

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Inquiry into the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008

Question No. 1

Senator Hogg asked the following question at the hearing on 16 April 2008:

Are you able to tell us of the major differences in the self-government powers between the Northern Territory, Norfolk Island and the ACT?

The answer to the honourable senator's question is as follows:

The *Northern Territory (Self-Government) Act 1978*, the *Norfolk Island Act 1979* and the *Australian Capital Territory (Self-Government) Act 1988* specify the legislative powers of the Northern Territory, Norfolk Island and ACT legislative assemblies respectively.

The major differences between the self-government powers of the assemblies are the limitations imposed by the self government acts on which matters the assemblies can pass laws and the manner in which laws are assented.

Under s6, s50, s50A and s53 of the Northern Territory Self Government Act, the Northern Territory Assembly has the power to make laws for the peace, order and good government of the Territory, except laws:

- With respect to the acquisition of property otherwise than on just terms
- Which permit or have the effect of permitting the form of intentional killing of another called euthanasia
- That confer on any court, tribunal, board, body, person or other authority any power in relation to the hearing and determining of disputes, claims or matters relating to terms and conditions of employment.

Under the provisions of the Northern Territory Self Government Act, legislation passed by the Northern Territory Assembly is assented by either the Administrator or the Governor-General. If the legislation relates to a matter only for or in relation to a matter specified in Self Government Act regulations as a matter for which the Executive has executive authority, the Administrator may either assent or withhold assent. In all other cases the Administrator may assent, withhold assent or reserve the proposed law for the Governor-General's pleasure.

Under s19, the Norfolk Island Act allows the Norfolk Island Legislative Assembly to pass any law for the peace, order and good government of the Territory except laws:

- Authorizing the acquisition of property otherwise than on just terms
- Authorizing the raising or maintaining of any naval, military or air force
- Authorizing the coining of money

- Which permit or have the effect of permitting the form of intentional killing of another called euthanasia

Under the provisions of the Norfolk Island Act, legislation passed by the Norfolk Island Legislative Assembly is also assented by either the Administrator or the Governor-General before becoming law. If the legislation relates entirely to matters specified in Schedule 2 of the Norfolk Island Act, the Administrator assents or refuses to assent on the advice of the Norfolk Island Executive Council. If the legislation relates to matters at Schedule 3 (or both Schedule 2 & 3), the Administrator must seek instructions from the Commonwealth Territories Minister before determining whether to assent. If the legislation relates to a matter not specified in either Schedule, the legislation is reserved for the Governor-General's consideration.

Under s22 and s23 of the ACT Self Government Act, the ACT Assembly has the powers to make laws for the peace, order and good government of the Territory, except laws with respect to:

- The acquisition of property otherwise than on just terms
- The provision by the Australian Federal Police of police services in relation to the Territory
- The raising or maintaining of any naval, military or air force
- The coining of money
- The classification of materials for the purposes of censorship
- The permit, or laws which have the effect of permitting, the form of intentional killing of another called euthanasia or the assisting of a person to terminate his or her life

The ACT does not have an Administrator and the Territory Chief Minister, or another person authorised by enactment, publishes a notice that a proposed law has been passed by the Assembly in the Territory Gazette. The law takes effect on the day of notification or as otherwise provided by that law.

The other major differences in the self government powers between the Territories arise from the extent Commonwealth law applies to each Territory. A large majority of Commonwealth law does not extend to Norfolk Island. Consequently, the Norfolk Island Assembly has passed a range of laws on matters ordinarily addressed by the Commonwealth such as immigration, quarantine and welfare.