

NORFOLK



ISLAND

LEGISLATIVE ASSEMBLY PRIVILEGES ACT 1987

Act No. 21 of 1987

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Legislative Assembly Privileges Act 1987

Act No. 21 of 1987

An Act to declare the powers, privileges and immunities of the Legislative Assembly of Norfolk Island and of the members and committees of the Legislative Assembly, and for related purposes

[Assented to 21 December 1987]

BE IT ENACTED by the Legislative Assembly of Norfolk Island as follows —

Short title

1. This Act may be cited as the *Legislative Assembly Privileges Act 1987*.

Commencement

2. This Act shall come into operation on a date fixed by the Administrator by notice published in the Gazette.

Repeal

3. The *Legislative Assembly (Powers, Privileges and Immunities) Act 1979* is repealed.

Interpretation

4. (1) In this Act, unless the contrary intention appears —
- “Assembly” means the Legislative Assembly of Norfolk Island;
 - “*Bill of Rights, 1688*” means the Act 1 William and Mary session 2, chapter 2 of the Parliament of England;
 - “committee” means —
 - (a) a committee of the Assembly including a committee of the whole Assembly and a committee of the Assembly established by an enactment; or
 - (b) a sub-committee of a committee referred to in paragraph (a);

“document” includes —

- (a) any material containing meaningful symbols;
- (b) any article from which sound, visual images or writing is capable of being reproduced; and
- (c) a part of a document;

“member” means a member of the Assembly;

“proceedings” means an action, suit or any other proceeding, whether civil or criminal, in a Court or tribunal;

“repealed Act” means the *Legislative Assembly (Powers, Privileges and Immunities) Act 1979*;

“tribunal” means any person or body (other than the Assembly, a committee or a Court) having power to examine witnesses on oath, including a Royal Commission or other commission of inquiry having that power.

(2) For the purposes of this Act, the submission of a written statement by a person to the Assembly or a committee shall, if so ordered by the Assembly or the committee, be deemed to be the giving of evidence in accordance with that statement by that person before the Assembly or committee.

(3) In this Act, a reference to an offence against the Assembly is a reference to a breach of the privileges or immunities, or a contempt, of the Assembly or of the members or committees.

Essential element of offences

5. (1) Conduct (including the use of words) does not constitute an offence against the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with the free exercise by the Assembly or a committee of its authority or functions, or with the free performance by a member of the member's duties as a member.

(2) The broadcasting or re-broadcasting of the proceedings of the Assembly does not constitute an offence against the Assembly.

Powers, privileges and immunities

6. Except to the extent that this Act expressly provides otherwise, the powers (other than legislative powers), privileges and immunities of the Assembly, and of the members and the committees of the Assembly, as in force under the repealed Act immediately before the commencement of this Act, continue in force.

Contempts by defamation abolished

7. (1) Words or acts shall not be taken to be an offence against the Assembly by reason only that those words or acts are defamatory or critical of the Assembly, a committee or a member.

(2) Subsection (1) does not apply to words spoken or acts done in the presence of the Assembly or a committee.

Penalties imposed by the Assembly

8. (1) The Assembly may impose on a person a fine —

- (a) not exceeding 50 penalty units, in the case of a natural person; or
- (b) not exceeding 250 penalty units, in the case of a corporation,

for an offence against the Assembly determined by it to have been committed by that person.

(2) A fine imposed under subsection (1) is a debt due to the Administration and may be recovered on behalf of the Administration in a Court of competent jurisdiction by a person appointed by the Assembly for that purpose.

(3) The Assembly does not have power to imprison a person.

Assembly not to expel members

9. The Assembly does not have power to expel a member from membership of the Assembly.

Reports of proceedings

10. (1) It is a defence to an action or proceeding, whether civil or criminal, for defamation that the defamatory matter was published by the defendant without any adoption by the defendant of the substance of the matter, and the defamatory matter was contained in a fair and accurate report of proceedings at a meeting of the Assembly or a committee.

(2) Subsection (1) does not apply in respect of matter published in contravention of section 13.

(3) This section does not deprive a person of any defence that would have been available to that person if this section had not been enacted.

Publication of tabled papers

11. (1) No action, civil or criminal, lies against an officer of the Assembly in respect of a publication to a member of a document that has been laid before the Assembly.

(2) This section does not deprive a person of any defence that would have been available to that person if this section had not been enacted.

Protection of witnesses

12. (1) A person shall not, by fraud, intimidation, force or threat, by the offer or promise of any inducement or benefit, or by other improper means, influence another person in respect of any evidence given or to be given before the Assembly or a committee, or induce another person to refrain from giving any such evidence.

- Penalty:
- (a) in the case of a natural person, 50 penalty units or imprisonment for 6 months; or
 - (b) in the case of a corporation, 250 penalty units.

(2) A person shall not inflict a penalty or injury on, or deprive of a benefit, another person on account of —

- (a) the giving or proposed giving of any evidence; or
- (b) any evidence given or to be given,

before the Assembly or a committee.

- Penalty:
- (a) in the case of a natural person, 50 penalty units or imprisonment for 6 months; or
 - (b) in the case of a corporation, 250 penalty units.

(3) This section does not prevent the imposition of a penalty by the Assembly in respect of an offence against the Assembly or by a Court in respect of an offence against an enactment establishing a committee.

