

2008

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**ACT CIVIL AND ADMINISTRATIVE TRIBUNAL LEGISLATION
AMENDMENT BILL 2008 (No 2)**

EXPLANATORY STATEMENT

**Presented by the authority of
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ACT CIVIL AND ADMINISTRATIVE TRIBUNAL LEGISLATION AMENDMENT BILL 2008 (No 2)

Explanatory Statement

This explanatory statement relates to the Bill as introduced into the ACT Legislative Assembly.

Overview of Bill

This is the second Bill of similar name, which makes amendments to legislation related to the ACT Civil and Administrative Tribunal Act 2008 (the “ACAT Act/Bill”). The amendments make changes consequent on the establishment of the tribunal, and in some cases simplify or standardise the language used in the legislation concerning the tribunal.

Outline of Provisions

Clause 1 Name of Act

States the title of the Act, which is the *ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2)*.

Clause 2 Commencement

Provides for the commencement of the Act on the day section 6 of the *ACT Civil and Administrative Tribunal Act 2008* commences. Special provision is made for the commencement of amendments dealing with the *Housing Assistance Act 2007* (which is in the process of being amended by another Bill).

Clause 3 Legislation amended

Provides that the Act amends the legislation in Schedule 1.

In the Act (and this explanatory statement) the ACT Civil and Administrative Tribunal is referred to as the ACAT. A reference in the Schedule below to “the Act” is to the relevant Act being amended.

Schedule 1 Amendments

ACT Civil and Administrative Tribunal Act 2008 (No 2)

This part makes a series of amendments to the *ACT Civil and Administrative Tribunal Act 2008* (the new act).

Section 22S preserves the operation of a legal aid scheme.

Some clarifications have been made to the aid the reader of the new act. New section 22R provides definitions used in the new act. Note 1 to section 41(1) of the new act has been adjusted to refer to the form that might be used, rather than the mode of service (the form being more transactionally relevant in this circumstance). The reference to 'tribunal' in 42(3) has been adjusted to refer to 'presidential member' to re-emphasise the role of the presidential member in this circumstance (as provided for in subsections (1) and (2)).

Section 67B provides a "template provision" applicable where a law provides for an internally reviewable decision. This provision standardises existing practice relating to such notices, presently issued under a number of ACT laws.

Part 9A establishes the ACAT trust account. Money payable to the account (under the new act or pursuant to another law or under the *Agents Act 2003*) may only be used for defined purposes, which will now include the recurrent cost of the tribunal.

The amendments make provision for the repeal of legislation and instruments overtaken by the new act.

Adoption Act 1993

The Act provides for the reconsideration of a decision not to include an applicant on a register of persons seeking the placement of a child. This provision is amended to provide that the Chief Executive shall be taken to have confirmed the original decision on reconsideration where the Chief Executive had not notified the applicant of a decision within 14 days.

Amendments provide that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Adoption Regulation 1993

This part provides that an application may be made for a review of specified administrative decisions (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Agents Act 2003

This part provides that amount previously paid under the Act into a trust established for that purpose (and the balance of that fund) shall be paid into the ACAT trust account. The money remains available for the purposes for which it may have previously been used, and may also, in future, be also used for the purposes set out in the ACAT Act.

Agents Regulation 2003

This amendment is consequential on the amendment to the *Agents Act 2003*.

Animal Diseases Act 2005

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Animal Diseases Regulation 2006

This part provides that an application may be made for a review of specified administrative decisions (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Animal Welfare Act 1992

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Annual Leave Act 1973

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Associations Incorporation Act 1991

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Births, Deaths and Marriages Registration Act 1997

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Board of Senior Secondary Studies Act 1997

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Boxing Control Act 1993

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Building Act 2004

This part provides for the repeal of section 146 of the Act, consequential on amendments in the *ACT Civil and Administrative Tribunal Act 2008*, which provided that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Canberra Institute of Technology Act 1987

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Casino Control Act 2006

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Cemeteries and Crematoria Act 2003

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Charitable Collections Act 2003

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Civil Partnerships Act 2008

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Classification (Publications, Films and Computer Games) (Enforcement) Act 1995

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Clinical Waste Act 1990

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Common Boundaries Act 1981

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT. Many of the provisions in the Act have required amendment, in order to frame the administrative decision and the review right in modern language.

Community Title Act 2001

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Consumer Credit (Administration) Act 1996

This part provides that amounts previously paid under the Act into the financial counselling trust fund (and the balance of that fund) may be paid into the ACAT trust account. The money remains available for the purposes for which it may have previously been used, and may also, in future, be used for the purposes set out in the ACAT Act.

Cooperatives Act 2002

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Crimes (Child Sex Offenders) Act 2005

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Dangerous Substances Act 2004

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT. Provisions concerning the internal review of the decision have been preserved.

Dangerous Substances (Explosives) Regulation 2004

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Dangerous Substances (General) Regulation 2004

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Domestic Animals Act 2000

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Domestic Animals Regulation 2001

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Duties Act 1999

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Education Act 2004

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT. Provisions concerning the internal review of the decision have been preserved.

Electoral Act 1992

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Electricity (Greenhouse Gas Emissions) Act 2004

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Electricity (Greenhouse Gas Emissions) Regulation 2004

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Electricity Safety Act 1971

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Emergencies Act 2004

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Environment Protection Act 1997

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Fair Trading (Consumer Affairs) Act 1973

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Financial Management Act 1996

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

First Home Owner Grant Act 2000

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Fisheries Act 2000

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Food Act 2001

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Freedom of Information Act 1989

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT.

