Australian Capital Territory

Legislation Act 2001

A2001-14

Republication No 56
Effective: 14 November 2007 – 30 March 2008

Republication date: 14 November 2007

Last amendment made by A2007-33

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Legislation Act 2001* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 14 November 2007. It also includes any amendment, repeal or expiry affecting the republished law to 14 November 2007.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

(a) if the person charged is an individual—$100; or

(b) if the person charged is a corporation—$500.

Australian Capital Territory

Legislation Act 2001

Contents

Page

Chapter 1 Preliminary

Part 1.1 General

1	Name of Act	2
2	Dictionary	2
2A	Notes	2
3	Objects	2
4	Application of Act	3
5	Determinative and non-determinative provisions	4
6	Legislation Act provisions must be applied	5

Part 1.2 Basic concepts

7	Meaning of *Act* generally	8

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

8 Meaning of *subordinate law* 8
9 Meaning of *disallowable instrument* 8
10 Meaning of *notifiable instrument* 9
11 Meaning of *commencement notice* 9
12 Meaning of *legislative instrument* 9
13 Meaning of *statutory instrument* 10
14 Meaning of *instrument* 10
15 Meaning of *authorised republication* 10
16 Meaning of *provision* 11

Part 1.3 Sources of law in the ACT

17 References to Acts include references to former Cwlth enactments etc 13

Chapter 2 ACT legislation register and web site

18 ACT legislation register 14
19 Contents of register 14
20 Prompt registration 18
21 Approved web site 18
22 Access to registered material at approved web site 19

Chapter 3 Authorised versions and evidence of laws and legislative material

22A Definitions for ch 3 20
23 Authorisation of versions by parliamentary counsel 21
24 Authorised electronic versions 21
25 Authorised written versions 22
26 Judicial notice of certain matters 24

Chapter 4 Numbering and notification of Acts

27 Numbering of Acts 26
28 Notification of Acts 26
29 References to *enactment* or *passing* of Acts 28

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

30 References to *notification* of Acts 28

Chapter 5 Regulatory impact statements for subordinate laws and disallowable instruments

Part 5.1 Preliminary

31 Definitions for ch 5 29
32 Other publication or consultation requirements not affected 29
33 Guidelines about costs of proposed subordinate laws and disallowable instruments 30

Part 5.2 Requirements for regulatory impact statements

34 Preparation of regulatory impact statements 31
35 Content of regulatory impact statements 32
36 When is preparation of regulatory impact statement unnecessary? 33
37 When must regulatory impact statement be presented? 34

Part 5.3 Failure to comply with requirements for regulatory impact statements

38 Effect of failure to comply with pt 5.2 35

Chapter 6 Making, notification and numbering of statutory instruments

Part 6.1 General

39 Meaning of *matter* in ch 6 36
40 Presumption of validity 36
41 Making of certain statutory instruments by Executive 36

Part 6.2 Making of statutory instruments generally

42 Power to make statutory instruments 38
43 Statutory instruments to be interpreted not to exceed powers under authorising law 39

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

44 Power to make statutory instruments for Act etc 40
45 Power to make court rules 41
46 Power to make instrument includes power to amend or repeal 42
47 Statutory instrument may make provision by applying law or instrument 43
48 Power to make instrument includes power to make different provision for different categories etc 47
49 Single instrument may exercise several powers or satisfy several requirements 47
50 Relationship between authorising law and instrument dealing with same matter 48
51 Instrument may make provision in relation to land by reference to map etc 48
52 Instrument may authorise determination of matter etc 49
53 Instrument may prohibit 49
54 Instrument may require making of statutory declaration 50

Part 6.3 Making of certain statutory instruments about fees

55 Definitions for pt 6.3 51
56 Determination of fees by disallowable instrument 51
57 Fees payable in accordance with determination etc 53
58 Regulations may make provision about fees 54

Part 6.4 Numbering and notification of legislative instruments

59 Numbering 57
60 Correction etc of name of legislative instrument 58
60A Correction of name of explanatory statement etc 59
61 Notification of legislative instruments 59
62 Effect of failure to notify legislative instrument 62
63 References to *notification* of legislative instruments 62

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Chapter 7 Presentation, amendment and disallowance of subordinate laws and disallowable instruments

64	Presentation of subordinate laws and disallowable instruments	63
65	Disallowance by resolution of Assembly	63
65A	Notification of disallowance by resolution of Assembly	64
66	Revival of affected laws	66
67	Making of instrument same in substance within 6 months after disallowance	67
68	Amendment by resolution of Assembly	67
69	Notification of amendments made by resolution of Assembly	69
70	Making of amendment restoring effect of law within 6 months after amendment	70
71	Effect of dissolution or expiry of Assembly on notice of motion	71

Chapter 8 Commencement and exercise of powers before commencement

72	Meaning of *law* in ch 8	73
73	General rules about commencement	73
74	Time of commencement	75
75	Commencement of naming and commencement provisions	76
75AA	Commencement of provisions identifying amended laws	77
75A	Meaning of commences *retrospectively*	77
75B	Retrospective commencement requires clear indication	78
76	Non–prejudicial provision may commence retrospectively	78
77	Commencement by commencement notice	79
78	Separate commencement of amendments	81
79	Automatic commencement of postponed law	81
79A	Commencement of amendment of uncommenced law	82
80	References to *commencement* of law	83
81	Exercise of powers between notification and commencement	83

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Chapter 9 Repeal and amendment of laws

Part 9.1 General

82	Definitions for ch 9	86
83	Consequences of amendment of statutory instrument by Act	86
84	Saving of operation of repealed and amended laws	86
84A	Creation of offences and changes in penalties	87

Part 9.2 Repeal

85	When repeal takes effect	89
86	Repealed and amended laws not revived on repeal of repealing and amending laws	89
87	Commencement not undone if repealed	90
88	Repeal does not end effect of transitional laws etc	91
89	Automatic repeal of certain laws and provisions	93

Part 9.3 Amendment

90	Law and amending laws to be read as one	97
91	Insertion of provisions by amending law	97
92	Amendment to be made wherever possible	99
93	Provisions included in another provision for amendment purposes	100
94	Continuance of appointments etc made under amended provisions	101
95	Status of modifications	102
96	Relocated provisions	103

Chapter 10 Referring to laws

97	Definitions for ch 10	104
98	References to ACT law include law containing reference	105
99	References in ACT statutory instruments to *the Act*	105
100	Referring to particular ACT laws	105
101	Referring to particular laws of other jurisdictions etc	106
102	References to laws include references to laws as in force from time to time	107
103	References to repealed laws	108

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

104 References to laws include references to instruments under laws 109
105 Referring to provisions of laws 109
106 References to provisions of laws are inclusive 109
106A References to paragraphs etc of laws 110

Chapter 11 Republication of Acts and statutory instruments

Part 11.1 General

107 Definitions for ch 11 112
108 Republication in register 112
109 Republications may be published with other information 112
110 Collections of laws 113

Part 11.2 Substantive amendments made by laws

111 Incorporation of amendments 114
112 Reference to amending laws 114
113 Provisions not republished or relocated 114

Part 11.3 Editorial changes

114 Authorisation for parliamentary counsel 116
115 Amendments not to change effect 116
116 Ambit of editorial amendments 116
117 Legal effect of editorial changes 119
118 Reference to editorial amendments 119

Chapter 12 Scope of Acts and statutory instruments

120 Act to be interpreted not to exceed legislative powers of Assembly 120
121 Binding effect of Acts 121
122 Application to Territory 122

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Chapter 13 Structure of Acts and statutory instruments

Part 13.1 General

125	Meaning of *law* in ch 13	123
126	Material that is part of Act or statutory instrument	123
127	Material that is not part of Act or statutory instrument	124

Part 13.2 Particular kinds of provisions

130	What is a definition?	126
131	Signpost definitions	127
132	Examples	128
133	Penalty units	129
134	Penalties at end of sections and subsections	129
135	Penalties not at end of sections and subsections	132

Chapter 14 Interpretation of Acts and statutory instruments

Part 14.1 Purpose and scope

136	Meaning of *Act* in ch 14	134
137	Purpose and scope of ch 14	134

Part 14.2 Key principles of interpretation

138	Meaning of *working out the meaning of an Act*	135
139	Interpretation best achieving Act's purpose	135
140	Legislative context	135
141	Non-legislative context generally	136
142	Non-legislative context—material that may be considered	137
143	Law stating material for consideration in working out meaning	140

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Chapter 15 Aids to interpretation

Part 15.1 General

144	Meaning of commonly-used terms	142
145	Gender and number	142
146	Meaning of *may* and *must*	142
147	Changes of drafting practice not to affect meaning	143
148	Terms used in instruments have same meanings as in authorising laws	144
149	Age in years	144
150	Measurement of distance	144
151	Working out periods of time generally	145
151A	Periods of time ending on non-working days	146
151B	Doing things for which no time is fixed	148
151C	Power to extend time	148
152	Continuing effect of obligations	149

Part 15.2 Definitions

155	Definitions apply subject to contrary intention	150
156	Application of definitions in dictionaries and sections	150
157	Defined terms—other parts of speech and grammatical forms	152

Part 15.3 References to various entities and things

160	References to people generally	153
161	Corporations liable to offences	154
162	References to *a Minister* or *the Minister*	155
163	References to *a chief executive* or *the chief executive*	156
164	References to Australian Standards etc	157
165	References to Assembly committees that no longer exist	157
168	References to person with interest in land include personal representative etc	158
169	References to *domestic partner* and *domestic partnership*	158
169A	References to *transgender people*	159
169B	References to *intersex people*	160

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Part 15.4 Preservation of certain common law privileges

170	Privileges against selfincrimination and exposure to civil penalty	161
171	Client legal privilege	161

Chapter 16 Courts, tribunals and other decision-makers

175	Meaning of *law* in ch 16	163
176	Jurisdiction of courts and tribunals	163
177	Recovery of amounts owing under laws	163
178	Power to decide includes power to take evidence etc	163
179	Content of statements of reasons for decisions	164
180	Power to make decision includes power to reverse or change	164

Chapter 17 Entities and positions

182	Meaning of *law* in ch 17	166
183	Change of name of entity	166
184	Change in constitution of entity	166
184A	References to entity	167
185	References to occupant of position	167
186	Change of name of position	168
187	Chair and deputy chair etc	168

Chapter 18 Offences

188	Meaning of *ACT law* in ch 18	169
189	Reference to offence includes reference to related ancillary offences	169
190	Indictable and summary offences	170
191	Offences against 2 or more laws	170
192	When must prosecutions begin?	171
193	Continuing offences	172

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Chapter 19 Administrative and machinery provisions

Part 19.1 Introductory

195 Meaning of *law* in ch 19 173

Part 19.2 Functions

196 Provision giving function gives power to exercise function 174
197 Statutory functions may be exercised from time to time 174
199 Functions of bodies 174
200 Functions of occupants of positions 176

Part 19.3 Appointments

Division 19.3.1 Appointments—general

205 Application of div 19.3.1 177
206 Appointments must be in writing etc 177
207 Appointment may be by name or position 178
208 Power of appointment includes power to suspend etc 178
209 Power of appointment includes power to make acting appointment 179
210 Resignation of appointment 180
211 Appointment not affected by appointer changes 180
212 Appointment not affected by defect etc 181

Division 19.3.2 Acting appointments

215 Application of div 19.3.2 181
216 Acting appointments must be in writing etc 181
217 Acting appointment may be made by name or position 181
218 Instrument may provide when acting appointment has effect etc 182
219 Appointer may decide terms of acting appointment etc 182
220 Appointee may exercise functions under acting appointment etc 183
221 How long does an acting appointment operate? 183
222 Resignation of acting appointment 184
223 Effect of acting appointment on substantive appointment etc 184
224 Acting appointment not affected by appointer changes 185
225 Acting appointment not affected by defect etc 185

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Division 19.3.2A Standing acting arrangements

225A Application of div 19.3.2A 186

225B Person acting under standing acting arrangement may exercise functions etc 186

Division 19.3.3 Appointments—Assembly consultation

226 Meaning of *statutory position* in div 19.3.3 186

227 Application of div 19.3.3 187

228 Consultation with appropriate Assembly committee 187

229 Appointment is disallowable instrument 188

Part 19.4 Delegations

230 Application of pt 19.4 generally 189

231 Application of pt 19.4 to subdelegations 189

232 Delegation must be in writing etc 190

233 Delegation may be made by name or position 190

234 Instrument may provide when delegation has effect etc 190

235 Delegation may be made to 2 or more delegates 191

236 Power to delegate may not be delegated 191

237 Delegation may be amended or revoked 191

238 Appointer responsible for delegated function 192

239 Exercise of delegation by delegate 192

240 Appointer may exercise delegated function 193

241 Delegation not affected by appointer changes 193

242 Delegation not affected by defect etc 193

Part 19.5 Service of documents

245 Application of pt 19.5 194

246 Definitions for pt 19.5 194

247 Service of documents on individuals 196

248 Service of documents on corporations 196

249 Service of documents on agencies 197

250 When document taken to be served 197

251 Other laws not affected etc 198

252 Powers of courts and tribunals not affected 199

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Part 19.6 Functions of Executive and Ministers

253 Exercise of functions of Executive 200
254 Administration of matters not allocated 201
254A Delegation by Minister 201

Part 19.7 Other matters

255 Forms 202
256 Production of records kept in computers etc 204

Chapter 20 Miscellaneous

300 Delegation by parliamentary counsel 205
301 References to Administration Act 1989 etc 205
302 Regulation-making power 205

Schedule 1 Acts included in sources of law in the ACT 207

Part 1.1 Former NSW and UK Acts in force before establishment of Territory 207

Part 1.2 Former NSW Acts applied after establishment of Territory 209

Dictionary 210

Part 1 Meaning of commonly-used terms 210

Part 2 Terms for Legislation Act 2001 only 238

Endnotes

1 About the endnotes 242
2 Abbreviation key 242
3 Legislation history 243
4 Amendment history 251
5 Earlier republications 287

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

6 Uncommenced amendments 292

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Australian Capital Territory

Legislation Act 2001

An Act about legislation

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 1 Preliminary

Part 1.1 General

1 Name of Act

This Act is the *Legislation Act 2001*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of an Act usually defines certain terms used in the Act, and includes references (***signpost definitions***) to other terms defined elsewhere in the Act. However, in this Act the dictionary is divided into 2 parts.

Note 2 Part 1 defines terms commonly used in Acts (including this Act) and statutory instruments. For example, because of the definition '***month*** means calendar month.', the term 'month' has the defined meaning wherever the term is used in an Act or statutory instrument unless the Act or instrument provides otherwise or the contrary intention otherwise appears (see s 144 and s 155).

Note 3 Part 2 defines certain terms used in this Act. For example, the signpost definition '***administrator***, for part 19.5 (Service of documents)—see section 246.' means that the term 'administrator' is defined in s 246 for this Act, pt 19.5. A definition in pt 2 applies to all of this Act unless the definition, or another provision of this Act, provides otherwise or the contrary intention otherwise appears (see s 155 and s 156 (1)).

2A Notes

A note included in this Act is explanatory and is not part of this Act.

Note See s 127 (1), (4) and (5) for the legal status of notes.

3 Objects

(1) The main object of this Act is to make legislation more accessible.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) This is to be achieved particularly by—

(a) encouraging access to legislation through the internet, while maintaining access to printed legislation; and

(b) restating the law dealing with the 'life cycle' of legislation, improving its structure and content, and simplifying its provisions where practicable; and

(c) assisting users of legislation to find, read, understand and use legislation by—

(i) facilitating the shortening and simplification of legislation; and

(ii) promoting consistency in the form and language of legislation; and

(iii) providing rules about the interpretation of legislation; and

(iv) facilitating the updating and republication of legislation to ensure its ready availability.

(3) For this section, the '***life cycle***' of legislation includes the making (where relevant), notification, commencement, presentation and disallowance (where relevant), operation, interpretation, proof, republication, amendment and repeal of legislation and instruments made under legislation.

4 Application of Act

(1) This Act applies to all Acts (including this Act) and statutory instruments.

(2) In particular, Acts and statutory instruments are taken to be made on the basis that they will operate in conjunction with this Act.

Examples

1 An Act imposes an obligation and provides that people who 'fail' to carry out the obligation are liable to the penalty. The Act does not, however, define 'fail' or indicate that the word is used in a special way. In accordance

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

with this Act, dictionary, part 1 (see s 144), the word 'fail' includes 'refuse'. In other words, a person who refuses to carry out the obligation will be subject to the penalty in the same way as someone who only neglects the obligation. In this case, the presence in an Act of a word that is defined in this Act attracts the operation of the definition in the dictionary.

2 The *XYZ Act 2001* contains the following provision:

The Minister may determine fees for this Act.

Because the XYZ Act authorises a fee to be determined 'for this Act', this Act, section 56 applies and therefore the provisions of part 6.3 (Making of certain statutory instruments about fees) apply to the determination of fees under the provision. In this case, the operation of provisions of this Act is attracted because the *XYZ Act 2001* contains a provision that triggers the application of the part.

Note 1 The determination of a fee by a Minister under an Act is a disallowable instrument and must be in writing (see s 9 (1) (b) and s 42 (2)).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(3) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

5 Determinative and non-determinative provisions

(1) This Act consists of determinative and non-determinative provisions.

(2) A ***determinative provision*** is a provision of this Act that is declared to be a determinative provision.

Example

Section 4 (3) provides that section 4 is a determinative provision.

(3) A ***non-determinative provision*** is any other provision of this Act.

Example

Section 3 does not contain a provision corresponding to section 4 (3). Therefore, section 3 is not a determinative provision.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

6 Legislation Act provisions must be applied

(1) A provision of this Act must be applied to an Act or statutory instrument, in accordance with the terms of the provision, except so far as it is displaced.

(2) A determinative provision may be displaced expressly or by a manifest contrary intention.

(3) A non-determinative provision may be displaced expressly or by a contrary intention.

Note For the distinction between a 'manifest contrary intention' (see s (2)) and 'contrary intention' (see s (3)), see the examples in this section.

(4) The declaration of a provision as 'determinative' indicates that it is the intention of the Legislative Assembly that, if the provision is to be displaced at all in a particular case, a more deliberate displacement is required than if the provision were a non-determinative provision.

(5) This section applies despite any presumption or rule of interpretation.

(6) A provision of this Act must not be taken to be displaced by a provision of an Act or statutory instrument so far as the provisions can operate concurrently.

(7) In particular and without limiting subsection (5), a provision of this Act is not displaced by a provision of an Act or statutory instrument because the provisions deal with the same or a similar subject matter.

(8) This section is a determinative provision.

Examples of different kinds of displacement

1 *Determinative provision—express displacement*

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

The *Collections Regulation Act 1999* (hypothetical), section 83 contains the following provision:

(2) The Legislation Act, section 47 (3) does not apply to a regulation under this Act.

Section 83 (2) illustrates a provision expressly displacing this Act, section 47 (3), a determinative provision.

2 *Determinative provision—manifest contrary intention*

The *Motor Repairers Act 2001* (hypothetical) does not contain a provision like the *Collections Regulation Act 1999*, section 83, but section 79 contains the following provision:

(3) A regulation may apply, adopt or incorporate an instrument or provision of an instrument as in force from time to time.

Section 79 (3) illustrates a provision displacing this Act, section 47 (3), a determinative provision, by a manifest contrary intention because section 79 (3) clearly contradicts section 47 (3).

3 *Non-determinative provision—contrary intention*

The master of a vessel is charged with contravening the *Liquor Act 2001* (hypothetical), section 126 by selling liquor on or from 'licensed premises' otherwise than at a time authorised by the Act. It is claimed that the sale took place on the vessel. The Act defines 'licensed premises' to mean that part or those parts of a building or buildings and of the land adjoining it or them as defined by the licensing court. It is argued that the complaint is defective in that a vessel cannot be 'licensed premises'. However, section 126 is expressed to apply to 'a licensee, servant, agent or master who sells liquor on or from licensed premises'. In this case, the reference to 'master' indicates a contrary intention indicating that the section is intended to apply to liquor sold on or from vessels.

Example of concurrent operation (no displacement)

The *Small Clubs Act 2002* (hypothetical) contains the following provision about how notice of the club's annual general meeting may be served on members of a registered small club:

60 Serving notice of annual general meeting

The executive committee of a registered small club may serve notice of the annual general meeting of the club on members by pinning the notice to a noticeboard in the club house.

This Act, section 247, a non-determinative provision, allows a document to be served on an individual under an Act in a number of ways (by giving the document to the individual, by sending it by prepaid post etc), but does not

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

mention pinning the document to a noticeboard as a method of giving the notice.

Section 247 is not displaced by the *Small Clubs Act 2002*, section 60, because—

- section 60 does not expressly displace section 247 nor does it indicate a contrary intention (see s 6 (1) and (3)) and, in particular, section 60 does not indicate an intention that the method of service it authorises is to be the only method of serving notice of annual general meetings on members of small clubs; and
- the application of section 247 is not displaced by any presumption or rule of interpretation (see s 6 (5)); and
- sections 60 and 247 can operate concurrently (see s 6 (6)) by allowing complementary methods of service; and
- the fact that sections 60 and 247 deal with the same (or a similar) subject matter does not of itself displace section 247 (see s 6 (7) and also s 6 (5)).

It follows, therefore, that the executive committee is free to serve notice of the annual general meeting under section 60 or section 247.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1.2 Basic concepts

7 Meaning of *Act* generally

(1) An ***Act*** is an Act of the Legislative Assembly.

