for the purposes of any law which directs or authorises anything to be done by rules of court;

**Secretary of State** means one of Her Majesty's Principal Secretaries of State;

**Senior Magistrate** means a person for the time being appointed to be a Senior Magistrate under the Courts Ordinance 1983;

**standard time** means 5 hours earlier than Greenwich mean time or such other time as the Commissioner may, by notice which shall be published in the *Gazette*, declare to be standard time;

**statutory declaration** –

(a) in relation to declarations made in the Territory, means a declaration made under the Statutory Declarations Act 1835;

(b) in relation to declarations made in any place in any part of the Commonwealth except the Territory, means a declaration made before a justice of the peace, notary public or other person having authority under any law for the time being in force in that place to take or receive that declaration; and

(c) in relation to declarations made in any other place, means a declaration made before a British consular officer or other person on whom authority is for the time being conferred by or under any Act to take or receive such a declaration;

**subsidiary legislation** means any instrument which has legislative effect (including any proclamation, rule, regulation, order, notice, rule of court, scheme, warrant or by-law having such effect) made under or by virtue of any Ordinance;

**the Supreme Court** means the Supreme Court established by the Courts Ordinance 1983;

**the Territory** means the British Indian Ocean Territory as defined in the British Indian Ocean Territory (Constitution) Order 2004; and

**writing** includes typing, printing, lithography, photography and other modes of representing or reproducing words in a visible form.

(2) Where any word or expression is defined in any Ordinance or in any subsidiary legislation, the definition shall extend to its grammatical variations and to any cognate word or expression.

## PART IV

### INTERPRETATION AND CONSTRUCTION

#### **Gender and number.**

9. In any Ordinance or subsidiary legislation, unless the contrary intention appears –

- (a) words importing the masculine gender include the feminine;
- (b) words importing the feminine gender include the masculine;
- (c) words in the singular include the plural and words in the plural include the singular.

#### **References to service.**

10. Where an Ordinance or subsidiary legislation authorises or requires any document to be served on a person (whether the expression used is **serve** or **give** or **send** or **deliver** or any other expression) then, unless the contrary intention appears, it may be served by being given to him in person or, if he is within the Territory, by being left for him with some person at his last-known or usual place of abode in the Territory or, if he is not within the Territory and the service is authorised to be effected on him outside the Territory, by being sent to him by post at his official address or his last-known or usual place of abode outside the Territory, and where service by post is authorised (and unless the contrary intention appears) the service is deemed to be effected by properly addressing, prepaying and posting a letter containing the document and, unless the contrary

is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

**References to distance.**

11. In the measurement of any distance for the purposes of an Ordinance or subsidiary legislation, that distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

**References to time of day.**

12. Whenever an expression of time occurs in any Ordinance or in subsidiary legislation, the time referred to shall, unless the contrary intention appears, be held to be standard time.

**Computation of time.**

13. In computing time for the purposes of any Ordinance or subsidiary legislation –

(a) a period of days (or weeks, months or years) from the happening of any event or the doing of any act shall be deemed to be exclusive of the day on which the event happened or the act was done;

(b) if the last day of the period is a public holiday, the period shall include the next following day that is not a public holiday;

(c) where any act or proceeding is directed or allowed to be done or taken on a certain day, then, if that day is a public holiday, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next following day that is not a public holiday; and

(d) where any act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, no public holiday shall be reckoned in the computation of that time.

**Power to extend time.**

14. Where, by or under any Ordinance or subsidiary legislation, a time is prescribed for doing any act or taking any proceeding and a power is conferred on any person or authority to extend that time, the power may be exercised although the application for an extension is not made until after the expiration of the prescribed time.

**Warrants, etc. operative at all times.**

15. Any warrant, summons, notice or other process issued, or to be issued, under any Ordinance or subsidiary legislation may be issued, served or executed,

and any arrest, search or seizure to be carried out under any Ordinance or subsidiary legislation may be carried out, at any hour of the day or night on any day, whether or not a public holiday.

**References to public officers.**

16. Unless the contrary intention appears, a reference in any Ordinance or subsidiary legislation to a public officer by the designation of his office is a reference to the person for the time being holding that office or to any person for the time being lawfully discharging the functions of that office.

**References to the Sovereign.**

17. In any Ordinance or subsidiary legislation a reference to the Sovereign reigning at the time when the Ordinance is enacted or the legislation is made is to be construed, unless the contrary intention appears, as a reference to the Sovereign for the time being.

**Construction of subsidiary legislation.**

18. Where an Ordinance confers power to make subsidiary legislation, expressions used in that legislation have, unless the contrary intention appears, the meaning which they bear in the Ordinance.