Unauthorised disclosure of evidence

13. A person shall not, without the authority of the Assembly or a committee, publish or disclose —

- (a) a document that has been prepared for the purpose of submission, and submitted, to the Assembly or a committee and has been directed by the Assembly or a committee to be treated as evidence taken in camera; or
- (b) any oral evidence taken by the Assembly or a committee in camera, or a report of any such oral evidence,

unless the Assembly or a committee has published, or authorised the publication of, that document or that oral evidence.

- Penalty:
- (a) in the case of a natural person, 50 penalty units or imprisonment for 6 months; or
 - (b) in the case of a corporation, 250 penalty units.

Immunities from arrest and attendance before Courts

14. (1) A member —

- (a) shall not be required to attend before a Court or a tribunal; and
- (b) shall not be arrested or detained in a civil cause,

on any day —

- (c) on which the Assembly meets;
- (d) on which a committee of which that member is a member meets; or
- (e) that is within 5 days before or 5 days after a day referred to in paragraph (c) or (d).

(2) An officer of the Assembly —

- (a) shall not be required to attend before a Court or a tribunal; and
- (b) shall not be arrested or detained in a civil cause,

on any day —

- (c) on which the Assembly or a committee on which that officer is required to attend meets; or

- (d) that is within 5 days before or 5 days after a day referred to in paragraph (c).

(3) A person who is required to attend before the Assembly or a committee on a day —

- (a) shall not be required to attend before a Court or a tribunal; and
- (b) shall not be arrested or detained in a civil cause,

on that day.

(4) Except as provided by this section, a member, an officer of the Assembly and a person required to attend before the Assembly or a committee has no immunity from compulsory attendance before a Court or a tribunal or from arrest or detention in a civil cause by reason of being a member or such an officer or person.

Application of laws to Assembly building

15. It is hereby declared, for the avoidance of doubt, that, subject to this Act, a law in force in Norfolk Island applies according to its tenor in and in relation to a building in which the Assembly meets, except as otherwise provided by any other enactment.

Assembly privilege in proceedings

16. (1) For the avoidance of doubt, it is hereby declared and enacted that the provisions of article 9 of the *Bill of Rights, 1688* apply in relation to the Assembly and, as so applying, are to be taken to have, in addition to any other operation, the effect of the subsequent provisions of this section.

(2) For the purposes of the provisions of article 9 of the *Bill of Rights, 1688* as applying in relation to the Assembly, and for the purposes of this section, “proceedings in Parliament” means all words spoken and acts done in the course of, or for purposes of or incidental to, the transacting of the business of the Assembly or of a committee, and, without limiting the generality of the foregoing, includes —

- (a) the giving of evidence before the Assembly or a committee, and evidence so given;
- (b) the presentation or submission of a document to the Assembly or a committee;
- (c) the preparation of a document for purposes of or incidental to the transacting of any such business; and
- (d) the formulation, making or publication of a document, including a report, by or pursuant to an order of the Assembly or a committee and the document so formulated, made or published.

(3) In any proceedings it is not lawful for evidence to be tendered or received, questions asked or statements, submissions or comments made, concerning proceedings in the Assembly, by way of, or for the purpose of —

- (a) questioning or relying on the truth, motive, intention or good faith of anything forming part of those proceedings in the Assembly;
- (b) otherwise questioning or establishing the credibility, motive, intention or good faith of any person; or

- (c) drawing, or inviting the drawing of, inferences or conclusions wholly or partly from anything forming part of those proceedings in the Assembly.

(4) A Court or tribunal shall not —

- (a) require to be produced, or admit into evidence, a document that has been prepared for the purpose of submission, and submitted, to the Assembly or a committee and has been directed by the Assembly or a committee to be treated as evidence taken in camera, or admit evidence relating to such a document; or
- (b) admit evidence concerning any oral evidence taken by the Assembly or a committee in camera or require to be produced or admit into evidence a document recording or reporting any such oral evidence,

unless the Assembly or a committee has published, or authorised the publication of, that document or a report of that oral evidence.

(5) In relation to proceedings in a Court or tribunal so far as they relate to the interpretation of an enactment, neither this section nor the *Bill of Rights, 1688* shall be taken to prevent or restrict the admission in evidence of a record of proceedings in the Assembly published by or with the authority of the Assembly or a committee or the making of statements, submissions or comments based on such a record.

(6) In relation to a prosecution for an offence against this Act or an enactment establishing a committee, neither this section nor the *Bill of Rights, 1688* shall be taken to prevent or restrict the admission of evidence, the asking of questions, or the making of statements, submissions or comments, in relation to proceedings in the Assembly to which the offence relates.

(7) Without prejudice to the effect that article 9 of the *Bill of Rights, 1688* had, on its true construction, before the commencement of this Act, this section does not affect proceedings that commenced before the commencement of this Act.

Certificates relating to proceedings

17. For the purposes of this Act, a certificate signed by or on behalf of the Speaker of the Assembly or a chairman of a committee stating that —

- (a) a particular document was prepared for the purpose of submission, and submitted, to the Assembly or a committee;
- (b) a particular document was directed by the Assembly or a committee to be treated as evidence taken in camera;
- (c) certain oral evidence was taken by a committee in camera;
- (d) a document was not published or authorised to be published by the Assembly or a committee;
- (e) a person is or was an officer of the Assembly;
- (f) an officer is or was required to attend on the Assembly or a committee;
- (g) a person is or was required to attend before the Assembly or a committee on a day;

- (h) a day is a day on which the Assembly or a committee met or will meet;
or
 - (i) a specified fine was imposed on a specified person by the Assembly,
is evidence of the matters contained in the certificate.
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