(2) An ***Act of the Legislative Assembly*** is a law (however described or named) made by the Legislative Assembly under the Self-Government Act.

(3) A reference to an ***Act*** includes a reference to a provision of an Act.

Note 1 Section 17 deals with former Commonwealth enactments, and former NSW and UK Acts, that have become ACT Acts.

Note 2 Section 100 (1) deals with references to particular Acts.

8 Meaning of *subordinate law*

(1) A ***subordinate law*** is a regulation, rule or by-law (whether or not legislative in nature) made under—

(a) an Act; or

(b) another subordinate law; or

(c) power given by an Act or subordinate law and also power given otherwise by law.

(2) A reference to a ***subordinate law*** includes a reference to a provision of a subordinate law.

9 Meaning of *disallowable instrument*

(1) A ***disallowable instrument*** is—

(a) a statutory instrument (whether or not legislative in nature) that is declared to be a disallowable instrument by an Act, subordinate law or another disallowable instrument; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) a determination of fees or charges by a Minister under an Act or subordinate law.

Note ***Statutory instrument*** is defined in s 13.

(2) A reference to a ***disallowable instrument*** includes a reference to a provision of a disallowable instrument.

10 Meaning of *notifiable instrument*

(1) A ***notifiable instrument*** is a statutory instrument (whether or not legislative in nature) that is declared to be a notifiable instrument by an Act, subordinate law, disallowable instrument or another notifiable instrument.

(2) A reference to a ***notifiable instrument*** includes a reference to a provision of a notifiable instrument.

11 Meaning of *commencement notice*

(1) A ***commencement notice*** is a statutory instrument that fixes or otherwise determines the commencement of an Act, subordinate law, disallowable instrument or notifiable instrument.

(2) A reference to a ***commencement notice*** includes a reference to a provision of a commencement notice.

12 Meaning of *legislative instrument*

(1) A legislative instrument is—

(a) a subordinate law; or

(b) a disallowable instrument; or

(c) a notifiable instrument; or

(d) a commencement notice.

(2) A reference to a ***legislative instrument*** includes a reference to a provision of a legislative instrument.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

13 Meaning of *statutory instrument*

(1) A ***statutory instrument*** is an instrument (whether or not legislative in nature) made under—

(a) an Act; or

(b) another statutory instrument; or

(c) power given by an Act or statutory instrument and also power given otherwise by law.

(2) A ***statutory instrument*** includes a subordinate law, disallowable instrument, notifiable instrument and commencement notice.

(3) A reference to a ***statutory instrument*** includes a reference to a provision of a statutory instrument.

14 Meaning of *instrument*

(1) An ***instrument*** is any writing or other document.

Note ***Writing*** is defined in the dictionary, pt 1.

(2) A reference to an ***instrument*** includes a reference to a provision of an instrument.

15 Meaning of *authorised republication*

(1) An ***authorised republication*** is a republication of a law authorised by the parliamentary counsel under this Act.

(2) A reference to an ***authorised republication*** includes a reference to a provision of an authorised republication.

(3) In this section:

law—see section 107 (Definitions for ch 11).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

16 Meaning of *provision*

A ***provision*** of an Act or instrument is any words or anything else that forms part of the Act or instrument.

Examples of provisions consisting of groups of words

sections, subsections, paragraphs, subparagraphs, sub-subparagraphs, examples

Examples of provisions consisting of groups of other provisions

chapters, parts, divisions, subdivisions, schedules

Note 1 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Note 2 See s 126 and s 127 for material that is, or is not, part of an Act or statutory instrument.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1.3 Sources of law in the ACT

Notes on sources of law

Note 1 The laws in force in the ACT consist of the written law and various unwritten laws known as the principles and rules of common law and equity.

Note 2 The written law of the Territory consists primarily of laws, known as Acts, made by the Legislative Assembly. It also includes regulations, rules of court and other legislative instruments made under specific powers given by Acts. (Written laws made under an Act are commonly called 'subordinate' or 'delegated' legislation.)

Note 3 Before self-government, ordinances made by the Governor-General under the *Seat of Government* (*Administration*) *Act 1910* (Cwlth) were the main form of legislation made for the ACT. Most of the ordinances in force at self-government have been converted into Acts (see the Self-Government Act, s 34). However, the Governor-General has power to make ordinances for the ACT on a limited number of topics (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

Note 4 The written laws in force in the ACT also include the Commonwealth Constitution, Commonwealth Acts, and regulations and other legislative instruments made under Commonwealth Acts. As a general rule, Commonwealth Acts and legislative instruments apply in the ACT in the same way as they apply in other parts of Australia. Commonwealth Acts and instruments prevail over the Acts made by the Legislative Assembly to the extent to which they are inconsistent (see Self-Government Act, s 28).

Note 5 Certain Acts of New South Wales and the United Kingdom also formed part of the written laws in force in the ACT. Because of the *Interpretation Act 1967*, s 65, these are now taken to be laws made by the Legislative Assembly as if they had been enacted by the Assembly. (Section 65 has expired, but its previous operation was saved–see s 65 (3)). These Acts are listed in sch 1.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

17 References to Acts include references to former Cwlth enactments etc

(1) A reference to an ***Act*** includes a reference to a former Commonwealth enactment.

(2) Without limiting subsection (1), a reference to an ***Act*** includes a reference to a former NSW Act or former UK Act mentioned in schedule 1.

(3) In this section:

former Commonwealth enactment means a Commonwealth Act or ordinance, a New South Wales Act or Imperial Act that is—

(a) an enactment within the meaning of the Self-Government Act because of that Act, section 34; or

(b) an enactment because of the *A.C.T. Self-Government (Consequential Provisions) Act 1988* (Cwlth), section 10 (3) or section 12 (2) or (3).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 2 ACT legislation register and web site

18 ACT legislation register

(1) The parliamentary counsel must establish and maintain a register of Acts and statutory instruments (the ***ACT legislation register***).

(2) The register must be kept electronically.

Example of how register may be kept

The register may be kept in the form of, or as part of, 1 or more computer databases, and may include data compiled electronically from the databases.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

19 Contents of register

(1) The ACT legislation register must contain the following:

(a) authorised republications of laws currently in force;

(b) Acts as made;

(c) subordinate laws as made;

(d) disallowable instruments as made;

(e) notifiable instruments as made;

(f) commencement notices as made;

(g) resolutions passed, or taken to have been passed, by the Legislative Assembly to disallow a subordinate law or disallowable instrument;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(h) resolutions passed, or taken to have been passed, by the Legislative Assembly to amend a subordinate law or disallowable instrument;

(i) bills presented to the Legislative Assembly;

(j) explanatory statements for bills, and amendments of bills, presented to the Legislative Assembly;

(k) explanatory statements, and regulatory impact statements under chapter 5, for subordinate laws and disallowable instruments.

(2) The ACT legislation register must also contain the following:

(a) notifications of the making of Acts;

(b) notifications of the making of subordinate laws;

(c) notifications of the making of disallowable instruments;

(d) notifications of the making of notifiable instruments;

(e) notifications of the making of commencement notices;

(f) notifications of the disallowance of subordinate laws or disallowable instruments under section 65 (Disallowance by resolution of Assembly);

(g) notifications of the amendment of subordinate laws or disallowable instruments under section 68 (Amendment by resolution of Assembly).

(3) The parliamentary counsel may enter additional material in the register if the parliamentary counsel considers that it is likely to be useful to users of the register.

(4) Without limiting subsection (3), the additional material may include the following:

(a) unauthorised republications of laws currently in force;

(b) past versions of unauthorised republications;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) past versions of authorised republications;

(d) statutory instruments that are not legislative instruments;

(e) repealed Acts and statutory instruments;

(f) Commonwealth laws that apply in or in relation to the ACT;

(g) material relevant to interpreting the rights set out in the *Human Rights Act 2004*, including documents mentioned in that Act, dictionary, definition of ***international law***.

Note The following sections of the Act deal with the entry of material in the register:

- s 28 (Notification of Acts)
- s 61 (Notification of legislative instruments)
- s 65A (Notification of disallowance by resolution of Assembly)
- s 69 (Notification of amendments made by resolution of Assembly)
- s 108 (Republication in register).

(5) The parliamentary counsel may enter additional material in the register in any way the parliamentary counsel considers is likely to be helpful to users of the register.

Examples

1 A uniform legislative scheme is entered into under heads of agreement signed on behalf of the Commonwealth, States and Territories. The Legislative Assembly later passes an Act to implement the scheme on behalf of the ACT and the Act is notified and entered in the register. The agreement is also entered in the register as a notifiable instrument with a notifiable instrument number even though the instrument is not taken to be a notifiable instrument under section 10 (Meaning of *notifiable instrument*). The page of the register for the Act contains the heading 'Legislative instruments' and the agreement is listed underneath. The page of the register for the agreement gives particulars for the agreement and mentions that it is not a notifiable instrument but is included in the register for information.

2 An instrument under the Self-Government Act notifying the appointment of Ministers is entered in the register as a notifiable instrument even though the instrument is not taken to be a notifiable instrument under section 10 (Meaning of *notifiable instrument*). The instrument is also numbered as a notifiable instrument. The page of the register for the notification mentions

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

that it is made under the Self-Government Act and is not a notifiable instrument but is included in the register for information.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(6) Without limiting subsection (3) or (5), a regulation may prescribe requirements to be satisfied for additional material to be entered in the register under this section, including, for example, requirements about—

(a) the form of the material; and

(b) the making of requests for its entry in the register.

(7) A regulation may also make provision about the following in relation to instruments (other than legislative instruments) to be entered in the register under this section:

(a) the numbering of the instruments by the parliamentary counsel, whether in a series of numbers allocated under section 59 (Numbering) or otherwise;

(b) the identification of the instruments, including, for example, authorising the parliamentary counsel to—

(i) add a name to an unnamed instrument; or

(ii) amend an instrument's name; or

(iii) add notes to an instrument to assist in its identification; or

(iv) do anything else in relation to an instrument to assist users of the register to identify or refer to the instrument.

(8) If the register contains an authorised republication of a law currently in force, and the law is amended, the parliamentary counsel must replace the republication with an authorised republication of the law as amended.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(9) If the register contains an authorised republication of a law, and the law is repealed, expires or, for a subordinate law or disallowable instrument, is disallowed by the Legislative Assembly, the parliamentary counsel must ensure that the republication is no longer shown as a republication of law currently in force.

(10) If the parliamentary counsel considers it likely to be useful to users of the register to enter information (in any form) in the register, the parliamentary counsel may enter the information at any time.

Example

guides and indexes to the register

(11) If an Act passed by the Legislative Assembly, or a legislative instrument made, before the commencement of this Act need not be notified under this Act, the parliamentary counsel may enter the text of the Act or instrument in the register.

(12) The parliamentary counsel may correct any mistake, error or omission in the register subject to the requirements (if any) of the regulations.

(13) In this section:

amended includes modified.

law—see section 107 (Definitions for ch 11).

repealed includes lapsed and expired.

20 Prompt registration

The parliamentary counsel must ensure that anything the parliamentary counsel is required to do in relation to the register is done promptly.

21 Approved web site

(1) The parliamentary counsel must approve an internet site, and may approve additional internet sites, for this Act.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) The parliamentary counsel may enter into agreements or arrangements to ensure that users can authenticate an approved web site or the material accessible on an approved web site.

22 Access to registered material at approved web site

(1) The parliamentary counsel must ensure, as far as practicable, that a copy of the material mentioned in section 19 (1) and (2) (Contents of register) is accessible at all times on an approved web site.

(2) Access is to be provided without charge by the Territory.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 3 Authorised versions and evidence of laws and legislative material

22A Definitions for ch 3

In this chapter:

law means an Act or statutory instrument, whether or not it has been amended, and includes, in relation to a republication—

(a) a collection of 2 or more Acts or statutory instruments; or

(b) all or part of an agreement or other instrument that has the force of law or is in, or attached to, an Act or statutory instrument.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 and s 13).

legislative material means material (other than a law or provision of a law) relating to an Act or statutory instrument.

Examples of *legislative material*

1 Additional material entered in the register under section 19 (3) (Contents of register) that is not an Act or statutory instrument, for example, appointments of Ministers. Ministers are appointed by the Chief Minister under the Self-Government Act, section 41. An instrument notifying an appointment may be entered in the register even though the instrument is not a statutory instrument.

2 Material that may be considered under chapter 14 in working out the meaning of an Act or statutory instrument, for example, an explanatory statement for the bill that became the relevant Act that was presented to the Legislative Assembly before the Act was passed.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

republication includes part of a republication.

23 Authorisation of versions by parliamentary counsel

The parliamentary counsel may authorise written or electronic versions of a law, republication or legislative material.

Note ***Written*** includes printed (see dict, pt 1, def ***writing***).

24 Authorised electronic versions

(1) An electronic copy of a law, republication or legislative material is an authorised version if—

(a) it is accessed at, or downloaded from, an approved web site in a format authorised by the parliamentary counsel; or

(b) it is authorised by the parliamentary counsel and is in the format in which it is authorised by the parliamentary counsel.

Example of authorised electronic format

a locked pdf file

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) It is presumed, unless the contrary is proved—

(a) that an internet site purporting to be an approved web site is an approved web site; and

(b) that an electronic copy of a law, republication or legislative material accessed at, or downloaded from, an approved web site and purporting to be authorised by the parliamentary counsel (however expressed) is an authorised version of the law, republication or legislative material; and

(c) that any other electronic copy of a law, republication or legislative material purporting to be authorised by the parliamentary counsel (however expressed) is an authorised version of the law, republication or legislative material; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) that an authorised electronic version of an Act or statutory instrument correctly shows the Act or instrument; and

(e) that an authorised electronic version of a republication of a law correctly shows the law as at the republication date; and

(f) that an authorised electronic version of legislative material correctly shows the material.

Examples of an electronic copy of a republication purporting to be authorised by the parliamentary counsel

1 The republication has the words 'Authorised by the ACT Parliamentary Counsel' on the front cover and the words 'Authorised when accessed at www.legislation.act.gov.au or in authorised printed form' at the foot of each page of the republication.

2 The republication has the words 'Authorised by the ACT Parliamentary Counsel' on the front cover and the words 'Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au' at the foot of each page of the republication.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 (3) and s 13 (3)). A reference to a republication includes a reference to part of a republication (see s 22A def ***republication***).

25 Authorised written versions

(1) A written copy of a law, republication or legislative material is an authorised version if—

(a) it is a written copy produced directly from an authorised electronic version of the law, republication or legislative material; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) it is a written copy of another version of the law, republication or legislative material authorised by the parliamentary counsel.

Example for par (a)

An authorised electronic version of an Act is downloaded from an approved web site and printed. The printed copy is an authorised written version of the Act.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) It is presumed, unless the contrary is proved—

(a) that a written copy of a law, republication or legislative material purporting to be authorised by the parliamentary counsel (however expressed) is an authorised version of the law, republication or legislative material; and

(b) that an authorised written version of an Act or statutory instrument correctly shows the Act or instrument; and

(c) that an authorised written version of a republication of a law correctly shows the law as at the republication date; and

(d) that an authorised written version of legislative material correctly shows the material.

Examples of a written copy of a republication purporting to be authorised by the parliamentary counsel

1 The republication has the words 'Authorised by the ACT Parliamentary Counsel' on the front cover and the words 'Authorised by the parliamentary counsel and printed by authority of the ACT Government' at the foot of each page of the republication.

2 The republication has the words 'Authorised by the ACT Parliamentary Counsel and printed by authority of the ACT Government' on the front cover and the words 'Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au' at the foot of each page of the republication.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

3 The republication has the words 'Authorised by the ACT Parliamentary Counsel' on the front cover and the words 'Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au' at the foot of each page of the republication.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 (3) and s 13 (3)). A reference to a republication includes a reference to part of a republication (see s 22A def ***republication***).

26 Judicial notice of certain matters

(1) Proof is not required about—

(a) the passing of a proposed law by the Legislative Assembly or its notification in the register or the gazette; or

(b) the making, or notification or publication in the register or the gazette, of a subordinate law, disallowable instrument, notifiable instrument, commencement notice or any other statutory instrument; or

(c) the approval (however described) of a statutory instrument by the Executive, a Minister or any other entity; or

(d) the provisions of an Act, subordinate law, disallowable instrument, notifiable instrument, commencement notice or any other statutory instrument; or

(e) the commencement of an Act, subordinate law, disallowable instrument, notifiable instrument, or any other statutory instrument; or

(f) the presentation of a subordinate law, disallowable instrument or any other statutory instrument to the Legislative Assembly; or

(g) anything done or not done by or in the Legislative Assembly in relation to a subordinate law, disallowable instrument or any other statutory instrument; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(h) amendments or other changes made under chapter 11 (Republication of Acts and statutory instruments); or

(i) the authorisation of a republication under this Act, the provisions of an authorised republication or the republication date of an authorised republication.

(2) A court or tribunal may inform itself of anything mentioned in subsection (1) in any way it considers appropriate.

Examples of ways that may be appropriate

1 using a version of an Act downloaded from an approved web site using the internet

2 using information obtained from an approved web site using the internet

3 using an authorised written version of a republication

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(3) However, the court or tribunal must consider whether the source it intends to use appears to be a reliable source of information.

(4) For subsection (3), an authorised version of a law, republication or legislative material is a reliable source of information.

(5) This section does not limit any other law providing how a court or tribunal may be informed about a matter mentioned in subsection (1).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 4 Numbering and notification of Acts

27 Numbering of Acts

The Acts passed in each year are to be numbered as nearly as practicable in the order in which they are passed.

28 Notification of Acts

(1) If a proposed law is passed by the Legislative Assembly, the Speaker must ask the parliamentary counsel to notify the making of the law.

(2) If the Speaker asks the parliamentary counsel to notify the making of the proposed law, the parliamentary counsel must—

(a) notify the making of the law in the register; or

(b) if it is not practicable to notify the making of the proposed law in the register—notify the making of the law in the gazette.

(3) If the Speaker asks the parliamentary counsel to notify the making of the proposed law on a particular day, the parliamentary counsel must notify the making of the law on that day unless it is impracticable to do so.

(4) The making of the proposed law is notified in the register by entering in the register—

(a) a statement that the law has been passed by the Legislative Assembly; and

(b) the text of the law.

(5) The making of the proposed law is notified in the gazette by—

(a) publishing the text of the law in the gazette; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) publishing in the gazette a statement—

(i) that the law has been passed by the Legislative Assembly; and

(ii) of the place or places where copies of the law can be obtained (whether by purchase or otherwise).

(6) If the making of the proposed law is notified in the gazette, the parliamentary counsel must enter in the register—

(a) a statement that the law has been passed by the Legislative Assembly; and

(b) a statement that the law was notified in the gazette on a stated date; and

(c) the text of the law.

(7) If the making of the proposed law is notified in the gazette by publishing the statement mentioned in subsection (5) (b), copies of the law must be available on the day of publication (the ***gazette date***), or as soon as practicable after the gazette date, at the place, or each of the places, stated in the gazette.

(8) If on the gazette date no copies of the law are available at the place, or any of the places, stated in the gazette, the parliamentary counsel must give the Minister a statement—

(a) that copies of the law were not available; and

(b) explaining why they were not available.

(9) The Minister must present the statement to the Legislative Assembly not later than 6 sitting days after the gazette date.

(10) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

29 References to *enactment* or *passing* of Acts

In an Act or statutory instrument, a reference to the ***enactment*** or ***passing*** of an Act is a reference to the making of the Act having been notified in the register or the gazette.

30 References to *notification* of Acts

In an Act or statutory instrument, a reference to the ***notification*** of an Act is a reference to the making of the Act having been notified in the register or the gazette.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 5 Regulatory impact statements for subordinate laws and disallowable instruments

Part 5.1 Preliminary

31 Definitions for ch 5

In this chapter:

authorising law, in relation to a proposed subordinate law or disallowable instrument (the ***proposed law***), means the Act or statutory instrument (and, if appropriate, the provision of the Act or statutory instrument) under which the proposed law will be made.

benefits includes—

(a) advantages; and

(b) direct and indirect economic, environmental and social benefits.

costs includes—

(a) burdens and disadvantages; and

(b) direct and indirect economic, environmental and social costs.

scrutiny committee principles means the terms of reference of the Legislative Assembly's Standing Committee on Legal Affairs that apply to subordinate laws and disallowable instruments.

32 Other publication or consultation requirements not affected

(1) Part 5.2 (Requirements for regulatory impact statements) does not affect any requirements in any other territory law for publication or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

consultation about a proposal to make a subordinate law or disallowable instrument.

(2) Part 5.2 does not apply to the subordinate law or disallowable instrument if the requirements are of a comparable level to publication and consultation under the part.

33 Guidelines about costs of proposed subordinate laws and disallowable instruments

(1) The Minister may issue guidelines to be applied in deciding whether a proposed subordinate law or disallowable instrument is, or is not, likely to impose appreciable costs on the community or a part of the community.

(2) A guideline is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under this Act.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 5.2 Requirements for regulatory impact statements

34 Preparation of regulatory impact statements

(1) If a proposed subordinate law or disallowable instrument (the ***proposed law***) is likely to impose appreciable costs on the community, or a part of the community, then, before the proposed law is made, the Minister administering the authorising law (the ***administering Minister***) must arrange for a regulatory impact statement to be prepared for the proposed law.

(2) However, this section does not apply to the proposed law if the administering Minister exempts the proposed law from subsection (1).

Note Section 32 and s 36 also state other circumstances when a regulatory impact statement is not required.

(3) An exemption under subsection (2) (the ***RIS exemption***) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under this Act.