**References in enactments.**

19. (1) Where an Ordinance or subsidiary legislation describes or cites a portion of an enactment or of an imperial law by referring to words, sections or other parts from or to which (or from and to which) the portion extends, the portion described or cited includes the words, sections or other parts referred to unless the contrary intention appears.

(2) Where an Ordinance or subsidiary legislation refers to an enactment or an imperial law, the reference, unless the contrary intention appears, is a reference to that enactment or imperial law as amended, and includes a reference thereto as extended or applied, by or under any other enactment or imperial law, including any other provision of that Ordinance or subsidiary legislation.

(3) Where, in any Ordinance or subsidiary legislation, a reference is made, by number or letter only, to a section, Part, Chapter, Schedule or other division of an instrument having legislative effect, the reference, unless the contrary intention appears, is a reference to the division of the Ordinance or subsidiary legislation in which it is made that bears that number or letter.

(4) Where, in any section, Part, Chapter, Schedule or other division of an Ordinance or subsidiary legislation, a reference is made, by number or letter only, to a subdivision of any such division, the reference, unless the contrary intention appears, is a reference to the subdivision of the division of the Ordinance or subsidiary legislation in which it is made that bears that number or letter.

## PART V

### REPEALING AND REVOKING ENACTMENTS

#### **Repeal of repeal.**

20. Where an Ordinance or subsidiary legislation repeals or revokes a repealing or revoking enactment, the repeal or revocation does not revive any enactment previously repealed or revoked unless words are added reviving it.

#### **General savings.**

21. (1) Without prejudice to section 20, where an Ordinance or subsidiary legislation repeals or revokes an enactment, the repeal or revocation does not, unless the contrary intention appears –

(a) revive anything not in force or existing at the time at which the repeal or revocation takes effect;

(b) affect the previous operation of the enactment repealed or revoked or anything duly done or suffered under that enactment;

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under that enactment;

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against that enactment; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Ordinance or revoking subsidiary legislation had not been enacted or made.

(2) This section applies to the expiry of a temporary enactment as if it were repealed by an Ordinance or, as the case may be, revoked by subsidiary legislation.

#### **Repeal and re-enactment.**

22. (1) Where an Ordinance or subsidiary legislation repeals or revokes a previous enactment and substitutes provisions for the enactment repealed or revoked, that enactment remains in force until the substituted provisions come into force.

(2) Where an Ordinance or subsidiary legislation repeals and re-enacts or, as the case may be, revokes and re-makes, with or without modification, a previous enactment, then, unless the contrary intention appears –

(a) any reference in any other enactment to the enactment so repealed or revoked shall be construed as a reference to the provision re-enacted or re-made; and

(b) in so far as any subsidiary legislation made or other thing done under the enactment so repealed or revoked, or having effect as if so made or done, could be made or done under the provision re-enacted or re-made, it shall have effect as if made or done under that provision.

## **PART VI**

### **STATUTORY POWERS AND DUTIES**

#### **Continuity of powers and duties.**

**23.** (1) Where an Ordinance or subsidiary legislation confers a power or imposes a duty, it is implied, unless the contrary intention appears, that the power may be exercised, or the duty is to be performed, from time to time as occasion requires.

(2) Where an Ordinance or subsidiary legislation confers a power or imposes a duty on the holder of an office as such, it is implied, unless the contrary intention appears, that the power may be exercised, or the duty is to be performed, by the person for the time holding the office or by the person for the time being lawfully discharging the functions of the office.

#### **Anticipatory exercise of powers.**

**24.** (1) Where an Ordinance or subsidiary legislation which (or any provision of which) does not come into force immediately on its being enacted or made confers a power to make subordinate legislation or to make appointments, give notices, prescribe forms or do any other thing for the purposes of the Ordinance or subsidiary legislation, then, unless the contrary intention appears, the power may be exercised, and any instrument made thereunder may be made so as to come into force, at any time after the Ordinance is enacted or the subsidiary legislation is made so far as may be necessary or expedient for the purpose of –

(a) bringing the Ordinance or the subsidiary legislation, or any provision thereof, into force; or

(b) giving full effect to the Ordinance or subsidiary legislation, or any such provision, at or after the time when it comes into force.

(2) In subsection (1) **subordinate legislation**, in relation to power conferred by an Ordinance, means subsidiary legislation and, in relation to a power conferred by subsidiary legislation, means any instrument having legislative effect made in exercise of that power.