Gambling and Racing Control (Code of Practice) Regulation 2002

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Gaming Machine Act 2004

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Gas Safety Act 2000

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Gas Safety Regulation 2001

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Guardianship and Management of Property Regulation 1991

This part removes provisions dealing with applications to the tribunal and the seal of the former tribunal that are now redundant.

Gungahlin Drive Extension Authorisation Act 2004

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT.

Hawkers Act 2003

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Health Act 1993

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT.

Health Regulation 2004

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Hemp Fibre Industry Facilitation Act 2004

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Housing Assistance Act 2007

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT. It also provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Interactive Gambling Act 1998

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Intoxicated People (Care and Protection) Act 1994

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT. It also provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Lakes Act 1976

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Land Rent Act 2008

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT.

Lands Acquisition Act 1994

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT. It also provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Land Tax Act 2004

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT.

Legal Aid Act 1977

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT. It also provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Legal Profession Act 2006

This part provides that certain amounts must be paid from public moneys managed by the ACT Law Society into the ACAT trust account. The money so transferred must be used for the purposes set out in the ACAT Act.

Legal Profession Regulation 2007

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT.

Legislation Act 2001

This part makes consequential amendments to the Act (recognising that certain moneys owing are recoverable under the small civil claims jurisdiction exercised by the ACAT).

Legislative Assembly (Members' Superannuation) Act 1991

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Liquor Act 1979

This part makes consequential amendments to the Act, to replace a number of references to the registrar (of the former tribunal) with a reference to the Commissioner for Fair Trading (who is now charged with the relevant functions under earlier amendments to the Act under the ACT Civil and Administrative Tribunal Legislation Amendment Bill 2008).

Liquor Regulation 1979

This part makes consequential amendments to the Act, to replace a reference to the registrar (of the former tribunal) with a reference to the Commissioner for Fair Trading (who is now charged with the relevant functions under earlier amendments to the Act under the ACT Civil and Administrative Tribunal Legislation Amendment Bill 2008).

Litter Act 2004

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Long Service Leave Act 1976

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT. The Act preserves the existing internal review.

Long Service Leave (Building and Construction Industry) Act 1981

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Long Service Leave (Contract Cleaning Industry) Act 1999

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Magistrates Court Act 1930

This part provides that the ACAT has exclusive jurisdiction in relation to common boundaries determinations and civil disputes of not more than \$10,000.

Motor Sport (Public Safety) Act 2006

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Nature Conservation Act 1980

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Occupational Health and Safety Act 1989

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT. It also provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Occupational Health and Safety (Certification of Plant Users and Operators) Regulation 2000

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Ombudsman Act 1989

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT.

Payroll Tax Act 1987

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Pest Plants and Animals Act 2005

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Planning and Development Regulation 2008

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT.

Public Advocate Act 2005

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT.

Public Health Regulation 2000

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Race and Sports Bookmaking Act 2001

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT. It also provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Racing Act 1999

This part makes consequential amendments to the Act and provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Radiation Protection Act 2006

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Rates Act 2004

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT.

Residential Tenancies Act 1997

This part provides that amounts previously paid under the Act into a trust established for the Act (and the balance of that fund) may be paid into the ACAT trust account. The money remains available for the purposes for which it may have previously been used, and may also, in future, be used for the purposes set out in the ACAT Act.

Roads and Public Places Act 1937

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Road Transport (General) Act 1999

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT. It preserves provisions dealing with internal appeal.

Road Transport (General) Regulation 2000

This part makes consequential amendments to the Act consequent on amendments to the *Road Transport (General) Act 1999*.

Road Transport (Public Passenger Services) Regulation 2002

This part makes consequential amendments to the Act consequent on amendments to the *Road Transport (General) Act 1999*.

Road Transport (Vehicle Registration) Regulation 2000

This part makes consequential amendments to the Act consequent on amendments to the *Road Transport (General) Act 1999*.

Stock Act 2005

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Supreme Court Act 1933

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT.

Taxation Administration Act 1999

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT and provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Tobacco Act 1927

This part amends section 58 of the Act (inserted in the Act by the ACT Civil and Administrative Tribunal Legislation Amendment Bill 2008) to include a more comprehensive list of circumstances in relation to which a requirement or condition might be imposed by the ACAT.

Trade Measurement Act 1991

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT and provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Training and Tertiary Education Act 2003

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Tree Protection Act 2005

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Unit Titles Act 2001

This part provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT. The provisions preserve internal review.

Utilities Act 2000

This part makes consequential amendments to the Act and provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Victims of Crime Regulation 2000

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT and provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Waste Minimisation Act 2001

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT and provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Water and Sewerage Act 2000

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT and provides that an application may

be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Water and Sewerage Regulation 2001

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT and provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Water Resources Act 2007

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT and provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Workers Compensation Act 1951

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT and provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.

Workers Compensation Regulation 2002

This part makes consequential amendments to the Act, to replace references to the AAT with references to the ACAT and provides that an application may be made for a review of administrative decisions in the Act (previously brought before the Administrative Appeals Tribunal) to the ACAT.