(4) If the RIS exemption is disallowed under this Act after the proposed law has been made, the administering Minister must arrange for a regulatory impact statement to be prepared for the subordinate law or disallowable instrument.

(5) The regulatory impact statement prepared under subsection (4) must be presented to the Legislative Assembly not later than 5 sitting days after the day the RIS exemption is disallowed.

(6) This chapter (other than section 37 (When must regulatory impact statement be presented?)) applies to the law as if the law were a proposed subordinate law or disallowable instrument.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

35 Content of regulatory impact statements

A regulatory impact statement for a proposed subordinate law or disallowable instrument (the ***proposed law***) must include the following information about the proposed law in clear and precise language:

(a) the authorising law;

(b) a brief statement of the policy objectives of the proposed law and the reasons for them;

(c) a brief statement of the way the policy objectives will be achieved by the proposed law and why this way of achieving them is reasonable and appropriate;

(d) a brief explanation of how the proposed law is consistent with the policy objectives of the authorising law;

(e) if the proposed law is inconsistent with the policy objectives of another territory law—

(i) a brief explanation of the relationship with the other law; and

(ii) a brief explanation for the inconsistency;

(f) if appropriate, a brief statement of any reasonable alternative way of achieving the policy objectives (including the option of not making a subordinate law or disallowable instrument) and why the alternative was rejected;

(g) a brief assessment of the benefits and costs of implementing the proposed law that—

(i) if practicable and appropriate, quantifies the benefits and costs; and

(ii) includes a comparison of the benefits and costs with the benefits and costs of any reasonable alternative way of achieving the policy objectives stated under paragraph (f);

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(h) a brief assessment of the consistency of the proposed law with the scrutiny committee principles and, if it is inconsistent with the principles, the reasons for the inconsistency.

36 When is preparation of regulatory impact statement unnecessary?

(1) A regulatory impact statement need not be prepared for a proposed subordinate law or disallowable instrument (the ***proposed law***) if the proposed law only provides for, or to the extent it only provides for, any of the following:

(a) a matter that is not of a legislative nature, including, for example, a matter of a machinery, administrative, drafting or formal nature;

(b) a matter that does not operate to the disadvantage of anyone (other than the Territory or a territory authority or instrumentality) by—

(i) adversely affecting the person's rights; or

(ii) imposing liabilities on the person;

(c) an amendment of a territory law to take account of current legislative drafting practice;

(d) the commencement of an Act or statutory instrument;

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 and s 13).

(e) an amendment of a territory law that does not fundamentally affect the law's application or operation;

(f) a matter of a transitional character;

(g) a matter arising under a territory law that is part of a uniform scheme of legislation or complementary with legislation of the Commonwealth, a State or New Zealand;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(h) a matter involving the adoption of an Australian or international protocol, standard, code, or intergovernmental agreement or instrument, if an assessment of the benefits and costs has already been made and the assessment was made for, or is relevant to, the ACT;

(i) a proposal to make, amend or repeal rules of court;

(j) a matter advance notice of which would enable someone to gain unfair advantage;

(k) an amendment of a fee, charge or tax consistent with announced government policy.

(2) A regulatory impact statement also need not be prepared for the proposed law if, or to the extent that, it would be against the public interest because of the nature of the proposed law or the circumstances in which it is made.

Example

A law may need to be made urgently for controlling the spread of a disease or dealing with another urgent situation.

Note 1 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see this Act, s 126 and s 132).

Note 2 Section 32 and s 34 also state other circumstances when a regulatory impact statement is not required.

37 When must regulatory impact statement be presented?

(1) This section applies if a regulatory impact statement for a proposed subordinate law or disallowable instrument (the ***proposed law***) has been prepared and the proposed law is made.

(2) The statement must be presented to the Legislative Assembly with the subordinate law or disallowable instrument.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 5.3 Failure to comply with requirements for regulatory impact statements

38 Effect of failure to comply with pt 5.2

(1) Failure to comply with part 5.2 (Requirements for regulatory impact statements) in relation to a subordinate law or disallowable instrument (the ***law***) does not—

(a) affect the law's validity; or

(b) create rights or impose legally enforceable obligations on the Territory, a Minister or anyone else.

(2) In addition, a decision made, or appearing to be made, under part 5.2 is final and conclusive.

(3) In this section:

decision includes—

(a) conduct engaged in to make a decision; and

(b) conduct related to making a decision; and

(c) failure to make a decision.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 6 Making, notification and numbering of statutory instruments

Part 6.1 General

39 Meaning of *matter* in ch 6

In this chapter:

matter, in relation to a statutory instrument, includes circumstance, person, place and purpose.

40 Presumption of validity

It is presumed, unless the contrary is proved, that all conditions and steps required for the making of a statutory instrument have been satisfied and carried out.

41 Making of certain statutory instruments by Executive

(1) This section applies if an Act authorises or requires the Executive to make a subordinate law or disallowable instrument.

(2) The subordinate law or disallowable instrument is taken to be made by the Executive if—

(a) it is signed by 2 or more Ministers who are members of the Executive; and

(b) 1 of the signing Ministers is the responsible Minister.

(3) A subordinate law or disallowable instrument made in accordance with subsection (2) is taken to be made when it is signed by the second Minister signing.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) Subsection (2) (b) does not apply if the responsible Minister cannot sign because he or she is absent from the ACT, ill or on leave.

(5) In this section:

responsible Minister means—

(a) the Minister for the time being administering the Act; or

(b) if, for the time being, different Ministers administer the Act in relation to different matters—

(i) if only 1 Minister administers the Act in relation to the relevant matter—that Minister; or

(ii) if 2 or more Ministers administer the Act in relation to the relevant matter—any of the Ministers; or

(iii) if subparagraph (ii) does not apply and, for the time being, 2 or more Ministers administer the Act—any of the Ministers;

but does not include a Minister for the time being acting on behalf of the Minister or 2 or more Ministers.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 6.2 Making of statutory instruments generally

42 Power to make statutory instruments

(1) If an Act or statutory instrument gives a power that can be exercised by making an instrument, the Act or statutory instrument gives power to make the instrument.

Example

An Act gives a Minister power to approve codes of practice, but does not require the approval to be in writing or to be given by a particular instrument. The power can be exercised by giving a written approval. The Act, therefore, gives power to make an instrument, namely, a written approval.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) If an Act or statutory instrument gives power to make an instrument that would be a legislative instrument, the power can only be exercised by making an instrument.

Examples

See examples to section 56 (3) and section 255 (3).

(3) If an Act or statutory instrument gives power to make an instrument, the power may be exercised from time to time.

(4) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

43 Statutory instruments to be interpreted not to exceed powers under authorising law

(1) A statutory instrument is to be interpreted as operating to the full extent of, but not to exceed, the power given by the Act or statutory instrument under which it is made (the ***authorising law***).

(2) Without limiting subsection (1), if a provision of a statutory instrument would, apart from this section, be interpreted as exceeding power—

(a) the provision is valid to the extent to which it does not exceed power; and

(b) the remainder of the instrument is not affected.

Example 1

The *Agriculture Services Determination* 2001, part 4 exceeds the determination–making power given by the *Agriculture Services Act 2000* (hypothetical). The other provisions of the determination are within power.

The determination (apart from part 4) operates effectively. Part 4 is treated as if it did not form part of the determination and is disregarded.

Note to example 1 The kind of interpretation indicated in example 1 is known as a divisible interpretation of the determination.

Example 2

The *Goats Regulation 2001* (hypothetical) is made under the *Goats Act 2001*. The *Goats Regulation 2001*, section 39 seeks to impose rules about the care of 'animals', but the Act only gives power to make regulations about goats.

Section 39 is read restrictively ('read down') as if it mentioned goats. In other words, the section is effective but treated as if it applied only to goats.

Note to example 2 The kind of interpretation indicated in example 2 is known as a distributive interpretation of the regulation.

Example 3

The *Wombat Protection Act 2003* (hypothetical) provides that the Minister may appoint a Wombat Advocate. The instrument making the appointment states that the appointment is for 5 years, but the maximum term of appointment authorised under the Act is 4 years.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

The instrument is read restrictively ('read down') as if it referred to 4 years. In other words, the instrument is effective but the appointment is only valid for 4 years.

Note to example 3 The kind of interpretation indicated in example 3 is known as a distributive interpretation of the instrument.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(3) Without limiting subsection (1), if the application of a provision of a statutory instrument to a matter would, apart from this section, be interpreted as exceeding power, the provision's application to other matters is not affected.

Example

The *Community Safety Order 2001* is expressed to apply to all members of the community without qualification although it is in fact made under the *Building Industry (Safety) Act 2000* (hypothetical). That Act is restricted in its operation to the building industry. The order is cast in such wide terms that it cannot be interpreted divisibly or distributively. However, the order applies to entities such as XYZ Constructions Pty Ltd because it is a company in the construction industry.

(4) This section is in addition to any provision of the statutory instrument or authorising law.

(5) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

44 Power to make statutory instruments for Act etc

(1) If an Act or statutory instrument (the ***authorising law***) authorises or requires the making of a statutory instrument for the authorising law or another Act or statutory instrument (the ***other law***), the power authorises a statutory instrument to be made in relation to any matter that—

(a) is required or permitted to be prescribed by the authorising law or other law; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) is necessary or convenient to be prescribed for carrying out or giving effect to the authorising law or other law.

(2) Subsection (1) applies to the authorising law even though the authorising law—

(a) only authorises the making of a statutory instrument for the authorising law; or

(b) also authorises or requires the making of a statutory instrument about a particular matter.

(3) Power given by the authorising law to make a statutory instrument about a particular matter does not limit power given by the authorising law or other law to make a statutory instrument (whether or not of the same kind) about any other matter.

(4) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

45 Power to make court rules

(1) The power of an entity to make rules for a court includes power to make rules in relation to any matter necessary or convenient to be prescribed for carrying out or giving effect to the court's jurisdiction under any law that authorises or requires anything to be done in or in relation to the court.

(2) This section is additional to section 44.

(3) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(4) In this section:

court includes a tribunal.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

disallowable instrument, for a Commonwealth Act, means an instrument that can be disallowed under the *Legislative Instruments Act 2003* (Cwlth), part 5 (Parliamentary scrutiny of legislative instruments), including that part, or provisions of that part, applied by another Commonwealth law.

law means—

(a) an Act, subordinate law or disallowable instrument; or

Note A reference to an Act, subordinate law or disallowable instrument includes a reference to a provision of the Act, law or instrument (see s 7, s 8 and s 9).

(b) a Commonwealth Act or a disallowable instrument under a Commonwealth Act (or a provision of such an Act or instrument).

46 Power to make instrument includes power to amend or repeal

(1) Power given under an Act or statutory instrument (the ***authorising law***) to make a statutory instrument includes power to amend or repeal the instrument.

(2) The power to amend or repeal the instrument is exercisable in the same way, and subject to the same conditions, as the power to make the instrument.

Examples

1 If the instrument is a disallowable instrument, an amendment or repeal of the instrument is also a disallowable instrument.

2 If the instrument is a notifiable instrument, an amendment or repeal of the instrument is also a notifiable instrument.

3 If notice of the making of the instrument must be published in a newspaper, notice of an amendment or repeal of the instrument must also be published in the newspaper.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) Despite subsection (1), a form that is a legislative instrument may be repealed or repealed and remade (with or without changes), but may not be amended.

(4) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

47 Statutory instrument may make provision by applying law or instrument

(1) This section applies if an Act, subordinate law or disallowable instrument (the ***authorising law***) authorises or requires the making of a statutory instrument (the ***relevant instrument***) about a matter.

(2) The relevant instrument may make provision about the matter by applying an ACT law—

(a) as in force at a particular time; or

(b) as in force from time to time.

(3) The relevant instrument may make provision about the matter by applying a law of another jurisdiction, or an instrument, as in force only at a particular time.

Note For information on the operation of s (3), see the examples to s (9).

(4) If the relevant instrument makes provision about the matter by applying a law of another jurisdiction or an instrument, the following provisions apply:

(a) if subsection (3) is displaced by, or under authority given by, an Act or the authorising law—the law of the other jurisdiction or instrument is applied as in force from time to time;

Note For the displacement of s (3), see s 6, examples 1 and 2.

(b) if subsection (3) is not so displaced and the relevant instrument does not provide that the law of the other jurisdiction or instrument is applied as in force at a particular time—the law

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

or instrument is taken to be applied as in force when the relevant instrument is made.

Examples for s (4) (b)

1 The *Locust Damage Compensation Determination 2003* (a hypothetical disallowable instrument) provides for the making of claims against a compensation fund. Section 43 states that disputes about claims must be decided in accordance with the *Commercial Arbitration Act 1984* (NSW) (the ***NSW Act***) as in force from time to time. The determination is made on 1 August 2003. The Act under which the determination is made does not displace subsection (3). Therefore, even though section 43 purports to apply the NSW Act as in force from time to time, the NSW Act as in force on 1 August 2003 is applied by the determination.

2 The *Locust Damage Compensation Determination 2003* (mentioned in example 1), section 43 states that disputes about claims must be decided in accordance with the *Commercial Arbitration Act 1984* (NSW) (the ***NSW Act***), but does not state that the NSW Act is to be applied as in force from time to time or at a particular time. The determination is made on 1 August 2003. The Act under which the determination is made does not displace subsection (3). Therefore, the NSW Act as in force on 1 August 2003 is applied by the determination.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(5) If a law of another jurisdiction or an instrument is applied as in force at a particular time, the text of the law or instrument (as in force at that time) is taken to be a notifiable instrument made under the relevant instrument by the entity authorised or required to make the relevant instrument.

(6) If subsection (3) is displaced and a law of another jurisdiction or an instrument is applied as in force from time to time, the text of each of the following is taken to be a notifiable instrument made under the relevant instrument by the entity authorised or required to make the relevant instrument:

(a) the law or instrument as in force at the time the relevant instrument is made;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) each subsequent amendment of the law or instrument;

(c) if the law or instrument is repealed and remade (with or without changes)—the law or instrument as remade and each subsequent amendment of the law or instrument;

(d) if a provision of the law or instrument is omitted and remade (with or without changes) in another law or instrument—the provision as remade and each subsequent amendment of the provision.

(7) The authorising law or, if the relevant instrument is a subordinate law or disallowable instrument, the relevant instrument may provide that—

(a) subsection (5) or (6) does not apply to the relevant instrument; or

(b) subsection (5) or (6) applies with the modifications stated in the authorising law or relevant instrument.

(8) If a provision of an Act, subordinate law or disallowable instrument authorises or requires the application of a law or instrument, the provision authorises the making of changes or modifications to the law or instrument for that application.

(9) This section is a determinative provision.

Examples for s (3) and s (9)

Here are 2 examples about the operation of subsections (3) and (9): the first illustrates how subsection (3) might be displaced and the second illustrates how a law of another jurisdiction that applies as in force from time to time would operate—

1 The effect of subsections (3) and (9), and subsection (10), definition of ***applying***, is that if it is intended to apply, adopt or incorporate a law or instrument as in force from time to time, the authorising law would need to expressly displace subsection (3) (as illustrated in s 6, examples of different kinds of displacement, example 1) *or* indicate a manifest contrary intention (as illustrated in example 2 in those examples).

2 The *ABC Regulation 2001* (made under a provision like those illustrated in section 6, examples of different kinds of displacement, examples 1 and 2) provides that

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

noise measurements are to be taken in accordance with the NSW noise control manual as in force from time to time. The effect of the *ABC Regulation 2001* is that whenever the NSW noise control manual is amended in future, the noise measurements must be taken in accordance with the manual as last amended.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(10) In this section:

ACT law means an Act, subordinate law or disallowable instrument.

Note A reference to an Act, subordinate law or disallowable instrument includes a reference to a provision of the Act, law or instrument (see s 7, s 8 and s 9).

applying includes adopting or incorporating.

Note See also s 157 (Defined terms–other parts of speech and grammatical forms).

disallowable instrument, for a Commonwealth Act, means an instrument that can be disallowed under the *Legislative Instruments Act 2003* (Cwlth), part 5 (Parliamentary scrutiny of legislative instruments), including that part, or provisions of that part, applied by another Commonwealth law.

instrument includes a provision of an instrument, but does not include an ACT law or a law of another jurisdiction.

law of another jurisdiction means—

(a) a Commonwealth Act or a disallowable instrument under a Commonwealth Act; or

(b) a State Act, or any regulation or rule under a State Act; or

(c) a New Zealand or Norfolk Island Act, or any regulation or rule under a New Zealand or Norfolk Island Act; or

(d) a provision of a law mentioned in paragraphs (a) to (c).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

48 Power to make instrument includes power to make different provision for different categories etc

(1) Power given under an Act or statutory instrument to make a statutory instrument includes power—

(a) to make different provision in relation to different matters or different classes of matters; or

(b) to make an instrument that applies differently by reference to stated exceptions or factors.

(2) Without limiting subsection (1), power given under an Act or statutory instrument to make a statutory instrument about particular matters includes power to make a statutory instrument about any 1 or more of the matters or a particular class of the matters.

(3) For this section, a class may consist of a single matter.

(4) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

49 Single instrument may exercise several powers or satisfy several requirements

(1) Power given under an Act or statutory instrument may be exercised with any other power to make a single instrument—

(a) whether or not the powers are exercised in relation to separate provisions, some of the same provisions, or all of the provisions, of the instrument; or

(b) whether or not the other powers are given under the same Act or statutory instrument, another Act or statutory instrument or any other territory law.

(2) A statutory instrument is taken—

(a) to be made under each power given under territory law under which it could be made; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) to satisfy each requirement under territory law that it could satisfy.

(3) Without limiting subsection (2), that subsection applies to an instrument even though—

(a) it is stated to be made under a particular territory law (the ***authorising law***) or a particular provision of the authorising law; and

(b) it is stated to be made for a particular territory law (the ***requiring law***) or a particular provision of the requiring law.

(4) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

50 Relationship between authorising law and instrument dealing with same matter

(1) If an Act or statutory instrument (the ***authorising law***) gives power to make a statutory instrument about a matter, the instrument may make provision in relation to a particular aspect of the matter even though provision is made by the authorising law in relation to another aspect of the matter or in relation to another matter.

(2) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

51 Instrument may make provision in relation to land by reference to map etc

(1) This section applies if an Act or statutory instrument authorises or requires provision to be made by statutory instrument in relation to land or waters.

(2) Provision may be made by reference to—

(a) a particular map or plan held by an entity; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) a particular entry in a register kept by an entity;

if the map, plan or register is available for inspection (on the internet or otherwise) by members of the public, whether or not on payment of a fee.

52 Instrument may authorise determination of matter etc

(1) This section applies if an Act or statutory instrument (the ***authorising law***) authorises or requires provision to be made about a matter by statutory instrument.

(2) A statutory instrument made under the authorising law may make provision about the matter by authorising or requiring a stated entity to make provision about the matter, or any aspect of the matter, whether or not from time to time.

(3) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(4) In this section:

provision, for a matter, includes determining or regulating the matter, applying the instrument to the matter, being satisfied or forming an opinion about anything relating to the matter, or doing anything else in relation to the matter.

Example

If an Act provides that an application is to be in a prescribed form, a regulation made under the Act may provide that the form is to be a form approved by the Minister.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

53 Instrument may prohibit

(1) If an Act or statutory instrument authorises or requires a matter to be regulated (however described) by statutory instrument, the power

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

may be exercised by prohibiting by statutory instrument the matter or any aspect of the matter.

(2) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

54 Instrument may require making of statutory declaration

(1) If an Act or statutory instrument (the ***authorising law***) gives power to make a statutory instrument, the instrument may require the making of a statutory declaration.

Note The *Statutory Declarations Act 1959* (Cwlth) applies to the making of statutory declarations under territory laws (see that Act, s 5).

(2) Subsection (1) applies—

(a) whether or not the authorising law authorises or requires penalties to be prescribed by instrument; and

(b) if the authorising law authorises or requires penalties to be prescribed by instrument—irrespective of the level of penalties that may be prescribed.

(3) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 6.3 Making of certain statutory instruments about fees

55 Definitions for pt 6.3

In this part:

fee includes a charge or other amount.

provide a service includes exercise a function.

service includes a function or facility.

56 Determination of fees by disallowable instrument

(1) This section applies if an Act (the ***authorising law***) authorises fees to be determined for an Act or statutory instrument (the ***relevant law***).

(2) The authorising law authorises a fee to be determined in relation to any matter under or related to the relevant law.

(3) To remove any doubt, a fee may be determined for a provision of the relevant law even though the provision does not mention a fee.

Example

The X Act, section 15 provides for a person to apply for an approval but makes no mention of a fee for the approval. However, the Act, section 79 (1) provides:

(1) The Minister may determine fees for this Act.

Because section 79 (1) permits a fee to be determined 'for this Act', this Act, section 56 applies in relation to section 15 and the Minister may, in writing, determine an application fee for the approval.

Note 1 The determination of a fee by a Minister under an Act is a disallowable instrument and must be in writing (see s 9 (1) (b) and s 42 (2)).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) A fee may be determined—

(a) by stating the fee; or

(b) by setting a rate, or providing a formula or other method, by which the fee is to be worked out; or

(c) by a combination of a stated fee and a rate, formula or other method.