#### **Implied power to amend, etc.**

25. Where any Ordinance confers a power to make subsidiary legislation and where any Ordinance or subsidiary legislation confers a power to make or issue any other instrument (whether or not having legislative effect) there is also implied, unless the contrary intention appears, the power, exercisable in the same manner and subject to the same conditions or limitations, to amend, suspend, revoke, or re-make or re-issue any instrument made or issued under the power.

#### **Implied power in relation to appointments, etc.**

26. Where any Ordinance or subsidiary legislation confers a power or imposes a duty upon any person to make any appointment or to constitute or establish any board, tribunal, commission, committee or similar body, it is implied, unless the contrary intention appears, that that person also has the power, exercisable in the same manner and subject to the same conditions or limitations –

(a) to remove, suspend, dismiss or revoke the appointment of, and to re-appoint or re-instate, any person so appointed;

(b) to specify the period for which any person so appointed shall hold his appointment;

(c) to appoint another person to act in place of any person so appointed during any period during which the latter person is himself unable for any reason to discharge the functions vested in him by virtue of his appointment;

(d) to revoke the appointment, constitution or establishment of, or to dissolve, any board, tribunal, commission, committee or similar body so appointed, constituted or established and to re-appoint, re-constitute or re-establish it.

#### **Regulating or licensing powers, etc.**

27. (1) Where any Ordinance or subsidiary legislation confers a power to provide for, prohibit, control or regulate any matter, that power may be exercised by way of licensing things to be done for the purposes of that matter and includes the power to prohibit acts whereby the prohibition, control or regulation of that matter might be evaded.

(2) Where any Ordinance or subsidiary legislation confers a power to grant a licence, Crown lease, permit, authority, approval or exemption, that power includes the power to impose reasonable conditions subject to which such



licence, Crown lease, permit, authority, approval or exemption may be granted or may be enjoyed and to waive or suspend any condition so imposed.

(3) Where any Ordinance or subsidiary legislation confers a power to approve any person or thing, there is also implied the power, exercisable in the same manner and subject to the same limitations or conditions, to withdraw such approval.

(4) Where any Ordinance or subsidiary legislation confers a power to give directions, those directions may take the form of prohibitions.

#### **Delegation of Commissioner's powers.**

**28.** Where any Ordinance or subsidiary legislation confers a power on the Commissioner or imposes a duty on him, then, unless the contrary intention appears, the Commissioner may, by instrument under his hand, delegate to any person either within or outside the Territory (being a person designated in the instrument by name or by reference to the office which he holds or whose functions he is for the time being lawfully performing) the authority, on the Commissioner's behalf and for so long as the delegation remains in force, to exercise the power or discharge the duty as occasion requires, and any such exercise or discharge made in pursuance of that authority shall be as effective as if made by the Commissioner himself:

Provided that no such delegation shall –

- (a) preclude the Commissioner from himself exercising the power or discharging the duty whenever he sees fit; or
- (b) authorise the making of subsidiary legislation.

#### **Signification of order, etc., by Commissioner.**

**29.** Where any Ordinance or subsidiary legislation confers on the Commissioner the power –

- (a) to make any order or give any direction;
- (b) to authorise any thing to be done or omitted;
- (c) to impose, or to grant exemption from or to remit, any fee, charge or penalty; or
- (d) to make any appointment,

the exercise of that power (or of any power included or implied in that power) by the Commissioner shall be sufficiently signified if signified under the hand of the Administrator or the Commissioner's Representative.

## **PART VII**

### **BOARDS, TRIBUNALS AND SIMILAR BODIES**

#### **Power to appoint chairman, etc.**

**30.** Where any Ordinance or subsidiary legislation confers a power to appoint persons to be members of any board, tribunal, commission, committee or similar body, there is implied, unless the contrary intention appears, the power, exercisable in the same manner and subject to the same conditions or limitations, to designate, from among the persons who have been so appointed as members, persons to act as chairman, deputy chairman or vice-chairman of that body and also to designate, whether or not from among persons who have been so appointed as members, a person to act as secretary to that body.

#### **Power to appoint public officers to boards, etc.**

**31.** Where any Ordinance or subsidiary legislation confers a power to appoint persons to be members of any board, tribunal, commission, committee or similar body, that power includes, unless the contrary intention appears, the power to appoint any public officer, by the designation of his office, to be such a member, and where such an appointment is made, the person for the time being holding or acting in the office so designated shall accordingly be a member of that body so long as the appointment has effect.