Examples of different methods of determining fees

An instrument may determine a fee by stating an amount (eg $250), or a rate (eg $7.50 per kilogram). An instrument may also determine a fee by providing a formula. For example, the fee for a licence issued for part of a year could be worked out using the following formula:

$$\text{annual fee} \times \frac{\text{whole and part months for which licence issued}}{12}$$

(5) The determination—

(a) must provide by whom the fee is payable; and

(b) must provide to whom the fee is to be paid; and

(c) may make provision about the circumstances in which the fee is payable; and

(d) may make provision about exempting a person from payment of the fee; and

(e) may make provision about when the fee is payable and how it is to be paid (for example, as a lump sum or by instalments); and

(f) may mention the service for which the fee is payable; and

(g) may make provision about waiving, postponing or refunding the fee (completely or partly); and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(h) may make provision about anything else relating to the fee.

Example for par (a)

a provision that the owner for the time being of a vehicle is liable for any unpaid registration fee

Examples for par (c)

1 a provision that a document prepared and submitted in accordance with a condition imposed under the Act be accompanied by a fee

2 a provision that royalty ceases to be payable if the percentage of recoverable minerals is less than the prescribed limit

Examples for par (e)

1 a provision that a levy is payable within 30 days after the day goods are sold

2 a provision that, if a licensee fails to pay an instalment payable in the financial year within 14 days after the day it is payable, all remaining instalments payable in the financial year become payable

Example for par (g)

a provision that a stated official may waive all or part of a charge in stated circumstances, including if the official is satisfied about a stated circumstance

(6) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

57 Fees payable in accordance with determination etc

(1) A fee determined by a disallowable instrument is payable by the person by whom the fee is payable under the determination, in relation to the service (if any) mentioned in the determination and in accordance with the determination, to the person to whom the fee is payable under the determination.

(2) If a service is mentioned in the determination, the fee is payable before the service is provided unless the determination provides otherwise.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) If the fee is payable in relation to a service mentioned in the determination and the fee has not been paid in accordance with the determination, no-one is obliged to provide the service.

Examples

1 If a fee for a service is payable in advance under a disallowable instrument and the fee is not paid, there is no obligation to provide the service.

2 If fees for services over a period of time are payable by instalment under a disallowable instrument and the person paying the fees falls behind in payments on the instalments, there is no obligation to provide further services for the person.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(4) Subsection (3) applies to a service even though, apart from that subsection, someone is under a duty to provide the service.

Example

A provision of an Act provides that a registrar 'must' renew a licence if the holder of the licence applies to the registrar for its renewal before the end of the licence term. If a fee is determined for renewal of the licence, the registrar is not required to renew the licence unless the fee is paid.

(5) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

58 Regulations may make provision about fees

(1) This section applies if an Act (the ***authorising law***)—

(a) authorises or requires fees to be determined for the authorising law, or another Act or a statutory instrument (the ***fees law***); and

(b) the authorising law authorises the making of regulations by the Executive.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) A regulation under the authorising law may make provision in relation to—

(a) the payment, collection and recovery of determined fees; and

(b) the waiver, postponement or refund of the fees (completely or partly); and

(c) anything else about which provision may, under section 56 (Determination of fees by disallowable instrument), be made by determination in relation to determined fees.

(3) The power mentioned in subsection (2) (b) includes power to make provision in relation to an entitlement to a waiver, postponement or refund of determined fees in circumstances prescribed by regulation (including the removal of a statutory capacity).

(4) A regulation or the authorising law may make provision in relation to the payment of determined fees by cheque or credit card, including, for example, the consequences of a cheque not being honoured on presentation or a credit card transaction not being honoured.

(5) A regulation or the authorising law may make provision in relation to the removal of a statutory capacity if any determined fee—

(a) is not paid when it is required to be paid; or

(b) is paid by cheque and the cheque is not honoured on presentation; or

(c) is paid by credit card and the credit card transaction is not honoured.

(6) A regulation or the authorising law may make provision in relation to the restoration of a statutory capacity (whether prospectively or during any past period).

(7) This section is in addition to any provision of the authorising law or fees law.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(8) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(9) In this section:

credit card includes debit card.

removal, of a statutory capacity, includes suspension, cancellation, revocation, withdrawal, surrender or other prescribed restriction or termination of a statutory capacity under the fees law or authorising law.

statutory capacity includes an accreditation, approval, assessment, authority, certificate, condition, decision, determination, exemption, licence, permission, permit, registration or other prescribed thing giving a status, privilege or benefit under the fees law or authorising law (whether or not required under either law for doing anything).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 6.4 Numbering and notification of legislative instruments

59 Numbering

(1) The legislative instruments registered in each year must be numbered by the parliamentary counsel as nearly as practicable in the order in which they are notified.

(2) However, the parliamentary counsel may—

(a) allocate different kinds of legislative instruments to different series for numbering purposes; or

(b) add distinguishing letters to numbers to indicate the kind of legislative instrument.

Examples

1 The parliamentary counsel may number subordinate laws, disallowable instruments, commencement notices and other legislative instruments in different series.

2 The parliamentary counsel may add the letters 'SL' to the numbers of registered subordinate laws, the letters 'DI' to the numbers of registered disallowable instruments and the letters 'CN' to the numbers of registered commencement notices.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(3) Also, a regulation may provide that this section does not apply to a notifiable instrument of a kind prescribed by regulation.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

60 Correction etc of name of legislative instrument

(1) This section applies if a legislative instrument is unnamed or the name it gives to itself—

(a) includes a year that is not the year in which the instrument was notified; or

(b) is the same as another legislative instrument that has been, or is to be, notified under this Act; or

(c) includes a number that is not consecutive with other legislative instruments that have been notified under this Act; or

(d) does not include a number that would give the instrument a unique name; or

(e) is otherwise not in accordance with current legislative drafting practice.

Example for par (c)

A legislative instrument has the name '*XYZ Amendment Rule 2000* (*No 5*)'. Legislative instruments with the names '*XYZ Amendment Rule 2000 (No 1)*', '*XYZ Amendment Rule 2000 (No 2)*' and '*XYZ Amendment Rule 2000 (No 3)*' have already been notified under the Act

Example for par (d)

A legislative instrument has the name '*XYZ Amendment Rule 2000 (No)*'.

Example for par (e)

A legislative instrument has the name '*XYY Amendment Order 2002 (No 1)*'. The instrument was made under the *XYZ Act 2000* (the ***authorising Act***). The name of the instrument does not correctly reflect the name of the authorising Act.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) The parliamentary counsel may, before notifying the legislative instrument under this Act—

(a) add a name to an unnamed instrument; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) amend the instrument's name to bring it into line with current legislative drafting practice.

(3) If the name of a legislative instrument is added or amended under this section, the instrument has effect for all purposes as if the instrument were made with the name as added or amended.

(4) If the name of a legislative instrument is added or amended under this section, the parliamentary counsel may make a corresponding change to any explanatory statement or regulatory impact statement for the instrument.

60A Correction of name of explanatory statement etc

(1) This section applies if an explanatory statement or regulatory impact statement for a legislative instrument—

(a) does not include the instrument's number or name in an appropriate place; or

(b) includes a reference to the instrument's number or name that is incorrect.

(2) The parliamentary counsel may, before entering the statement in the register—

(a) include the instrument's number or name in an appropriate place in the statement; or

(b) correct the reference to the instrument's number or name.

61 Notification of legislative instruments

(1) If a legislative instrument is made, an authorised person for making a notification request for the instrument may ask the parliamentary counsel to notify the making of the instrument.

(2) If an authorised person for making a notification request for a legislative instrument asks the parliamentary counsel to notify the making of the instrument and complies with the requirements (if

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

any) prescribed by regulation (whether in relation to the form of the instrument, in relation to the making of the request or otherwise), the parliamentary counsel must—

(a) notify the making of the instrument in the register; or

(b) if it is not practicable to notify the making of the instrument in the register—notify the making of the instrument in the gazette.

(3) The making of the legislative instrument is notified in the register by entering in the register—

(a) a statement that the instrument has been made; and

(b) the text of the instrument.

(4) The making of the legislative instrument is notified in the gazette by—

(a) publishing the text of the instrument in the gazette; or

(b) publishing in the gazette a statement—

(i) that the instrument has been made; and

(ii) of the place or places where copies of the instrument can be obtained (whether by purchase or otherwise).

(5) If the making of the legislative instrument is notified in the gazette, the parliamentary counsel must enter in the register—

(a) a statement that the instrument has been made; and

(b) a statement that the instrument was notified in the gazette on a stated date; and

(c) the text of the instrument.

(6) If the making of the legislative instrument is notified in the gazette by publishing the statement mentioned in subsection (4) (b), copies of the instrument must be available on the day of the publication

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(the ***gazette date***), or as soon as practicable after the gazette date, at the place, or each of the places, stated in the gazette.

(7) If on the gazette date no copies of the legislative instrument are available at the place, or any of the places, stated in the gazette, the parliamentary counsel must give the Minister a statement—

(a) that copies of the law were not available; and

(b) explaining why they were not available.

(8) The Minister must present the statement to the Legislative Assembly not later than 6 sitting days after the gazette date.

(9) Despite subsection (2), the parliamentary counsel may notify the making of a legislative instrument even though a requirement prescribed by regulation for subsection (2) (a ***prescribed requirement***) is not complied with.

(10) The notification of a legislative instrument is valid even if—

(a) a prescribed requirement was not complied with; or

(b) the notification was made on the request of a person who was not, or was no longer, a delegate of an authorised person for making a notification request for the instrument.

(11) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(12) In this section:

authorised person, for making a notification request for a legislative instrument, means—

(a) the maker of the instrument; or

(b) for a legislative instrument made by the Executive—a Minister or chief executive; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) for a legislative instrument made by a Minister—a chief executive; or

(d) for a legislative instrument made by the rule-making committee—

(i) the secretary of the committee; or

(ii) the registrar of a court or tribunal in relation to which the instrument applies; or

(e) for any other legislative instrument made by a court or tribunal, or by a member (however described) of a court or tribunal—the registrar of the court or tribunal; or

(f) for any other legislative instrument (other than an instrument prescribed by regulation for this paragraph)—a chief executive; or

(g) for a legislative instrument prescribed by regulation for this paragraph—a person prescribed by regulation as an authorised person for making a notification request for the instrument.

rule-making committee means the rule-making committee established under the *Court Procedures Act 2004*.

62 Effect of failure to notify legislative instrument

(1) A legislative instrument is not enforceable by or against the Territory or anyone else unless it is notified.

(2) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

63 References to *notification* of legislative instruments

In an Act or statutory instrument, a reference to the ***notification*** of a legislative instrument is a reference to the instrument having been notified in the register or gazette.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 7 Presentation, amendment and disallowance of subordinate laws and disallowable instruments

Note to ch 7

In this chapter, a reference to a subordinate law or disallowable instrument includes a reference to a provision of a subordinate law or disallowable instrument (see s 8 (2) and s 9 (2)).

64 Presentation of subordinate laws and disallowable instruments

(1) A subordinate law or disallowable instrument must be presented to the Legislative Assembly not later than 6 sitting days after its notification day.

(2) If a subordinate law or disallowable instrument is not presented in accordance with subsection (1), it is taken to be repealed.

(3) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

65 Disallowance by resolution of Assembly

(1) This section applies if notice of a motion to disallow a subordinate law or disallowable instrument is given in the Legislative Assembly not later than 6 sitting days after the day it is presented to the Assembly.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) If the Legislative Assembly passes a resolution to disallow the subordinate law or disallowable instrument, it is taken to be repealed—

(a) on the day after the day the disallowance is notified; or

(b) if the resolution provides that it takes effect on the day the resolution is passed—that day.

(3) For this chapter, the Legislative Assembly is taken to have passed a resolution to disallow the subordinate law or disallowable instrument if, at the end of 6 sitting days after the day the notice is given—

(a) the notice has not been withdrawn and the motion has not been called on; or

(b) the motion has been called on and moved, but has not been withdrawn or otherwise disposed of.

(4) If subsection (3) applies, the resolution is taken to be the resolution set out in the motion for the resolution.

(5) A disallowance under this section has effect for all purposes as if it were a repeal made by an Act.

(6) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

65A Notification of disallowance by resolution of Assembly

(1) If a subordinate law or disallowable instrument is disallowed, or taken to have been disallowed, under section 65, the Speaker must ask the parliamentary counsel to notify the disallowance.

(2) If the Speaker asks the parliamentary counsel to notify the disallowance, the parliamentary counsel must—

(a) notify the disallowance in the register; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) if it is not practicable to notify the disallowance in the register—notify the disallowance in the gazette.

(3) If the Speaker asks the parliamentary counsel to notify the disallowance on a particular day, the parliamentary counsel must notify the disallowance on that day unless it is impracticable to do so.

(4) The disallowance is notified in the register by entering in the register—

(a) a statement that the subordinate law or disallowable instrument has been disallowed under section 65; and

(b) the text of the resolution passed, or taken to have been passed, by the Legislative Assembly under section 65; and

(c) the day when the resolution was passed or taken to have been passed; and

(d) the day when the subordinate law or disallowable instrument is taken to be repealed because of the resolution.

(5) The disallowance is notified in the gazette by publishing in the gazette—

(a) a statement that the subordinate law or disallowable instrument has been disallowed under section 65; and

(b) the text of the resolution passed, or taken to have been passed, by the Legislative Assembly under section 65; and

(c) the day when the resolution was passed or taken to have been passed; and

(d) the day when the subordinate law or disallowable instrument is taken to be repealed because of the resolution.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(6) If the disallowance is notified in the gazette, the parliamentary counsel must enter in the register—

(a) a statement that the subordinate law or disallowable instrument has been disallowed under section 65; and

(b) a statement that the disallowance was notified in the gazette on a stated date; and

(c) the text of the resolution passed, or taken to have been passed, under section 65; and

(d) the day when the resolution was passed or taken to have been passed; and

(e) the day when the subordinate law or disallowable instrument is taken to be repealed because of the resolution.

(7) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

66 Revival of affected laws

(1) This section applies if—

(a) a subordinate law or disallowable instrument (the ***disallowed law***) is taken to be repealed under section 64 (Presentation of subordinate laws and disallowable instruments) or section 65 (Disallowance by resolution of Assembly); and

(b) the disallowed law repealed or amended an Act or statutory instrument (the ***affected law***); and

(c) the repeal or amendment has commenced.

(2) The affected law is revived, from the beginning of the day after the disallowed law is taken to have been repealed, as if the disallowed law had never been made.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

67 Making of instrument same in substance within 6 months after disallowance

(1) This section applies if a subordinate law or disallowable instrument (the ***disallowed law***) is disallowed under section 65 (Disallowance by resolution of Assembly).

(2) A subordinate law or disallowable instrument the same in substance must not be made within 6 months beginning on the day of the disallowance unless the Legislative Assembly has—

(a) rescinded the resolution that disallowed the disallowed law; or

(b) by resolution, approved the making of—

(i) a subordinate law or disallowable instrument in those terms; or

(ii) a subordinate law or disallowable instrument the same in substance as the disallowed law.

(3) A subordinate law or disallowable instrument made in contravention of this section is void.

(4) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

68 Amendment by resolution of Assembly

(1) In this section:

amendment does not include an amendment that would have the effect of waiving or changing any fee, charge, penalty or other amount payable to the Territory.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

disallowable instrument does not include a determination of fees or charges by a Minister under an Act or subordinate law.

(2) This section applies if notice of a motion to amend a subordinate law or disallowable instrument is given in the Legislative Assembly not later than 6 sitting days after the day it is presented to the Assembly.

(3) If the Legislative Assembly passes a resolution to amend the subordinate law or disallowable instrument, it is amended accordingly—

(a) on the day after the day the amendment is notified; or

(b) if the resolution provides that it takes effect on the day the resolution is passed—that day.

(4) For this chapter, the Legislative Assembly is taken to have passed a resolution to amend the subordinate law or disallowable instrument if, at the end of 6 sitting days after the day the notice is given—

(a) the notice has not been withdrawn and the motion has not been called on; or

(b) the motion has been called on and moved, but has not been withdrawn or otherwise disposed of.

(5) If subsection (4) applies, the resolution is taken to be the resolution set out in the motion for the resolution.

(6) An amendment under this section has effect for all purposes as if it had been made by an Act.

(7) Without limiting subsection (6), section 83 (Consequences of amendment of statutory instrument by Act) applies to the amendment as if it had been made by an Act.

(8) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

69 Notification of amendments made by resolution of Assembly

(1) If a subordinate law or disallowable instrument (the ***amended law***) is amended under section 68, the Speaker must ask the parliamentary counsel to notify the amendment.

(2) If the Speaker asks the parliamentary counsel to notify the amendment, the parliamentary counsel must—

(a) notify the amendment in the register; or

(b) if it is not practicable to notify the amendment in the register—notify the amendment in the gazette.

(3) If the Speaker asks the parliamentary counsel to notify the amendment on a particular day, the parliamentary counsel must notify the amendment on that day unless it is impracticable to do so.

(4) The amendment is notified in the register by entering in the register—

(a) a statement that the amendment of the amended law has been made under section 68; and

(b) the text of the resolution passed, or taken to have been passed, by the Legislative Assembly under section 68; and

(c) the day when the resolution was passed or taken to have been passed; and

(d) the day when the subordinate law or disallowable instrument is taken to be amended because of the resolution.

(5) The amendment is notified in the gazette by publishing in the gazette—

(a) a statement that the amendment of the amended law has been made under section 68; and

(b) the text of the resolution passed, or taken to have been passed, by the Legislative Assembly under section 68; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) the day when the resolution was passed or taken to have been passed; and

(d) the day when the subordinate law or disallowable instrument is taken to be amended because of the resolution.

(6) If the amendment is notified in the gazette, the parliamentary counsel must enter in the register—

(a) a statement that the amendment of the amended law has been made under section 68; and

(b) a statement that the amendment was notified in the gazette on a stated date; and

(c) the text of the resolution passed, or taken to have been passed, by the Legislative Assembly under section 68; and

(d) the day when the resolution was passed or taken to have been passed; and

(e) the day when the subordinate law or disallowable instrument is taken to be amended because of the resolution.

(7) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

70 Making of amendment restoring effect of law within 6 months after amendment

(1) This section applies if a subordinate law or disallowable instrument (the ***amended law***) is amended under section 68 (Amendment by resolution of Assembly).

(2) A subordinate law or disallowable instrument the same in substance as the amended law before the amendment (the ***earlier law***) must not be made within 6 months beginning on the day the amendment is made unless the Legislative Assembly has—

(a) rescinded the resolution that made the amendment; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) by resolution approved the making of—

(i) a subordinate law or disallowable instrument in those terms; or

(ii) a subordinate law or disallowable instrument the same in substance as the earlier law.

(3) A subordinate law or disallowable instrument made in contravention of this section is void.

(4) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

71 Effect of dissolution or expiry of Assembly on notice of motion

(1) This section applies if—

(a) notice of motion to disallow or amend a subordinate law or disallowable instrument is given in the Legislative Assembly not later than 6 sitting days after the day the instrument is presented to the Assembly; and

(b) not later than 6 sitting days after the day the notice is given, the Assembly is dissolved or expires; and

(c) at the time of the dissolution or expiry—

(i) the notice has not been withdrawn and the motion has not been called on; or

(ii) the motion has been called on and moved, but has not been withdrawn or otherwise disposed of.

(2) For this chapter, the subordinate law or disallowable instrument is taken to have been presented to the Legislative Assembly on the first sitting day of the Assembly after the next general election of members of the Assembly.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 8 Commencement and exercise of powers before commencement

72 Meaning of *law* in ch 8

In this chapter:

law means an Act or statutory instrument.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 and s 13).

73 General rules about commencement

(1) An Act commences—

(a) on the day after its notification day; or

(b) if the Act or another Act provides for a different date or time of commencement—on that date or at that time.

(2) A legislative instrument commences—

(a) on the day after its notification day; or

(b) if an Act or the instrument provides for a later date or time of commencement—on that date or at that time; or

(c) if an Act provides for an earlier date or time of commencement—on that date or at that time; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) if the instrument, under authority given by an Act, provides for an earlier date or time—on that date or at that time.

Examples for par (b)

1 A subordinate law may provide that it commences on a stated future date or at a stated time on a stated future date.

2 A disallowable instrument may provide that it commences on the commencement of a stated law or a stated provision of a stated law.

3 A notifiable instrument may provide that it commences on the expiry of a stated statutory instrument.

4 A notifiable instrument may provide that it commences on the date fixed by a Commonwealth Minister, by notice in the Commonwealth gazette, under a stated Commonwealth Act.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(3) Without limiting subsection (2), if a legislative instrument is notified on a day after the day or time provided by the instrument for its commencement, and subsection (2) (c) or (d) does not apply to the instrument—

(a) the instrument is valid; but

(b) the instrument commences on the day after its notification day.

(4) A statutory instrument that is not a legislative instrument commences—

(a) on the day after the day it is made or, if it is required under an Act or statutory instrument to be approved (however described) by the Executive, a Minister or any other entity, the day after the day it is approved; or

(b) if an Act or the instrument provides for a later date or time of commencement—on that date or at that time; or

(c) if an Act provides for an earlier date or time of commencement—on that date or at that time; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) if the instrument, under authority given by an Act, provides for an earlier date or time—on that date or at that time.

(5) This section is subject to the following sections:

(a) section 75 (Commencement of naming and commencement provisions);

(b) section 76 (Non-prejudicial provision may commence retrospectively);

(c) section 79 (Automatic commencement of postponed law);

(d) section 79A (Commencement of amendment of uncommenced law);

(e) section 81 (Exercise of powers between notification and commencement).

(6) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

74 Time of commencement

(1) If an Act commences on a day, it commences at the beginning of the day unless a different time of commencement is provided by the Act, another Act, or a commencement notice providing for the commencement of the Act.

(2) If a statutory instrument commences on a day, it commences at the beginning of the day unless a different time of commencement is provided by the instrument, an Act, or a commencement notice providing for the commencement of the instrument.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

75 Commencement of naming and commencement provisions

(1) The provisions of a law providing for its name and commencement automatically commence on its notification day.

Example

The *XYZ Act 2002* was notified on 1 October 2002. It contains the following provision:

2 Commencement

This Act commences on 1 December 2002.

The provisions of the *XYZ Act 2002* providing for its name and commencement commence on 1 October 2002.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) However, if a provision of the law commences before the law's notification day, the naming and commencement provisions are taken to have automatically commenced—

(a) on that commencement; or

(b) if 2 or more provisions of the law commence at different times before the notification day—on the earlier or earliest of the commencements.

Example

2 Commencement

(1) This Act, other than section 9 and section 10, commences on a day fixed by the Minister by written notice.

(2) Section 9 is taken to have commenced on 1 July 2001.

(3) Section 10 is taken to have commenced on 1 August 2001.

The provisions of the *XYZ Act 2001* providing for its name and commencement are taken to have commenced on 1 July 2001.

(3) In the application of this section to a statutory instrument that is not a legislative instrument, a reference to the instrument's ***notification day*** is a reference to the day after the day it is made or, if it is

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

required under an Act or statutory instrument to be approved (however described) by the Executive, a Minister or any other entity, the day after the day it is approved.

(4) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

75AA Commencement of provisions identifying amended laws

(1) This section applies if a law amends another law and includes a provision (a ***legislation amended provision***) identifying the amended law.

(2) The legislation amended provision automatically commences (or is taken to have automatically commenced)—

(a) on the commencement of the amendments; or

(b) if the amendments commence at different times—on the commencement of the earlier or earliest of the amendments.

(3) This section is a determinative provision.

Note See s 5 for the meaning of determinative provision, and s 6 for their displacement.

75A Meaning of commences *retrospectively*

(1) An Act or legislative instrument commences ***retrospectively*** if it commences on a day or at a time earlier than the day after its notification day.

Note A reference to an Act or legislative instrument includes a reference to a provision of an Act or legislative instrument (see s 7 (3) and s 12 (2)).

(2) A statutory instrument that is not a legislative instrument commences ***retrospectively*** if it commences on a day or at a time earlier than the day after the day it is made or, if it is required under an Act or statutory instrument to be approved (however described)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

by the Executive, a Minister or any other entity, the day after the day it is approved.

75B Retrospective commencement requires clear indication

(1) A law must not be taken to provide for the law (or another law) to commence retrospectively unless the law clearly indicates that it is to commence retrospectively.

Example

The *XYZ Act 2003* was notified on 1 July 2003. It contains the following provision:

2 Commencement

This Act is taken to have commenced on 17 October 2001.

Section 2 clearly indicates that the Act is to commence retrospectively.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

76 Non–prejudicial provision may commence retrospectively

(1) A statutory instrument may provide that a non-prejudicial provision of the instrument commences retrospectively.

(2) Unless this subsection is displaced by, or under authority given by, an Act, a statutory instrument cannot provide that a prejudicial provision of the instrument commences retrospectively.

Example

The *Locust Damage Compensation Determination 2003* (a hypothetical disallowable instrument) sets out (among other things) the people who are eligible for compensation under a compensation fund. Previously, there was no restriction on who was eligible. The determination provides that it is taken to have commenced on 1 July 2003, but it is not notified until 15 August 2003. There is

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

nothing in the Act under which the determination is made (or any other Act) that authorises the retrospective commencement.

The provision of the determination that limits who can apply for compensation is a prejudicial provision (ie it adversely affects some people's right to receive compensation) and cannot commence retrospectively. Instead, it would commence on the day after the determination's notification day (see s 73 (3)).

(3) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(4) In this section:

non-prejudicial provision means a provision that is not a prejudicial provision.

prejudicial provision means a provision that operates to the disadvantage of a person (other than the Territory or a territory authority or instrumentality) by—

(a) adversely affecting the person's rights; or

(b) imposing liabilities on the person.

77 Commencement by commencement notice

(1) If a law is expressed to commence on a day fixed or otherwise determined by a notice—

(a) a single day, or a time on a single day, may be fixed or determined; or

(b) different days or times may be fixed or determined for different provisions.

Example

The *Hypothetical Act 2001* is expressed to commence on a day to be fixed by the Minister by written notice. Unless the Act has commenced automatically in accordance with section 79 (Automatic commencement of postponed law), any of the following arrangements for commencement would be possible:

(a) a notice could fix a single day (eg 5 June 2001) for the entire Act to commence;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) a notice could fix a time on a single day (eg 8 pm on 5 June 2001) for the entire Act to commence;

(c) a notice could fix different days or times for the different provisions of the Act to commence (eg part 7, part 9 and schedule 4 commence on 5 June 2001, part 11 commences at 5 pm on 30 June 2001, and the remaining provisions of the Act commence on 1 July 2001);

(d) a notice could fix a single day (eg 5 June 2001) or a time on a single day (eg 8 pm on 5 June 2001) for the provisions of the Act not already commenced to come into operation.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) A commencement notice for a law is valid even if the day or time fixed or otherwise determined by the notice happens before the notice's notification day.

(3) If the day or time fixed or otherwise determined by a commencement notice for a law happens on or before the notice's notification day, the law commences on the day after the notice's notification day.

(4) However, subsection (3) does not apply to the commencement notice if—

(a) the notice clearly indicates that the law is to commence at an earlier date or time; and

(b) the notice provides for the earlier date or time under authority given by an Act.

Example for par (a)

the commencement notice provides that the law or statutory instrument is 'taken to have commenced' at the earlier date or time

(5) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

78 Separate commencement of amendments

(1) Amendments made by a provision of a law may be given separate commencements, whether or not the provision is self-contained.

Examples

1 A provision of an amending law inserts 2 sections. The sections may be given separate commencements.

2 A provision of an amending law inserts a section that is divided into paragraphs. The paragraphs may be given separate commencements.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

79 Automatic commencement of postponed law

(1) If a postponed law has not commenced within 6 months beginning on its notification day, it automatically commences on the first day after that period.

Example

The *Hypothetical Act 2001* was notified on 5 July 2001 and was expressed to commence on a day to be fixed by the Minister by written notice. If the Act had not commenced by notice on or before 4 January 2002, it would automatically commence on 5 January 2002.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) This section applies to a law unless it is displaced by, or under authority given by, an Act or, if the postponed law is a subordinate law or disallowable instrument, the postponed law.

(3) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) In this section:

enact includes make.

law means an Act, subordinate law, disallowable instrument or notifiable instrument.

Note A reference to an Act, subordinate law, disallowable instrument or notifiable instrument includes a reference to a provision of the Act, law or instrument (see s 7, s 8, s 9 and s 10).

notification day, for a postponed law, means the notification day of—

(a) if the postponed law is a law—the law; or

(b) if the postponed law is a provision of a law—the law that enacts the provision.

postponed law means a law that does not commence on its notification day because a law postpones its commencement until a day or time fixed or determined by a commencement notice.

79A Commencement of amendment of uncommenced law

(1) This section applies if a law (the ***amending law***) amends a law that has not commenced (the ***uncommenced law***).

(2) The amendment of the uncommenced law does not of itself commence that law.

(3) The amendment made by the amending law commences on the commencement of the uncommenced law.

(4) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

80 References to *commencement* of law

In a law, a reference to the ***commencement*** of the law, or another law, (the ***law concerned***) is a reference to—

(a) if the provisions of the law concerned (other than those providing for its name and commencement) commence, or are required to commence, on a single day or at a single time—the commencement of the remaining provisions; or

(b) if paragraph (a) does not apply and the reference is in a provision of the law concerned—the commencement of the provision; or

(c) in any other case—the commencement of the relevant provision of the law concerned.

81 Exercise of powers between notification and commencement

(1) This section applies to a power to make an appointment or statutory instrument, or to do anything else, in the following situations:

(a) the power is given by a law (the ***authorising law***) that has been notified but has not commenced;

(b) the power is given by a law (the ***authorising law***) as amended by another law (the ***amending law***) and the laws have been notified, but all or any of them have not commenced.

Examples of powers to which section applies

1 power to delegate a function

2 power to give or issue an approval, consent, licence, permit or other authority (however described)

3 power to make an acting appointment

4 power to issue guidelines

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) To remove any doubt and without limiting subsection (1), this section applies to any of the following powers if the power is to be exercised in relation to an entity to be established by the authorising law or the authorising law as amended by the amending law:

(a) a power to make an appointment to the entity;

(b) a power to make a statutory instrument for the purposes of the entity;

(c) a power to do anything else in relation to the entity.

Example

This section applies to powers under an authorising law to be exercised in relation to the conduct of an election for members of a board to be established as a corporation by the authorising law.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(3) The power may be exercised at any time even though the authorising law, or the authorising law and amending law (or either of them), is not in force at the time.

(4) For the exercise of the power, the authorising law, or the authorising law and amending law, are taken to be in force at the time of the exercise of the power.

(5) Also, anything else may be done under the power at any time for the purpose of bringing, or in relation to bringing, the authorising law, or the authorising law as amended by the amending law, into operation.

(6) If an appointment or statutory instrument made under this section declares that this subsection applies to it, then, unless the appointment or instrument commences on a different date or at a different time under another provision of this chapter, the appointment or instrument commences on—

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(a) for an appointment or statutory instrument that is a legislative instrument—the day after its notification day; or

(b) for any other appointment or statutory instrument—the day after the day it is made or, if it is required under an Act or statutory instrument to be approved (however described) by the Executive, a Minister or any other entity, the day after the day it is approved.

(7) In any other case, an appointment or statutory instrument made under this section commences on the latest of the following:

(a) the commencement of the authorising law or, if subsection (1) (b) applies and the amending law commences after the authorising law, the commencement of the amending law;

(b) on the day or at the time the appointment or instrument would have commenced if it had not been made under this section.

(8) In the application of this section to a statutory instrument that is not a legislative instrument, a reference to the instrument being ***notified*** is a reference to the instrument being made or, if it is required under an Act or statutory instrument to be approved (however described) by the Executive, a Minister or any other entity, to the instrument being approved.

(9) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 9 Repeal and amendment of laws

Part 9.1 General

82 Definitions for ch 9

In this chapter:

amend includes modify.

law means an Act or statutory instrument.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 and s 13).

repeal includes lapse and expire.

83 Consequences of amendment of statutory instrument by Act

(1) If an Act amends a statutory instrument, the instrument may be amended or repealed as if the amendment had been made by another statutory instrument of that kind.

(2) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

84 Saving of operation of repealed and amended laws

(1) The repeal or amendment of a law does not—

(a) revive anything not in force or existing when the repeal or amendment takes effect; or

(b) affect the previous operation of the law or anything done, begun or suffered under the law; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) affect an existing right, privilege or liability acquired, accrued or incurred under the law.

(2) An investigation, proceeding or remedy in relation to an existing right, privilege or liability under the law may be started, exercised, continued or completed, and the right, privilege or liability may be enforced and any penalty imposed, as if the repeal or amendment had not happened.

(3) Without limiting subsections (1) and (2), the repeal or amendment of a law does not affect—

(a) the proof of anything that has happened; or

(b) any right, privilege or liability saved by the law.

(4) This section does not limit any other provision of this chapter and is in addition to any provision of the law by which the repeal or amendment is made.

(5) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(6) In this section:

liability includes liability to penalty for an offence against the law.

penalty includes punishment and forfeiture.

privilege includes immunity.

right includes capacity, interest, status and title.

84A Creation of offences and changes in penalties

(1) If a law makes an act or omission an offence, the act or omission is only an offence if done or not done after the law commences.

(2) If a law increases the maximum or minimum penalty, or the penalty, for an offence, the increase applies only to an offence committed after the law commences.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) If a law reduces the maximum or minimum penalty, or the penalty, for an offence, the reduction applies to an offence committed before or after the law commences, but does not affect any penalty imposed before the law commences.

(4) In this section:

law means an Act or subordinate law.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 and s 8).

(5) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 9.2 Repeal

85 When repeal takes effect

(1) This section applies if a law is repealed on a day.

(2) If the law is remade on that day (with or without changes), the repeal takes effect when the remade law commences.

Note Under s 74, if a law commences on a day, it commences at the beginning of the day unless otherwise provided.

(3) If the law is not remade on that day (with or without changes), the law continues in force until the end of the day and the repeal takes effect at midnight on the day.

86 Repealed and amended laws not revived on repeal of repealing and amending laws

(1) If a law (the ***first law***) is repealed by another law (the ***other law***), the first law is not revived only because the other law is repealed.

Examples

1 Act A repeals Act B. Act A is repealed. The repeal of Act A does not revive Act B.

2 Act A repeals Act B. Act A is automatically repealed under this Act, section 89 (Automatic repeal of certain laws and provisions). The repeal of Act A does not revive Act B.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) If a law (the ***first law***) is amended by another law (the ***other law***), the continuing operation of the amendments made by the other law is not affected only because the other law is repealed and, in particular, the first law is not revived in the form in which it was in before the amendments took effect only because of the repeal.

Examples

1 Act A amends Act B. Act A is repealed after it has commenced by a later Act C. The amendments made by Act A continue to operate, even though Act A has been repealed.

2 Act A amends Act B. Act A is automatically repealed under this Act, section 89. The amendments made by Act A continue to operate, even though Act A has been repealed.

(3) This section does not limit any other provision of this chapter and is in addition to any provision of the law by which the repeal is made.

(4) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(5) In this section:

amended does not include modified.

law includes a rule of the common law (including equity).

Examples

1 a common law offence

2 a common law rule of practice or procedure

3 a right to equitable relief

87 Commencement not undone if repealed

(1) If a provision of a law providing for the commencement of the law is repealed after the law has commenced, the repeal of the provision does not affect the continuing operation of the law.

(2) If a commencement notice providing for the commencement of a law is repealed after the law has commenced, the repeal of the notice does not affect the continuing operation of the law.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) This section does not limit any other provision of this chapter and is in addition to any provision of the law by which the repeal is made.

(4) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

88 Repeal does not end effect of transitional laws etc

(1) The continuing operation of a transitional law or validating law is not affected only because the law is repealed.

(2) Subsection (1) does not apply to a law that is a transitional law or validating law because of modifications that it makes to another law.

(3) If a law (the ***savings law***) declares a law (the ***declared law***) to be a law to which this section applies—

(a) the effect of the declared law does not end only because of its repeal; and

(b) the effect of the savings law does not end only because of its repeal.

(4) A declaration may be made for subsection (3) about a law whether or not the Act is a law to which subsection (1) applies.

(5) A declaration made for subsection (3) about a law does not imply that, in the absence of a declaration about it, another law is not a law to which this section applies.

(6) This section does not limit any other provision of this chapter and is in addition to any provision of the law by which the repeal is made.

(7) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(8) To remove any doubt and without limiting section 6 (Legislation Act provisions must be applied), the application of this section to a

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

law is not displaced only because the law is repealed and, in particular, the repeal of the law does not of itself imply an intention to displace the application of this section to the law.

(9) In this section:

transitional law means—

(a) a law made or expressed to be made for a transitional purpose; or

(b) a law that makes provision consequential on a law mentioned in paragraph (a).

Examples

1 a provision stating that an existing licence under a repealed Act is taken to be a licence of a particular kind under another Act and authorising the imposition of conditions under the other Act

2 a provision stating that a provision applies to certain applications made before the commencement of an amendment or only to applications made after the commencement of an amendment

3 a declaration made for subsection (3)

Note 1 ***Transitional*** is defined in the dictionary to include application and savings.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

validating law means—

(a) a law that validates something that is or may be invalid; or

(b) a law that makes provision consequential on a law mentioned in paragraph (a).

Examples

1 a provision declaring an instrument to have been validly made and acts done in reliance on the instrument to have been validly done

2 a provision stating that an instrument that is declared valid is taken to have been amended in a particular way

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

89 Automatic repeal of certain laws and provisions

(1) An amending law is automatically repealed on the day after—

(a) all of its provisions have commenced; or

(b) the last of its provisions that have not commenced are omitted or cannot commence.

Example of provision that can no longer commence

The *ABC Act 2005* includes a provision that amends the *XYZ Act 2000*. Before the provision commences, the *XYZ Act 2000* is repealed. The provision can, therefore, no longer commence.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) An appropriation Act is automatically repealed on the last day of the financial year for which it makes appropriations.

(3) An amending provision of a law is automatically repealed immediately after all of the amendments and repeals made by it (or to which it relates) have commenced.

(4) A commencement provision of a law is automatically repealed immediately after all of the provisions of the law have commenced.

(5) A commencement notice is automatically repealed on the day after the day, or the last of the days, fixed or otherwise determined by the notice for the commencement of a law.

(6) If an instrument making, or evidencing, an appointment (including an acting appointment) is a legislative instrument, the instrument is automatically repealed—

(a) on the day the appointment ends; or

(b) if the instrument makes 2 or more appointments that end on different days—on the day the last-ending appointment ends.

(7) A repeal under this section has effect for all purposes, including, for example, any other provisions of this chapter about repeals.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(8) If apart from this subsection a law would be automatically repealed on a day that is earlier than its notification day, the law is instead automatically repealed on the day after its notification day.

(9) In the application of subsection (8) to a statutory instrument that is not a legislative instrument, a reference to the instrument's ***notification day*** is a reference to the day after the day it is made or, if it is required under an Act or statutory instrument to be approved (however described) by the Executive, a Minister or any other entity, the day after the day it is approved.

(10) This section does not limit any other provision of this chapter.

(11) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(12) In this section:

amend does not include modify.

amending law means a law that consists only of provisions of the following kinds:

(a) for an Act—the Act's long title;

(b) a preamble or recital (however described);

(c) a provision about the law's name;

(d) a provision about the law's commencement;

(e) a provision about the purposes of the law or any of its provisions;

(f) a provision about the effect of notes;

Note A note itself is not part of an Act or statutory instrument (see s 127).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(g) a provision providing for the amendment or repeal of a law (including a provision identifying the amended or repealed law);

(h) a provision declaring a law to be a law to which section 88 (Repeal does not end effect of transitional laws etc) applies;

(i) a provision about the renumbering of a law;

(j) a provision authorising or requiring something to be done under chapter 11 (Republication of Acts and statutory instruments).

Example for par (e)

an objects provision

amending provision, of a law, means a provision of the law that only amends or repeals a law, and includes—

(a) any other provision (for example, a schedule) of the law that only identifies the law amended or repealed; and

(b) any other provision (for example, a part heading) of the law that only identifies (or groups) provisions that are amended or repealed.

appropriation Act—see the *Financial Management Act 1996*, dictionary.

commencement provision, of a law, means a provision of the law that only provides for the commencement of the law.

Example 1 for s 89

The *Hypothetical Amending Act 2002* repeals and amends a number of Acts. The Act contains the following provisions:

- a long title
- a provision about the Act's name
- a provision about the Act's commencement
- repealing provisions (that is, a provision stating that the Act repeals the Acts mentioned in schedule 1 and a schedule (schedule 1) setting out the names of the repealed Acts)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

- amending provisions (that is, a provision stating that the Act amends the Acts mentioned in schedule 2 and a schedule (schedule 2) setting out the amended Acts and the amendments of them)
- a provision about the application of this Act, section 88 (Repeal does not end effect of transitional laws etc) to a provision being repealed
- a provision requiring an amended Act (the *XYZ Act 1990*), or a provision of the *XYZ Act 1990*, to be renumbered in the next republication of the Act under this Act.

The Act contains no other provisions. Its repealing provisions, and its other provisions apart from the naming provision, the commencement provision and the amending provisions, commence on the day after its notification day, 22 March 2002. Its amending provisions commence on a date fixed by the Minister by written notice, 12 April 2002. The Act is automatically repealed under section 89 on the day after all of its provisions have commenced, 13 April 2002.

Example 2 for s 89

The *Example Act 2001* contains provisions establishing a new licensing scheme. It also amends several Acts and repeals others. Because it contains the scheme provisions, it is not an amending law covered by subsection (1). It is, therefore, not automatically repealed under section 89.

Example 3 for s 89—see s (12), def *amending provision*

The *Plant Diseases Act 2003* (hypothetical), part 6 is as follows:

Part 6 Repeals and consequential amendment

42 Repeal of Plant Diseases Act 1934

The *Plant Diseases Act 1934* A1934-21 is repealed.

43 Repeal of Plant Diseases Regulation 1938

The *Plant Diseases Regulation 1938* (made on 11 February 1938) is repealed.

44 Administrative Decisions (Judicial Review) Act 1989, schedule 1, new item 6

insert

6 This Act does not apply to decisions of the Minister under the *Plant Diseases Act 2003*, part 3 (Measures for the control of diseases and pests).

Under the definition of ***amending provision***, the heading to part 6, as well as the contents of part 6, are automatically repealed under section 89.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 9.3 Amendment

90 Law and amending laws to be read as one

A law and all laws amending it are to be read as one.

91 Insertion of provisions by amending law

(1) This section applies if a law (the ***amending law***) amends another law (the ***amended law***) by inserting any of the following provisions, and does not exactly specify the position in the amended law where it is to be inserted:

(a) a chapter, part, division, subdivision, section or subsection (an ***inserted chapter, part, division, subdivision, section*** or ***subsection***);

(b) a paragraph (an ***inserted paragraph***);

(c) a subparagraph (an ***inserted subparagraph***);

(d) a sub-subparagraph (an ***inserted sub-subparagraph***);

(e) a definition (an ***inserted definition***);

(f) any other provision (a ***miscellaneous inserted provision***).