#### **Appointment of alternates and temporary members.**

**32.** Where any Ordinance or subsidiary legislation confers a power to appoint persons to be members of any board, tribunal, commission, committee or similar body, that power includes, unless the contrary intention appears, the power to appoint –

(a) a duly qualified person to be an alternate member of that body in the place of a substantive member who is temporarily unable to attend its meetings; and

(b) a duly qualified person to be a temporary member in the place of a substantive member who is precluded by illness, absence from the Territory or any other cause from exercising his functions as such,

and any such alternate member, when attending a meeting of the body in the place of a substantive member, and any such temporary member, when so acting in the place of a substantive member, shall be deemed for all purposes to be a member of that body.

**Acts of boards, etc., not affected by vacancies, etc.**

**33.** The validity of anything done, or purported to be done, by any board, tribunal, commission, committee or similar body established by or under any Ordinance or subsidiary legislation shall not, unless the contrary intention appears, be affected by –

(a) any vacancy in the membership of that body at the time when that thing was done or purported to be done; or

(b) any defect, discovered after that thing was done or purported to be done, in the appointment or qualification of a person purporting to be a member of that body.

**PART VIII**

**FEES**

**Power to impose or remit fees and charges.**

**34.** (1) Where any Ordinance or subsidiary legislation confers on the Commissioner the power to prescribe fees or other charges, the instrument prescribing such fees or charges may provide for any or all of the following matters –

(a) the imposition, either generally or on specified conditions or in specified circumstances, of –

(i) specific fees or charges;

(ii) maximum fees or charges;

(iii) minimum fees or charges;

(iv) no fee or charge; and

(b) exemption from liability to pay any such fee or charge or the reduction, waiver or refund in whole or in part of any such fee or charge.

(2) Where provision is made for exemption from the liability to pay any fee or charge or for the reduction, waiver or refund of any fee or charge, that provision may be general or may apply specifically –

(a) in respect of certain matters or transactions or classes of matters or transactions;

(b) in respect of certain documents or classes of documents;

- (c) in respect of certain persons or classes of persons;
- (d) on the happening of any event or during the continuation of any situation;
- (e) in respect of any combination of all or any of the above, and may be expressed to apply subject to such other conditions as it may specify or to the discretion of a specified person.

## **PART IX**

### **FORMS**

#### **Deviation from prescribed forms.**

35. Where any Ordinance or subsidiary legislation prescribes the form of any instrument or other document, then, unless the contrary intention appears, the validity or efficacy of any instrument or document that purports to be in such form shall not be questioned by reason only of any deviation from it, or any technical defect therein, which does not affect its substance and which is not calculated to mislead.

## **PART X**

### **EVIDENCE**

#### **Publication in *Gazette* to be evidence of making.**

36. Where an Ordinance or subsidiary legislation authorises the making of any proclamation, notice, order, direction or other similar instrument and requires that instrument to be published in the *Gazette*, a copy of the issue of the *Gazette* in which there is published what purports to be the text of that instrument shall be evidence that the instrument was made in the terms and in the circumstances stated in the *Gazette*.

#### **Proof of authorisation of proceedings.**

37. Where any Ordinance or subsidiary legislation requires the authorisation or consent or certification (however designated) of the Commissioner, or a Law Officer, or any public officer, or public authority, to be given before any civil or criminal proceedings may be instituted or for any other purpose connected with such proceedings –

- (a) the requirement shall not prevent the arrest without warrant, or the issue and execution of a warrant for the arrest, of a person

for any offence or the remand in custody or on bail of a person accused of any offence; and

(b) any document which purports to give such authorisation or consent or certification and to be signed by the Commissioner (or by any person to whom the Commissioner's power in that behalf has been lawfully delegated or who may lawfully signify the exercise of that power) or a Law Officer, or the public officer, or to be signed by or duly authenticated on behalf of the public authority, as the case may require, shall, until credible evidence to the contrary is adduced, be accepted in any proceedings, without proof of the signature or authentication, as establishing that the authorisation or consent or certification has been properly given.

## PART XI

### PROVISIONS AS TO PENALTIES

#### Provisions as to penalties.

**38.** (1) Whenever in any law a penalty is provided for an offence against that law, such provision shall, unless the contrary intention appears, be construed as fixing the maximum penalty for that offence, and the offender, on being found guilty, shall be liable to any penalty not exceeding the prescribed penalty, and it shall not be necessary in the law prescribing the penalty to use the expressions **not exceeding, a term not exceeding, on conviction thereof** or any similar expressions.

(2) Whenever in any law a penalty is set out at the foot or end of any section, the same shall indicate that any contravention of the section whether by act or omission shall be an offence against that law and shall, unless the contrary intention appears, be punishable by a penalty not exceeding the penalty stated.