(2) An inserted chapter, part, division, subdivision, section or subsection is inserted in the appropriate numerical or alphanumerical position in the amended law.

(3) An inserted paragraph is inserted in the appropriate alphabetical position in the amended law.

(4) An inserted subparagraph is inserted in the appropriate numerical or alphanumerical position in the amended law.

(5) An inserted sub-subparagraph is inserted in the appropriate alphabetical position in the amended law.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(6) An inserted definition is inserted in the appropriate alphabetical position (worked out on a letter-by-letter basis) in a series of definitions in the amended law.

(7) A miscellaneous inserted provision is inserted in the appropriate position in the amended law.

(8) In applying this section to a law that is divided otherwise than into sections, a reference to a section or subsection is a reference to a corresponding provision of the law.

(9) In working out the appropriate position where a provision is to be inserted in the amended law, regard may be had to the following:

(a) the provision number or letter;

(b) the heading of the relevant amending provision of the amending Act;

(c) any other amendments in the amending law including the order of amendments;

(d) anything else in the amending law or amended law;

(e) current legislative drafting practice.

Examples

1 If a part numbered ‘3’ is to be inserted into an amended law with an existing sequence of parts ‘part 1—part 2—part 4’, inserted part 3 is inserted between parts 2 and 4.

2 If a division numbered ‘2.2A’ is to be inserted into an amended law with an existing sequence of divisions in part 2 ‘division 2.1—division 2.2—division 2.3’, inserted division 2.2A is inserted between divisions 2.2 and 2.3.

3 If a section numbered ‘6AA’ is to be inserted into an amended law with an existing sequence of sections ‘section 6—section 6A—section 6B’, inserted section 6AA is inserted between sections 6A and 6B.

4 If a section numbered ‘7A’ is to be inserted (by an amending section headed ‘New section 7A’, with the command ‘*in division 2.2, insert*’) into an amended law with an existing sequence ‘section 7 [in division 2.2]—division 2.3 heading—section 8’, inserted section 7A is inserted between section 7 and the division 2.3 heading (that is, at the end of division 2.2).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

5 If a section numbered ‘7A’ is to be inserted (by an amending section headed ‘New section 7A’, with the command ‘*in division 2.3, insert*’) into an amended law with an existing sequence ‘section 7 [in division 2.2]—division 2.3 heading—section 8’, inserted section 7A is inserted between the division 2.3 heading and section 8 (that is, at the beginning of division 2.3).

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(10) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(11) In this section:

insert includes relocate.

92 Amendment to be made wherever possible

(1) If a law amends another law—

(a) by omitting a word; or

(b) by substituting a word for another word; or

(c) by inserting a word before or after a particular word;

the amendment is to be made wherever possible in the other law.

Example

The *XYZ Amendment Act 2002* is expressed to omit the word ‘authorised’ from the *ABC Act 1998*, section 20. The word ‘authorised’ is used once in the section 20 heading, 3 times in section 20 (1), twice in section 20 (3), once in an example to section 20 (4) and twice in a note to section 20 (5). The amendment omits each of those references to the word ‘authorised’.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

93 Provisions included in another provision for amendment purposes

(1) This section applies for the purpose of amending a law.

(2) The heading to a chapter, part, division, subdivision, schedule, dictionary, section or any other provision of the law forms part of the provision to which it is a heading.

(3) An example at the end of a provision of the law is part of the provision unless the example is expressed in a way that indicates that it applies only to another provision.

(4) A note at the end of a provision of the law is taken, for this section, to be part of the provision unless the note is expressed in a way that indicates that it applies only to another provision.

(5) However, a note in a law is not, for any other purpose, part of the law.

Note Section 127 (Material that is not part of Act or statutory instrument) deals with the status of notes.

(6) A penalty at the end of a subsection of the law—

(a) is part of the subsection unless the penalty is expressed in a way that indicates that it applies only to other subsections of the section; or

(b) if the penalty is expressed in a way that indicates that it applies only to other subsections—is part of the section.

(7) A penalty at the end of a section of the law that is not divided into subsections is part of the section.

(8) The word ‘and’, ‘or’ or ‘but’, or a similar word, at the end of a paragraph, subparagraph, sub-subparagraph or another provision of the law is part of the provision.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(9) In working out whether an example or note is at the end of a provision of the law, any penalty is to be disregarded, and, for an example, any note is to be disregarded.

Note According to current legislative drafting practice, examples, notes and penalties to a provision are arranged in the following order at the end of provisions:

1 penalty (first)
2 examples
3 notes (last).

(10) In applying this section to a law that is divided otherwise than into sections, a reference to a section or subsection is a reference to a corresponding provision of the law.

(11) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

94 Continuance of appointments etc made under amended provisions

(1) This section applies if—

(a) a law expressly or impliedly authorises or requires—

(i) the making of an appointment or statutory instrument; or

(ii) the delegation of a function; or

(iii) the issue of a licence or permit (however described); or

(iv) the doing (however described) of anything else; and

(b) the law is amended by another law; and

(c) under the amended law—

(i) the appointment or statutory instrument may be made; or

(ii) the function may be delegated; or

(iii) the licence or permit may be issued; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(iv) the thing may be done;

whether by the same or a different entity.

Examples for par (a) (iv)

1 the giving of an approval, consent or permission

2 the making of a recommendation

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) An appointment, statutory instrument, delegation, licence, permit or anything else mentioned in subsection (1) that was in force immediately before the commencement of the amendment continues to have effect as if it had been made, issued or done (however described) under the amended law.

(3) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(4) In this section:

amend includes omit and re-enact in the same law (with or without changes), but does not include omit and re-enact in another law.

appointment includes acting appointment.

95 Status of modifications

(1) If a law is modified by another law, the law operates as modified but the modification does not amend the text of the law.

(2) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

96 Relocated provisions

(1) This section applies if a provision of a law is relocated (with or without changes) to a different place in the same law or to a different law.

(2) The operation or meaning of the provision is not affected only because of the provision's relocation.

(3) Without limiting subsection (2), if before its relocation the provision was to be interpreted in a particular way, it is to be interpreted in that way in its new location.

Example

If a provision of an Act is to be interpreted as if it were a law consolidating the provisions of other laws and it is relocated into another Act, it is to be interpreted in the same way in its new location.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(4) However, the provision has effect subject to any changes made to, or in relation to, it.

(5) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 10 Referring to laws

97 Definitions for ch 10

(1) In this chapter:

ACT law means an Act or statutory instrument.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 and s 13).

law means an ACT law or a law of another jurisdiction.

law of another jurisdiction means an Act or statutory instrument of another jurisdiction, and includes a provision of an Act or statutory instrument of another jurisdiction.

Note ***Another jurisdiction*** means the Commonwealth, a State, another Territory, the United Kingdom or New Zealand (see dict, pt 2).

(2) In this section:

Act, in relation to another Territory, includes ordinance.

statutory instrument, of another jurisdiction, means an instrument (whether or not legislative in nature) made under—

(a) an Act of the other jurisdiction; or

(b) another statutory instrument of the other jurisdiction; or

(c) power given by an Act or statutory instrument of the other jurisdiction and also power given otherwise by law.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

98 References to ACT law include law containing reference

In an ACT law, a reference in general terms to an ACT law of the same kind includes a reference to the law itself.

Example

The *ABC Act 2001*, section 27 gives a power to confiscate property under certain circumstances. Section 93 of the same Act provides 'If an Act authorises the confiscation of property, the owner of the property has a right of appeal to the Magistrates Court.' The right of appeal under section 93 also applies to the power given by section 27 because the reference to 'an Act' in section 93 includes a reference to the *ABC Act 2001*.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

99 References in ACT statutory instruments to *the Act*

In a statutory instrument, a reference to ***Act*** or ***the Act***, without mentioning a particular Act, is a reference to the Act under which the instrument is made or in force.

100 Referring to particular ACT laws

(1) An Act may be referred to by—

(a) the name the Act gives to itself; or

(b) the year it was passed and its number, together with a reference (if necessary) to indicate that it is an Act.

Example of reference to indicate Act

An Act may be referred to using the word Act or the letter 'A' (eg 'A1993-1' is a reference to Act No 1 of 1993).

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) A statutory instrument may be referred to by—

(a) any name the instrument gives to itself; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) if the instrument was notified in the register or gazette and was numbered under this Act or another territory law—the year it was notified and its number, together with a reference (if necessary) to the kind of instrument; or

(c) if the instrument was not notified but was numbered under a territory law—the year it was made and its number, together with a reference (if necessary) to the kind of instrument; or

(d) if the instrument was notified in the gazette before the commencement of this Act—the number, date and page of the gazette where it was notified; or

(e) the date it was made, together with a reference to the Act or statutory instrument under which it was made.

Examples of references to kind of instrument for par (b)

1 A subordinate law may be referred to using the letters 'SL' (eg 'SL2000-11' is a reference to subordinate law No 11 of 2000).

2 A disallowable instrument may be referred to using the letters 'DI' (eg 'DI1997-101' is a reference to disallowable instrument No 101 of 1997).

3 A notifiable instrument that is not an approved form may be referred to using the letters 'NI' (eg 'NI2002-226' is a reference to notifiable instrument No 226 of 2002).

4 An approved form may be referred to using the letters 'AF' (eg 'AF2003-1' is a reference to approved form No 1 of 2003).

5 A commencement notice may be referred to using the letters 'CN' (eg 'CN2002-3' is a reference to commencement notice No 3 of 2002).

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

101 Referring to particular laws of other jurisdictions etc

(1) In an ACT law, a law of another jurisdiction (the ***relevant law***) may be referred to—

(a) by the name the relevant law gives to itself; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) in any other way sufficient in a law of the other jurisdiction for referring to the relevant law; or

(c) in any way that, under current legislative drafting practice, would be sufficient for referring to the relevant law if it were an ACT law;

together with a reference to the jurisdiction (or an abbreviation of the jurisdiction).

(2) In an ACT law, a provision of a law of another jurisdiction may be referred to—

(a) in a way sufficient in a law of the other jurisdiction for referring to the provision; or

(b) in any way that, under current legislative drafting practice, would be sufficient for referring to the provision if it were a provision of an ACT law.

(3) Subsection (2) does not limit any other provision of this chapter.

102 References to laws include references to laws as in force from time to time

(1) In an ACT law, a reference to a law includes a reference to the following:

(a) the law as originally made, and as amended from time to time since it was originally made;

(b) if the law has been repealed and remade (with or without changes) since the reference was made—the law as remade (or last remade), and as amended from time to time since it was remade (or last remade);

(c) if a relevant provision of the law has been omitted and remade (with or without changes) in another law since the reference was made—the law in which the provision was remade (or last remade), as in force when the provision was remade (or last

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

remade), and as amended from time to time since the provision was remade (or last remade).

(2) In an ACT law, a reference to a provision of a law includes a reference to the following:

(a) the provision as originally made, and as amended from time to time since it was originally made;

(b) if the provision has been omitted and remade (with or without changes and whether in the law or another law) since the reference was made—the provision as remade (or last remade), and as amended from time to time since it was remade (or last remade).

(3) To remove any doubt, if the name of a law is amended, a reference in an ACT law to the law by its name before the amendment includes a reference to the law by its name as amended.

(4) This section is subject to section 47 (Statutory instrument may make provision by applying law or instrument).

(5) In this section:

made includes enacted.

103 References to repealed laws

In an ACT law, a reference to a law as repealed is a reference to the law as in force immediately before it was repealed.

Example

A reference to the '*XYZ Act 2000* (repealed)' is a reference to the *XYZ Act 2000* immediately before it was repealed.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

104 References to laws include references to instruments under laws

(1) In an ACT law, a reference (either generally or specifically) to a law includes a reference to the statutory instruments made or in force under the law.

(2) In subsection (1), a reference to the statutory instruments made or in force under the law includes a reference to any law or instrument applied, adopted or incorporated (with or without change) under the law.

(3) This chapter applies to an instrument applied, adopted or incorporated under a law as if—

(a) the instrument were a law; and

(b) any other necessary changes were made.

(4) In this section:

statutory instrument, of another jurisdiction—see section 97 (2).

105 Referring to provisions of laws

In an ACT law, a provision of a law may be referred to by reference to the provision of the law in which it is contained.

Example

Paragraph (b) of subsection (2) of section 10 of an Act may be referred to by reference to the section, subsection and paragraph, that is, as section 10 (2) (b).

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

106 References to provisions of laws are inclusive

In an ACT law, a reference to any part of a law is a reference to the following:

(a) the provision of the law that begins the part;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the provision of the law that ends the part;

(c) any provision of the law between the beginning and end of the part.

Examples

1 A reference to ‘sections 5 to 9’ includes both section 5 and section 9.

2 A reference to ‘sections 260 to 264’ includes a provision such as a part heading between section 260 and section 261.

3 A reference to ‘*from* child *to* adult’ includes both the word ‘child’ and the word ‘adult’.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

106A References to paragraphs etc of laws

(1) In an ACT law, a reference to a paragraph of a provision of a law includes any words in the provision before or after the paragraph that are necessary or desirable to make the reference meaningful.

Example

A subsection may be divided into paragraphs as follows:

‘(2) An application must be—

(a) in writing; and

(b) accompanied by a copy of the advertisement of the applicant’s intention to apply.’

Paragraphs form part of the sentence in which they are contained. A reference to paragraph (a) in this example that did not include the preceding words ‘An application must be’ would be meaningless. Section 106A therefore allows the paragraph to be read with those words so that it makes sense.

Note 1 Although this section contains a reference to an ACT law and a reference to a law, s 98 makes it clear that the references can be to the same law.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) In this section:

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

paragraph includes a subparagraph and a sub-subparagraph.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 11 Republication of Acts and statutory instruments

Part 11.1 General

107 Definitions for ch 11

In this chapter:

law means an Act or statutory instrument, whether or not it has been amended, and includes—

(a) a collection of 2 or more Acts or statutory instruments; or

(b) all or part of an agreement or other instrument that has the force of law or is in, or attached to, an Act or statutory instrument.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 and s 13).

republication means a republication of a law.

108 Republication in register

(1) The parliamentary counsel may republish a law by entering the text of the law in the register.

(2) This section does not limit the ways in which the parliamentary counsel may republish a law.

109 Republications may be published with other information

The parliamentary counsel may publish information not required by this chapter with a written or electronic version of an authorised republication if the parliamentary counsel considers that the information is likely to be useful to users of the republication.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

110 Collections of laws

(1) If the parliamentary counsel authorises under this Act the republication of 2 or more laws in a collection, this chapter applies to each of the laws in the collection as if it were republished separately.

(2) This section does not prevent the use of—

(a) a single contents for the collection; or

(b) information applying to 2 or more laws in the collection.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 11.2 Substantive amendments made by laws

111 Incorporation of amendments

(1) This section applies to a law if the law has been amended by another law by the omission, insertion, substitution, renumbering or relocation of provisions.

(2) An authorised republication of the law must show the law as amended by all amendments that commenced on or before the day stated in the republication as the republication date.

(3) This section does not prevent an authorised republication of the law showing the law as it would be amended by amendments that have not commenced on or before the republication date if the republication indicates, in a suitable place, that the amendments have not commenced.

112 Reference to amending laws

An authorised republication of a law that shows the law as amended must include, in a suitable place, a reference to the law by which each amendment was made.

113 Provisions not republished or relocated

(1) This part does not require—

(a) every provision of a law to be shown in an authorised republication of the law; or

(b) each provision of a law to be shown in an authorised republication of the law in the place in the law where it was located when the provision was made.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) If a provision of a law is not shown in an authorised republication, the republication must indicate that fact in a suitable place.

(3) If a provision of a law is shown in an authorised republication in a different place in the law to the place where it was located when the provision was made, the republication must indicate that fact in a suitable place.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 11.3 Editorial changes

114 Authorisation for parliamentary counsel

In preparing a law for republication, the parliamentary counsel is authorised—

(a) to make editorial amendments and other textual amendments of a formal nature that the parliamentary counsel considers desirable to bring the law into line, or more closely into line, with current legislative drafting practice; and

(b) to make other editorial changes by way of format, layout or printing style, or in any other presentational respect, that the parliamentary counsel considers desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

115 Amendments not to change effect

This part does not permit the making of an amendment of a law that would change the effect of the law.

116 Ambit of editorial amendments

(1) An ***editorial amendment*** of a law is an amendment that—

(a) corrects a typographical error; or

(b) corrects or updates a reference to a law, position, entity, place or thing; or

(c) goes only to a matter of spelling, punctuation, grammar or syntax or the use of conjunctives and disjunctives; or

(d) changes the name of the law or a provision of the law; or

(e) numbers or renumbers a provision of the law; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(f) changes the order of definitions or other provisions of the law; or

(g) replaces a reference to a provision of a law with a different form of reference to the provision; or

(h) changes the way of referring to or expressing a number, year, date, time, amount of money, penalty, quantity, measurement, or other matter, idea or concept; or

(i) replaces a word indicating gender or that could be taken to indicate gender in accordance with current legislative drafting practice; or

(j) replaces a reference to the Queen, the King or the Crown with a reference to the Sovereign or the Territory; or

(k) omits—

(i) the enacting words or the law-making words (including any signatures); or

(ii) a provision that consists only of a description of how the law is arranged into groups of provisions; or

(iii) a provision that has expired, the operation of which is exhausted or spent or that is otherwise obsolete or redundant; or

(l) omits, inserts or changes a referential term; or

(m) inserts, omits or changes a note; or

(n) updates a reference to the heading to a provision; or

(o) is consequential on any amendment made to the law by another law; or

(p) is consequential on any other editorial amendment (whether made to that law or another law).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Examples of consequential amendments for par (o)

1 If an amendment adds 1 or more subsections to a section that is not already divided into subsections, the subsection number (1) may be inserted.

2 If an amendment omits subsection (1) from a section with 2 subsections, the subsection number (2) may be omitted.

3 If an amendment omits subsection (2) from a series of 4 subsections (subsections (1) to (4)), subsections (3) and (4) may be renumbered as subsections (2) and (3).

4 If an amendment adds a new subsection (3A) to a series of 5 subsections (subsections (1) to (5)), the new subsection and subsections (4) and (5) may be renumbered as subsections (4), (5), and (6).

5 If an amendment omits paragraph (b) from a series of 4 paragraphs (paragraphs (a) to (d)), paragraphs (c) and (d) may be renumbered as paragraphs (b) and (c).

6 If an amendment adds a new paragraph (aa) to a series of 3 paragraphs (paragraphs (a) to (c)), the paragraphs may be renumbered as paragraphs (a), (b), (c) and (d).

7 If an amendment makes a change mentioned in any of examples 1 to 6, a cross-reference in any law to any of the provisions that have been renumbered may be correspondingly renumbered.

8 If an amendment adds a paragraph as the last paragraph in a series of paragraphs that end in a full stop, the full stop may be changed to a semicolon and, if the series of paragraphs is joined by a conjunction (eg ‘and’), the conjunction may be added after the semicolon.

9 If an amendment omits a section example from a section that has 2 section examples, the number of the remaining example may be omitted.

10 If an amendment adds a subsection note to a subsection that already has a subsection note, the notes may be numbered.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) In this section:

law includes a law of another jurisdiction.

law of another jurisdiction—see section 97 (1).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

referential term means a term that identifies a provision as a provision, or part of a provision, of the Act, statutory instrument or provision in which it appears.

Examples

1 of this Act

2 of this section

3 hereof

4 said

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

117 Legal effect of editorial changes

(1) A law that is amended or otherwise changed under this part in preparing an authorised republication of the law has effect for all purposes, on and after the republication date, as if the changes had been made by an Act that commenced on the republication date.

(2) Without limiting subsection (1), section 83 (Consequences of amendment of statutory instrument by Act) applies to an amendment made under this part as if the amendment had been made by an Act.

(3) This section is subject to section 115 (Amendments not to change effect).

118 Reference to editorial amendments

If a law is amended under this part in preparing an authorised republication of the law, the republication must indicate that fact in a suitable place.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 12 Scope of Acts and statutory instruments

120 Act to be interpreted not to exceed legislative powers of Assembly

(1) An Act is to be interpreted as operating to the full extent of, but not to exceed, the legislative power of the Legislative Assembly.

(2) Without limiting subsection (1), if a provision of an Act would, apart from this section, be interpreted as exceeding the legislative power of the Legislative Assembly—

(a) the provision is valid to the extent to which it does not exceed power; and

(b) the remainder of the Act is not affected.

(3) Without limiting subsection (1), if the application of a provision of an Act to a matter would, apart from this section, be interpreted as exceeding power, the provision's application to other matters is not affected.

(4) This section is in addition to any provision of the Act itself.

Note For the equivalent provision for statutory instruments, see s 43.

(5) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

121 Binding effect of Acts

(1) An Act binds everyone, including people who are not Australian citizens and all governments.

Note See the Self-Government Act, s 27 which provides that, except as provided by the regulations under that Act, an ACT enactment does not bind the Crown in right of the Commonwealth. See also s 120.

(2) However, an Act does not bind the Territory to the extent that it requires or otherwise provides for the payment of money that, on payment, would form part of the public money of the Territory.

(3) Also, subsection (1) does not make a government liable to be prosecuted for an offence.

(4) To the extent that an Act does not bind a government, the same degree of immunity extends to a government entity in relation to an authorised act or omission of the entity.

(5) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(6) In this section:

authorised—an act or omission of a government entity is ***authorised*** if—

(a) for an instrumentality—the act or omission relates to a matter within the scope of the instrumentality's functions; and

(b) for an officer or employee of the government—the act or omission relates to a matter within the scope of the duties of the officer or employee; and

(c) for a contractor who exercises a function on behalf of the government—the act or omission relates to a matter within the scope of the contract; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) for anyone else who exercises a function on behalf of the government—the act or omission relates to a matter within the scope of the person's engagement.

government includes the Territory, the Commonwealth, a State, another Territory or New Zealand.

government entity includes—

(a) an instrumentality, officer or employee of the government; and

(b) a contractor or anyone else who exercises a function on behalf of the government.

122 Application to Territory

(1) In an Act or statutory instrument—

(a) a reference to an entity or position by name or description is a reference to the entity or position of that name or description in or for the Territory; and

(b) a reference to a place, jurisdiction or anything else by name or description is a reference to the place, jurisdiction or thing of that name or description in or for the Territory.

(2) If the name of an entity or position established under an Act or statutory instrument includes the words 'of the Australian Capital Territory', 'for the Australian Capital Territory', '(ACT)', or words having a similar effect, a reference in an Act or statutory instrument to the entity or position need not include the words.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 13 Structure of Acts and statutory instruments

Part 13.1 General

125 Meaning of *law* in ch 13

In this chapter:

law means an Act, subordinate law or disallowable instrument.

Note A reference to an Act, subordinate law or disallowable instrument includes a reference to a provision of the Act, law or instrument (see s 7, s 8 and s 9).

126 Material that is part of Act or statutory instrument

(1) A heading to a chapter, part, division, subdivision, schedule, or another provision (other than a section or subsection), of or to an Act or statutory instrument is part of the Act or instrument.

(2) A heading to a section or subsection of an Act or statutory instrument is part of the Act or instrument if—

(a) the Act was enacted, or the instrument was made, after 1 January 2000; or

(b) the heading was amended or inserted into the Act or instrument after 1 January 2000.

(3) A preamble or other recital to an Act or statutory instrument is part of the Act or instrument.

(4) An example or diagram in an Act or statutory instrument is part of the Act or instrument.

(5) A schedule, dictionary or appendix to an Act or statutory instrument is part of the Act or instrument.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(6) Punctuation in an Act or statutory instrument is part of the Act or instrument.

(7) A provision number in an Act or statutory instrument is part of the Act or instrument.

(8) In applying this section to an Act or statutory instrument that is divided otherwise than into sections, a reference to a section or subsection is a reference to a corresponding provision of the Act or instrument.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 and s 13).

(9) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

127 Material that is not part of Act or statutory instrument

(1) A footnote, endnote, or other note, in or to an Act or statutory instrument is not part of the Act or instrument.

(2) A table of contents (however described), or reader's guide or index, in or to an Act or statutory instrument is not part of the Act or instrument.

(3) A heading to a section or subsection of an Act or statutory instrument is not part of the Act or instrument if section 126 (2) does not apply to the heading.

(4) This section does not prevent the amendment of a note, table, guide, index or heading mentioned in subsection (1), (2) or (3).

(5) However, such a note, table, guide or index does not become part of the Act or statutory instrument because it is amended or inserted by an Act or instrument.

(6) In applying this section to an Act or statutory instrument that is divided otherwise than into sections, a reference to a section or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

subsection is a reference to a corresponding provision of the Act or instrument.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 and s 13).

(7) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 13.2 Particular kinds of provisions

130 What is a definition?

A ***definition*** is a provision (however expressed) of an Act or statutory instrument that—

(a) gives a meaning to a term; or

(b) limits or extends the meaning of a term.

Examples of definitions

1 ***X*** means Y.

2 ***X*** includes Y.

3 ***X*** means Y, and includes Z.

4 A reference to ***X*** is a reference to Y.

5 ***X***—see section Y.

6 ***X***—see the *XYZ Act 1999*, section Y.

7 In a proceeding against a person (the ***retailer***), it is a defence if the retailer establishes that the goods were bought honestly.

8 ***excluded***—a claim is ***excluded*** if the claim is not brought within 1 year after the day the claimant becomes aware of the failure to account to which the claim relates.

9 A term used in the *XYZ Act 2003* has the same meaning in this Act.

10 A term defined in the *XYZ Act 2003* has the same meaning in this Act.

Note 1 Examples 5 and 6 illustrate signpost definitions, that is, definitions that do not themselves directly define a term but point the reader to the place where the term is defined (see s 131).

Note 2 Example 7 illustrates a tagged-term definition (***retailer***) that takes its meaning from the context of the provision where the defined term is found.

Note 3 Example 8 illustrates a definition that does not begin with the defined term.

Note 4 For other provisions about definitions, see pt 15.2.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Note 5 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

131 Signpost definitions

(1) In an Act or statutory instrument, a definition of a term that includes the word 'see' followed by a reference to a law or instrument means the term has the same meaning as the term (or, if the reference includes a reference to the definition of another term, that term) has in the law or instrument, as in force from time to time.

Examples

1 A signpost definition '***food***—see section 10.' in the dictionary to an Act means that the word 'food' when used in the Act has the same meaning as it has in section 10, as in force from time to time.

2 A signpost definition '***injury***—see the *XYZ Act 2001*, dictionary.' in the dictionary to another Act means that the word 'injury', when used in the other Act, has the same meaning as it has in the definition of ***injury*** in the *XYZ Act 2001*, dictionary, as in force from time to time.

3 A signpost definition 'OH&S Council—see the *XYZ Act 2000*, dictionary, definition of ***council***.' means that the expression 'OH&S Council' has the same meaning as the word 'council' has in the definition of ***council*** in the *XYZ Act 2000*, dictionary, as in force from time to time.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) This section is subject to section 47 (Statutory instrument may make provision by applying law or instrument).

(3) In this section:

instrument includes a provision of an instrument.

law includes a law, or a provision of a law, of the Commonwealth, a State or another Territory.

Note For other provisions about definitions, see pt 15.2.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

132 Examples

(1) An example in an Act or statutory instrument—

(a) is not exhaustive; and

(b) may extend, but does not limit, the meaning of the Act or instrument, or the particular provision to which it relates.

Examples

1 A specific case (which may be fictional) that helps to give meaning to the more abstract language of a provision. See the examples in section 43.

2 An example (which may be fictional) that clarifies the scope of a provision by illustrating cases that fall within the provision or cases that fall outside the provision, or both. See the examples in section 86.

Note 1 These examples may overlap.

Note 2 An example in an Act or statutory instrument is part of the Act or instrument (see s 126 (4)).

(2) An example may take either of the following forms:

(a) a statement at the end of the provision it illustrates (or at the end of a provision containing the provision it illustrates);

(b) a statement forming part of the text of a provision that illustrates the operation of the provision, whether or not the words 'for example' are used.

Examples for par (a)

the examples in section 130 or this section, subsection (1)

Example for par (b)

the statement beginning 'for example' in section 36 (1) (a)

(3) Subsection (2) does not limit the form that an example may take.

(4) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

133 Penalty units

(1) In a law, if a penalty for an offence is expressed as a number (whether whole or fractional) of penalty units—

(a) the penalty is a fine of that number of penalty units; and

(b) the value of the penalty unit for the offence is—

(i) if the person charged is an individual—$100; or

(ii) if the person charged is a corporation—$500.

Example

'Maximum penalty: 10 penalty units.' means that a person who is convicted of the relevant offence is liable to a maximum fine of 10 penalty units.

- If the person is an individual, the maximum fine is, therefore, $1 000 ($100 x 10).
- If the person is a corporation, the maximum fine is, therefore, $5 000 ($500 x 10).

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

134 Penalties at end of sections and subsections

(1) This section applies if a penalty (however expressed) is stated in a law—

(a) at the end of a section (whether or not the section is divided into subsections) and not expressed in a way that indicates that it applies only to a provision of the section; or

(b) at the end of a subsection (but not at the end of a section) and not expressed in a way that indicates that it applies only to a provision of the subsection; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) at the end of a section or subsection and expressed in a way that indicates that it applies only to a provision of the section or subsection (the ***relevant provision***).

Example for par (a)

the following penalty at the end of a section:

'Maximum penalty: 20 penalty units.'

Example for par (b)

the following penalty at the end of a subsection, but not at the end of a section:

'Maximum penalty: 20 penalty units.'

Examples for par (c)

1 the following penalty at the end of a section divided into subsections:

'Maximum penalty (subsection (3)): 20 penalty units.'.

2 the following penalty at the end of a subsection, but not at the end of a section:

'Maximum penalty:

(a) for paragraph (b)—20 penalty units; or

(b) for another paragraph—50 penalty units, imprisonment for 6 months or both.'

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) If an offence is not expressly mentioned in the section, subsection or relevant provision, the penalty indicates that contravention of the section, subsection or relevant provision is an offence punishable on conviction as provided by subsection (4).

Example of a penalty applying to entire section or subsection

A person must not contravene a notice.

Maximum penalty: 20 penalty units.

Example of a penalty applying to a stated provision

(2) The register of transactions—

(a) may be kept in electronic form; and

(b) must contain the particulars mentioned in section 91C.

Maximum penalty (paragraph (b)): 20 penalty units.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) If an offence is expressly mentioned in the section, subsection or relevant provision, the penalty indicates that the offence is punishable on conviction as provided by subsection (4).

Example of a penalty applying to entire section or subsection

A person who contravenes a notice commits an offence.

Maximum penalty: 20 penalty units.

Example of a penalty applying to a stated provision

(2) If a person keeps the person's identity card after ceasing to be an officer—

(a) the person commits an offence; and

(b) the identity card is forfeited to the Territory.

Maximum penalty (paragraph (a)): 20 penalty units.

(4) The penalty that may be imposed for the offence is—

(a) if only a single penalty is stated (whether as a maximum penalty or a penalty)—not more than the stated penalty; or

(b) if a minimum as well as a maximum penalty is stated—not less than the minimum and not more than the maximum.

(5) If—

(a) a penalty (however expressed) is stated in a law at the end of a section divided into subsections; and

(b) another penalty (however expressed) is stated at the end of another subsection of the section; and

(c) the first penalty is not expressed in a way that indicates that it applies only to a particular provision of the last subsection;

the first penalty is taken, for this section, to be expressed in a way that indicates that it applies only to the last subsection.

Example

In the following example, subsection (4) is the last subsection and the penalty stated at the end applies only to that subsection:

'(2) A permit holder must record all transactions under this Act.

Maximum penalty: 20 penalty units.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) If a permit holder is convicted of an offence against subsection (2), the registrar must cancel the permit.

(4) A permit holder must not sell a declared substance in contravention of this Act.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.'.

(6) In working out for this section whether a penalty is at the end of a section or subsection, the position of any example or note is to be disregarded.

(7) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

135 Penalties not at end of sections and subsections

(1) This section applies if a penalty (however expressed) is stated in a provision of a law other than at the end of a section or subsection.

(2) If an offence is expressly mentioned in the provision, the penalty indicates that the offence is punishable on conviction as provided by subsection (4).

Example

A person who contravenes subsection (3) commits an offence punishable by a fine of not more than 20 penalty units.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(3) If an offence is not expressly mentioned in the provision, the penalty indicates that contravention of the provision (or a stated part of the provision) is an offence punishable on conviction as provided by subsection (4).

Example

A person who contravenes subsection (3) must pay a fine of not more than 20 penalty units.

(4) The penalty that may be imposed for the offence is—

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(a) if only a single penalty is stated (whether as a maximum penalty or a penalty)—not more than the stated penalty; or

(b) if a minimum as well as a maximum penalty is stated—not less than the minimum and not more than the maximum.

(5) In working out for this section whether a penalty is at the end of a section or subsection, the position of any example or note is to be disregarded.

(6) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 14 Interpretation of Acts and statutory instruments

Part 14.1 Purpose and scope

136 Meaning of *Act* in ch 14

In this chapter:

Act includes a statutory instrument.

Note Section 7 (3) provides that a reference to an Act includes a reference to a provision of an Act. Section 13 (3) provides that a reference to a statutory instrument includes a reference to a provision of a statutory instrument.

137 Purpose and scope of ch 14

(1) The purpose of this chapter is to provide guidance about the interpretation of Acts.

(2) This chapter is not intended to be a comprehensive statement of the law of interpretation applying to Acts.

(3) In particular, this chapter assumes that common law presumptions operate in conjunction with this chapter.

(4) Subsection (3) also applies to common law presumptions that come into existence after the commencement of this chapter.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 14.2 Key principles of interpretation

138 Meaning of *working out the meaning of an Act*

In this part:

working out the meaning of an Act means—

(a) resolving an ambiguous or obscure provision of the Act; or

(b) confirming or displacing the apparent meaning of the Act; or

(c) finding the meaning of the Act when its apparent meaning leads to a result that is manifestly absurd or is unreasonable; or

(d) finding the meaning of the Act in any other case.

139 Interpretation best achieving Act's purpose

(1) In working out the meaning of an Act, the interpretation that would best achieve the purpose of the Act is to be preferred to any other interpretation.

(2) This section applies whether or not the Act's purpose is expressly stated in the Act.

Note The *Human Rights Act 2004*, s 30 (1) (which is about interpreting legislation to be consistent with human rights) is also relevant to interpreting territory laws.

140 Legislative context

In working out the meaning of an Act, the provisions of the Act must be read in the context of the Act as a whole.

Examples

1 The long title of an Act provides that it is an Act to give certain benefits to the holders of pensioner cards. Section 4 provides 'This Act applies to a holder of a pensioner card'. Section 22 provides that the commissioner may grant 'a person' an exemption from payment of rates. The Act does not contain a definition of 'person'. Section 22 must be read in the context of

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

the Act as a whole so that the commissioner may only grant exemptions to people who are holders of pensioner cards.

2 The *Drug Testing Regulation 2001* (made under the *Drug Testing Act 2000* (hypothetical)), section 6 contains the following heading:

6 Corresponding law—Act, s 100, def *corresponding law*

The heading indicates that the section has been made for the definition of ***corresponding law*** in the *Drug Testing Act 2000*, section 100.

3 Section 12 (1) of a subordinate law refers to 'a non-conviction order under the *Crimes (Sentencing) Act 2005*'. No other kind of order is mentioned in the section and the word 'order' is not otherwise defined in the subordinate law. Subsections (2), (4), (7) and (9) of the same section, which only refer to 'the order', are to be understood as referring to the order mentioned in subsection (1).

Note 1 See s 126 and s 127 for material that is, or is not, part of an Act or statutory instrument.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

141 Non-legislative context generally

(1) In working out the meaning of an Act, material not forming part of the Act may be considered.

Note 1 See s 146 for the meaning of ***may*** and ***must***.

Note 2 See s 126 and s 127 for material that is, or is not, part of an Act or statutory instrument.

Note 3 See s 142 for material that may be considered in working out the meaning of an Act or statutory instrument.

(2) In deciding whether material not forming part of an Act should be considered in working out the meaning of the Act, and the weight to be given to the material, the following matters must be taken into account:

(a) the desirability of being able to rely on the ordinary meaning of the Act, having regard to the purpose of the Act and the provisions of the Act read in the context of the Act as a whole;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the undesirability of prolonging proceedings without compensating advantage;

(c) the accessibility of the material to the public.

(3) Subsection (2) does not limit the matters that may be taken into account.

(4) For subsection (2) (c), material in the register is taken to be accessible to the public.

Note The register is the ACT legislation register (see dict, pt 2, def ***register***).

142 Non-legislative context—material that may be considered

(1) In working out the meaning of an Act, material mentioned in table 142, column 2 may be considered.

(2) In working out the meaning of a statutory instrument, material mentioned in table 142, column 3 may be considered.

(3) This section does not limit the material that may be considered in working out the meaning of an Act or statutory instrument.

Table 142

column 1 item	column 2 Act	column 3 statutory instrument
1	material not forming part of the Act contained in an authorised version of the Act *Note* See ch 3 (Authorised versions and evidence of laws and legislative material).	material not forming part of the statutory instrument contained in an authorised version of the instrument *Note* See ch 3 (Authorised versions and evidence of laws and legislative material).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 item	column 2 Act	column 3 statutory instrument
2	any relevant report of a royal commission, law reform commission, committee of inquiry or other similar entity that was presented to the Legislative Assembly before the Act was passed	any relevant report of a royal commission, law reform commission, committee of inquiry or other similar entity that was presented to the Legislative Assembly— (a) if the statutory instrument was presented to the Assembly—before the end of 6 sitting days after the day the instrument was presented to the Assembly; or (b) in any other case—before the instrument was made

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 **item**	**column 2** **Act**	**column 3** **statutory instrument**
3	any relevant report of a committee of the Legislative Assembly that was made to the Assembly before the Act was passed	any relevant report of a committee of the Legislative Assembly that was made to the Assembly— (a) if the statutory instrument was presented to the Assembly—before the end of 6 sitting days after the day the instrument was presented to the Assembly; or (b) in any other case—before the instrument was made
4	any explanatory statement (however described) for the bill that became the Act, or any other relevant document, that was presented to the Legislative Assembly before the Act was passed	if the statutory instrument was presented to the Legislative Assembly—any explanatory statement (however described) for the instrument, or any other relevant document, that was presented to the Legislative Assembly before the end of 6 sitting days after the instrument was presented to the Assembly

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 item	column 2 Act	column 3 statutory instrument
5	the presentation speech made to the Legislative Assembly during the passage of the bill that became the Act	if the statutory instrument was presented to the Legislative Assembly by a member of the Assembly—any presentation speech made to the Assembly
6	official reports of proceedings in the Legislative Assembly in relation to the bill that became the Act	if the statutory instrument was presented to the Legislative Assembly—official reports of proceedings in the Legislative Assembly in relation to the statutory instrument
7	any relevant treaty or other international agreement to which Australia is a party	any relevant treaty or other international agreement to which Australia is a party

143 Law stating material for consideration in working out meaning

(1) If a relevant law provides that stated material may or must be considered in working out the meaning of an Act or statutory instrument, that does not by implication prevent other material of the same or similar kind being considered in working out the meaning of the Act or instrument.

Example

The *Computer Crime Act 2000* (hypothetical) contains the following provision:

4 Report may be used as an aid to interpretation

The *Community Law Reform Report on Computer Crime* (CLRC No X) may be considered in working out the meaning of this Act.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

This does not limit access to other non-legislative material of the same or a similar kind for working out the meaning of the *Computer Crime Act 2000*.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) In this section:

relevant law means—

(a) in working out the meaning of an Act—the Act or another Act; or

(b) in working out the meaning of a statutory instrument made under an Act—the Act, another Act or the instrument; or

(c) in working out the meaning of a statutory instrument made under another statutory instrument—an Act or either instrument.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 15 Aids to interpretation

Part 15.1 General

144 Meaning of commonly-used terms

A definition in the dictionary, part 1 applies to all Acts and statutory instruments.

Note See s 130 for the definition of ***definition*** and s 131 for provisions about signpost definitions.

145 Gender and number

In an Act or statutory instrument—

(a) words indicating a gender include every other gender; and

(b) words in the singular number include the plural and words in the plural number include the singular.

146 Meaning of *may* and *must*

(1) In an Act or statutory instrument, the word ***may***, or a similar term, used in relation to a function indicates that the function may be exercised or not exercised, at discretion.

Note ***Function*** is defined in the dict, pt 1 to include authority, duty and power.

(2) In an Act or statutory instrument, the word ***must***, or a similar term, used in relation to a function indicates that the function is required to be exercised.

(3) This section is a determinative provision so far as it applies to an applicable law or an applicable provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) In this section:

applicable law means an Act enacted, or statutory instrument made, after the application date.

applicable provision means a provision inserted after the application date into an Act or statutory instrument that is not an applicable law.

application date means—

(a) for an Act, subordinate law or disallowable instrument—1 January 2000; and

(b) for any other statutory instrument—1 January 2006.

inserted, for a provision, includes inserted in substitution for another provision.

147 Changes of drafting practice not to affect meaning

(1) The purpose of this section is to encourage the making of progressive improvements in the form of the statute book without inadvertently changing the substantive effect of the law.

Note See also s 96 (Relocated provisions).

(2) This is to be achieved particularly by updating the language and structure of Acts and statutory instruments to replace older forms of legislative expression with forms reflecting current legislative drafting practice.

(3) If an Act or statutory instrument is amended so that it contains an older form of legislative expression in a provision and a newer form in another, the ideas in the 2 provisions must not be regarded as different only because different words are used or the provisions are structured in different ways.

(4) Subsection (3) also applies if the provisions are in different Acts or statutory instruments.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) Also, if an Act or statutory instrument is amended so that a provision containing an older form of legislative expression is replaced (whether or not in the same position) by a provision in a newer form, the ideas in the 2 provisions must not be regarded as different only because different words are used or the provisions are structured in different ways.

(6) In deciding whether the ideas are different, regard must be had to the context and history of the 2 provisions.

(7) Subsection (6) does not limit the matters to which regard may be had.

(8) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

148 Terms used in instruments have same meanings as in authorising laws

Terms used in a statutory instrument have the same meanings as they have, from time to time, in the Act or statutory instrument (the ***authorising law***), or the relevant provisions of the authorising law, under which the instrument is made or in force.

149 Age in years

For an Act or statutory instrument, a person is an age in years at the beginning of the person's birthday for the age.

150 Measurement of distance

In applying an Act or statutory instrument, distance is to be measured in a straight line on a horizontal plane.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

151 Working out periods of time generally

(1) This section applies in working out periods of 1 day or longer for an Act or statutory instrument, whether the period is a period in the future or the past.

Note 1 The following definitions in the dictionary, pt 1 are also relevant to periods of time:

- ***business day***
- ***calendar month***
- ***calendar year***
- ***financial year***
- ***midnight***
- ***month***
- ***named month***
- ***quarter***
- ***working day***
- ***year***.

Note 2 The *Standard Time and Summer Time Act 1972* deals with the meaning of a reference to a time.

(2) A period of time described as beginning at, on or with a stated day, act or event includes the stated day or the day of the stated act or event.

(3) A period of time described as beginning from or after a stated day, act or event does not include the stated day or the day of the stated act or event.

(4) A period of time described as ending at, by, on or with, or as continuing to or until, a stated day, act or event includes the stated day or the day of the stated act or event.

(5) A period of time described as ending before a stated day, act or event does not include the stated day or the day of the stated act or event.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(6) A reference to a number of days between 2 events does not include the days when the events happen.

Example

A court rule requires a notice of motion to be served 2 days before the return date for the application. If the return date is Friday, that day and the day the application is served are not counted in working out the 2 days. For service to be valid, the application must be served on or before the Tuesday before the return date.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(7) Despite subsection (3), if, under an Act or statutory instrument, something must or may be done within a particular period of time after a stated day, the thing may be done on the stated day.

(8) This section is a determinative provision so far as it applies to an applicable law or applicable provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(9) In this section:

applicable law means an Act enacted, or statutory instrument made, after 1 January 2006.

applicable provision means a provision inserted after 1 January 2006 into an Act or statutory instrument that is not an applicable law.

inserted, for a provision, includes inserted in substitution for another provision.

151A Periods of time ending on non-working days

(1) This section applies if—

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(a) under an Act or statutory instrument, something must or may be done on a particular day or within a particular period of time; and

(b) the day, or the last day of the period, is not a working day.

(2) The thing must or may be done on the next day that is a working day.

(3) This section is a determinative provision so far as it applies to an applicable law or applicable provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(4) In this section:

applicable law means an Act enacted, or statutory instrument made, after 1 January 2006.

applicable provision means a provision inserted after 1 January 2006 into an Act or statutory instrument that is not an applicable law.

inserted, for a provision, includes inserted in substitution for another provision.

public entity means—

(a) a court or tribunal; or

(b) an administrative unit; or

(c) a statutory-office holder; or

(d) any other entity established for a public purpose under a law.

working day means—

(a) for doing something at an office (however described) of a public entity where the thing must or may be done—a day when the office is open; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) for doing anything else—a day that is not—

(i) a Saturday or Sunday; or

(ii) a public holiday at the place where the thing must or may be done; or

(iii) if the thing is to be done by or in relation to an authorised deposit-taking institution—a day observed by the institution as a bank holiday at the place where the thing must or may be done.

Example for par (a)

filing a document at a court registry

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

151B Doing things for which no time is fixed

(1) This section applies if—

(a) under an Act or statutory instrument, something must or may be done; but

(b) no time is provided for doing the thing.

(2) The thing must or may be done as soon as possible and as often as needed.

151C Power to extend time

(1) This section applies if, under an Act or statutory instrument—

(a) something must or may be done on a particular day or within a particular period of time; but

(b) a court or other entity has power to extend the time (the ***relevant time***) for doing the thing.

(2) A person may apply to the court or other entity for the relevant time to be extended even though the relevant time has ended.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) The court or other entity may extend the relevant time even though the relevant time has ended.

(4) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

(5) This section applies only to an applicable law or applicable provision.

(6) In this section:

applicable law means an Act enacted, or statutory instrument made, after 1 January 2006.

applicable provision means a provision inserted after 1 January 2006 into an Act or statutory instrument that is not an applicable law.

inserted, for a provision, includes inserted in substitution for another provision.

152 Continuing effect of obligations

If, under a provision of an Act or statutory instrument, an act is required to be done, the obligation to do the act continues until the act is done even if—

(a) the provision required the act to be done within a particular period or before a particular time, and the period has ended or the time has passed; or

(b) someone has been convicted of an offence in relation to failure to do the act.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 15.2 Definitions

Note to pt 15.2

See also s 130 (What is a definition?), s 131 (Signpost definitions) and s 148 (Terms used in instruments have same meanings as in authorising laws).

155 Definitions apply subject to contrary intention

(1) A definition in an Act or statutory instrument applies except so far as the contrary intention appears.

(2) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

156 Application of definitions in dictionaries and sections

(1) A definition in the dictionary to an Act or statutory instrument applies to the entire Act or instrument unless the Act or instrument provides for the definition to have a more limited application.

Examples

1 The dictionary to the *ABC Act 1999* includes the signpost definition '***x***—see the *XYZ Act 1998*, section 3.'. There is nothing in the *ABC Act 1999* indicating the intended application of the definition of ***x***. The definition of ***x*** in the *XYZ Act 1998*, section 3, therefore, applies to the entire *ABC Act 1999*.

2 In an Act, the word ***z*** is defined in the dictionary. The definition provides, in part, that '***z***, in part 4 (Registration of vehicles), means ...'. The definition of ***z*** applies only to part 4.

3 In part 6 of an Act (which is headed 'Part 6 Complaints'), the word ***a*** is defined in section 50. The section is not divided into subsections but contains a number of definitions. Section 50 begins with the words 'In this part:'. However, the dictionary to the Act contains the following definition:

a—see section 50.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

The definition of ***a*** applies to the entire Act (compare s (2) eg 2).

Note 1 See s 144 (Meaning of commonly-used terms) for the application of the definitions in this Act, dict, pt 1.

Note 2 Section 148 (Terms used in instruments have same meanings as in authorising laws) provides that terms used in a statutory instrument have the same meaning as they have in the Act or statutory instrument under which the statutory instrument is made.

Note 3 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) A definition in a section of an Act or statutory instrument applies only to the section unless the Act or instrument provides for the definition to have a broader application.

Examples

1 This Act, section 255 (7) (Forms) contains definitions of ***form 1*** and ***form 2*** as tagged terms. There is nothing in this Act indicating that the definitions apply outside section 255. The definitions apply only to section 255.

2 In part 6 of an Act (which is headed 'Part 6 Complaints'), the word ***a*** is defined in section 50. The section is not divided into subsections but contains a number of definitions. Section 50 begins with the words 'In this part:'. However, the dictionary to the Act contains the following definition:

a, for part 6 (Complaints)—see section 50.

The definition of ***a*** applies to all of part 6, but not to provisions of the Act outside part 6 (compare s (1) eg 3).

3 In an Act, the word ***b*** is defined in a section, which is not divided into subsections but contains a number of definitions. The section begins with the words 'In this Act:'. The definition of ***b*** applies to the entire Act.

(3) A definition in a section of an Act or statutory instrument applies to the entire section unless the Act or instrument provides for the definition to have a more limited application.

Example

In a subsection of a section of an Act, the word ***c*** is defined. The subsection begins with the words 'In subsection (3):'. The definition of ***c*** applies only to subsection (3) of that section.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) In applying this section to an Act or statutory instrument that is divided otherwise than into sections, a reference to a section is a reference to a corresponding provision of the Act or instrument.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 and s 13).

157 Defined terms—other parts of speech and grammatical forms

If an Act or statutory instrument defines a term, other parts of speech and grammatical forms of the term have corresponding meanings.

Example

The *Publication (Grants) Act 2001* contains a definition of ***publish*** and also contains other forms of the same word (‘published’, ‘publisher’, ‘publishes’, ‘publishing’ and ‘publication’). Because of this section, all forms of the word will have the same meaning except so far as the Act otherwise expressly provides or a contrary intention appears (see s 6 (3)).

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 15.3 References to various entities and things

Note to pt 15.3

See also ch 10 (Referring to laws).

160 References to people generally

(1) In an Act or statutory instrument, a reference to a person generally includes a reference to a corporation as well as an individual.

(2) Subsection (1) is not displaced only because there is an express reference to either an individual or a corporation elsewhere in the Act or statutory instrument.

Examples of references to a person generally

1 another person
2 anyone else
3 party
4 someone else
5 employer

Examples of express references to a corporation

1 body corporate
2 company

Examples of express references to an individual

1 adult
2 child
3 spouse
4 driver

(3) Subsection (2) does not limit the operation of section 6.

Note Section 6 deals with the displacement of a provision of this Act.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

161 Corporations liable to offences

(1) A provision of a law that creates an offence (whether indictable or summary) applies to corporations as well as to individuals.

(2) A provision of a law that creates an offence can apply to a corporation even though contravention of the provision is punishable by imprisonment (with or without another penalty).

Example

A provision of an Act contains the following penalty:

'Maximum penalty: 100 penalty units, imprisonment for 1 year or both.'

The provision can apply to a corporation.

(3) If a corporation is convicted of an offence and, apart from this subsection, the penalty for the offence is a period of imprisonment only, the court may impose a maximum penalty of—

(a) if the period of imprisonment is not longer than 6 months—50 penalty units; and

(b) if the period of imprisonment is longer than 6 months but not longer than 1 year—100 penalty units; and

(c) if the period of imprisonment is longer than 1 year but not longer than 2 years—200 penalty units; and

(d) if the period of imprisonment is longer than 2 years but not longer than 5 years—500 penalty units; and

(e) if the period of imprisonment is longer than 5 years but not longer than 10 years—1 000 penalty units; and

(f) if the period of imprisonment is longer than 10 years—1 500 penalty units.

Note Section 133 explains the meaning and value of penalty units.

(4) In this section:

law means an Act, subordinate law or disallowable instrument.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

162 References to *a Minister* or *the Minister*

(1) In an Act or statutory instrument, a reference to ***a Minister*** is a reference to the Chief Minister or a Minister appointed under the Self-Government Act, section 41.

Note See dict, pt 1, def ***Chief Minister***.

(2) In a provision of an Act or statutory instrument, a reference to ***the Minister*** without identifying the Minister's title or portfolio is a reference to—

(a) the Minister for the time being administering the provision; or

(b) if, for the time being, different Ministers administer the provision in relation to different matters—

(i) if only 1 Minister administers the provision in relation to the relevant matter—the Minister; or

(ii) if 2 or more Ministers administer the provision in relation to the relevant matter—any of the Ministers; or

(c) if paragraph (b) does not apply and, for the time being, 2 or more Ministers administer the provision—any of the Ministers.

(3) In subsection (2):

Minister includes a Minister for the time being acting on behalf of the Minister or 2 or more Ministers.

(4) If an Act or statutory instrument mentions a Minister and identifies the Minister by reference to the fact that the Minister administers a stated Act, statutory instrument or provision, subsection (2) applies as if references in paragraphs (a) to (c) to the provision were references to the stated Act, instrument or provision.

Note See also dict, pt 1, defs ***Attorney-General*** and ***Treasurer***.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

163 References to *a chief executive* or *the chief executive*

(1) In an Act or statutory instrument, a reference to ***a chief executive*** is a reference to a person employed under the Public Sector Management Act, section 28 (Chief executives—engagement) or section 30 (Chief executives—temporary contracts) to perform the duties of an office of chief executive.

(2) In a provision of an Act or statutory instrument, a reference to ***the chief executive*** without identifying the chief executive's title is a reference to—

(a) the chief executive of the administrative unit responsible for the provision; or

(b) if, for the time being, different administrative units are responsible for the provision in relation to different matters—

(i) if only 1 administrative unit is responsible for the provision in relation to the relevant matter—the chief executive of the administrative unit; or

(ii) if 2 or more administrative units are responsible for the provision in relation to the relevant matter—the chief executive of any of the administrative units; or

(c) if paragraph (b) does not apply and, for the time being, 2 or more administrative units are responsible for the provision—the chief executive of any of the administrative units.

Note See dict, pt 1, def ***administrative unit***.

(3) If an Act or statutory instrument mentions a chief executive and identifies the chief executive by reference to the fact that the chief executive is the chief executive of the administrative unit responsible for a stated Act, statutory instrument or provision, subsection (2) applies as if references in paragraphs (a) to (c) to the provision were references to the stated Act, instrument or provision.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) In this section:

chief executive, of an administrative unit, means the person who is employed under the Public Sector Management Act, section 28 or section 30 to perform the duties of the office of chief executive in the administrative unit.

Public Sector Management Act means the *Public Sector Management Act 1994*.

responsible, for a provision, means allocated responsibility for the provision under the Public Sector Management Act, section 14 (1) (b) (Ministerial responsibility and functions of administrative units).

164 References to Australian Standards etc

(1) In an Act or statutory instrument, a reference consisting of the words 'Australian Standard' or 'AS' followed by a number is a reference to the standard so numbered published by or on behalf of Standards Australia.

(2) In an Act or statutory instrument, a reference consisting of the words 'Australian/New Zealand Standard' or 'AS/NZS' followed by a number is a reference to the standard so numbered published jointly by or on behalf of Standards Australia and Standards New Zealand.

Examples for s 164

1 AS 4608-1999

2 AS/NZS 4906: 1994

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

165 References to Assembly committees that no longer exist

In an Act or statutory instrument, a reference (whether by name or description) to a committee of the Legislative Assembly that no

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

longer exists is a reference to the committee of the Assembly nominated by the Speaker either generally or for the provision containing the reference.

168 References to person with interest in land include personal representative etc

In an Act or statutory instrument, a reference to a person with an interest in land or other property includes a reference to the person's personal representatives, successors and assigns.

Examples of references to people with interests in land

1 proprietor
2 transferor or transferee
3 mortgagor or mortgagee
4 lessor or lessee
5 sublessor or sublessee
6 trustee

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

169 References to *domestic partner* and *domestic partnership*

(1) In an Act or statutory instrument, a reference to a person's ***domestic partner*** is a reference to someone who lives with the person in a domestic partnership, and includes a reference to a spouse of the person.

Note The Macquarie dictionary, (1997) defines spouse as 'either member of a married pair in relation to the other; one's husband or wife'.

(2) In an Act or statutory instrument, a ***domestic partnership*** is the relationship between 2 people, whether of a different or the same sex, living together as a couple on a genuine domestic basis.

Example of indicators to decide whether 2 people are in a domestic partnership

1 the length of their relationship

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

2 whether they are living together

3 if they are living together—how long and under what circumstances they have lived together

4 whether there is a sexual relationship between them

5 their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them

6 the ownership, use and acquisition of their property, including any property that they own individually

7 their degree of mutual commitment to a shared life

8 whether they mutually care for and support children

9 the performance of household duties

10 the reputation, and public aspects, of the relationship between them

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

169A References to *transgender people*

(1) A ***transgender person*** is a person who—

(a) identifies as a member of a different sex by living, or seeking to live, as a member of that sex; or

(b) has identified as a member of a different sex by living as a member of that sex;

whether or not the person is a recognised transgender person.

(2) A ***transgender person*** includes a person who is thought of as a transgender person, whether or not the person is a recognised transgender person.

(3) A ***recognised transgender person*** is a person the record of whose sex is altered under the *Births, Deaths and Marriages Registration Act 1997*, part 4 or the corresponding provisions of a law of a State or another Territory.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

169B References to *intersex people*

An ***intersex person*** is a person who, because of a genetic condition, was born with reproductive organs or sex chromosomes that are not exclusively male or female.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 15.4 Preservation of certain common law privileges

170 Privileges against selfincrimination and exposure to civil penalty

(1) An Act or statutory instrument must be interpreted to preserve the common law privileges against selfincrimination and exposure to the imposition of a civil penalty.

(2) However, this section does not affect the operation of the *Evidence Act 1995* (Cwlth).

Note The *Evidence Act 1995* (Cwlth), s 128 contains provisions that apply if a witness raises these privileges in a proceeding. The section applies to proceedings in ACT courts (see *Evidence Act 1995* (Cwlth), s 4). However, the privileges have been abolished for bodies corporate (see *Evidence Act 1995* (Cwlth), s 187).

(3) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

171 Client legal privilege

(1) An Act or statutory instrument must be interpreted to preserve the common law privilege in relation to client legal privilege (also known as legal professional privilege).

(2) However, this section does not affect the operation of the *Evidence Act 1995* (Cwlth).

Note The *Evidence Act 1995* (Cwlth), pt 3.10, div 1 contains provisions about client legal privilege. The provisions apply to proceedings in ACT courts (see *Evidence Act 1995* (Cwlth), s 4).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 16 Courts, tribunals and other decision-makers

175 Meaning of *law* in ch 16

In this chapter:

law means an Act, subordinate law or disallowable instrument.

Note A reference to an Act, subordinate law or disallowable instrument includes a reference to a provision of the Act, law or instrument (see s 7, s 8 and s 9).

176 Jurisdiction of courts and tribunals

(1) This section applies if a law, whether expressly or by implication, authorises a proceeding (whether civil or criminal) to be brought in a particular court or tribunal in relation to a matter.

(2) The law vests the court or tribunal with jurisdiction in the matter.

(3) The jurisdiction so vested is not limited by any limits to which any other jurisdiction of the court or tribunal may be subject.

Note See also s 45 which relates to the making of rules carrying out or giving effect to the jurisdiction of the court or tribunal.

177 Recovery of amounts owing under laws

If an amount is owing under a law to a person (the ***creditor***) by another person (the ***debtor***), the creditor may recover the amount as a debt owing by the debtor to the creditor in a court of competent jurisdiction.

178 Power to decide includes power to take evidence etc

(1) A court, tribunal or other entity authorised by law to hear and decide a matter (however expressed) has power—

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(a) to take evidence, including evidence on oath; and

(b) to examine witnesses; and

(c) to administer oaths to witnesses.

(2) The court, tribunal or other entity may authorise a person to administer an oath to a witness.

(3) This section does not limit any other power of the court, tribunal or other entity.

179 Content of statements of reasons for decisions

(1) This section applies if a law requires a tribunal or other entity making a decision to give written reasons for the decision, whether the term ‘reasons’, ‘grounds’ or any other term is used.

(2) The document giving the reasons must also set out the findings on material questions of fact and refer to the evidence or other material on which the findings were based.

(3) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

180 Power to make decision includes power to reverse or change

(1) Power given by a law to make a decision includes power to reverse or change the decision.

(2) The power to reverse or change the decision is exercisable in the same way, and subject to the same conditions, as the power to make the decision.

Example

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

If the power to include land in a special reserve is exercisable only on the resolution of the Legislative Assembly, the power to excise land from a special reserve is exercisable only on the resolution of the Assembly.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 17 Entities and positions

182 Meaning of *law* in ch 17

In this chapter:

law means an Act or statutory instrument.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 and s 13).

183 Change of name of entity

(1) If a law changes the name of an entity established under a law, the entity continues in existence under the new name and its identity is not affected by the change.

(2) If the name of an entity is changed, a reference in a law to the entity by its previous name is taken, after the change, to be a reference to the entity by its new name.

(3) To remove any doubt, subsection (2) applies to all entities, whether or not in or for the Territory, including entities established under a law of another jurisdiction.

Note ***Another jurisdiction*** means the Commonwealth, a State, another Territory, the United Kingdom or New Zealand (see dict, pt 2).

184 Change in constitution of entity

(1) This section applies if a law changes how an entity established under a law is constituted.

(2) The entity continues in existence as newly constituted and its identity is not affected by the change.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) Without limiting subsection (2), the change does not affect—

(a) any function, right, privilege, liability or property of the entity; or

(b) the bringing of a proceeding, or the continuation of a proceeding, by or against the entity; or

(c) the carrying out of an investigation or inquiry, or the continuation of an investigation or inquiry, in relation to anything done or not done by or in relation to the entity.

Note ***Function*** is defined in the dict, pt 1 to include authority, duty and power.

184A References to entity

(1) In a law, a reference to an entity includes a reference to a person exercising a function of the entity, whether under a delegation, subdelegation or otherwise.

(2) To remove any doubt, this section applies to all entities, whether or not in or for the Territory, including entities established under a law of another jurisdiction.

185 References to occupant of position

(1) In a law, a reference to the occupant of a position (however expressed) includes a reference to anyone for the time being occupying the position.

(2) To remove any doubt, this section applies to all positions, whether or not in or for the Territory, including positions established under a law of another jurisdiction.

Note See s 200 (1) (Functions of occupants of positions) and the definitions of ***occupy*** and ***position*** in the dict, pt 1.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

186 Change of name of position

(1) If a law changes the name of a position established under a law, the position continues in existence under the new name and its identity is not affected by the change.

(2) If the name of a position is changed, a reference in a law to the position by its previous name is taken, after the change, to be a reference to the position by its new name.

(3) To remove any doubt, subsection (2) applies to all positions, whether or not in or for the Territory, including positions established under a law of another jurisdiction.

187 Chair and deputy chair etc

(1) If a law establishes a position of chair or chairperson of an entity, the chair or chairperson may be referred to as chairman, chairwoman, chairperson or chair.

(2) If a law establishes a position of deputy chair or deputy chairperson of an entity, the deputy chair or deputy chairperson may be referred to as deputy chairman, deputy chairwoman, deputy chairperson or deputy chair.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 18 Offences

Note to ch 18

See also s 133 to s 135 (which relate to penalty units and penalty provisions) and s 161 (Corporations liable to offences).

188 Meaning of *ACT law* in ch 18

In this chapter:

ACT law means an Act or subordinate law.

Note A reference to an Act or subordinate law includes a reference to a provision of the Act or law (see s 7 and s 8).

189 Reference to offence includes reference to related ancillary offences

A reference to an offence against an ACT law includes a reference to an offence against the Criminal Code, part 2.4 (Extensions of criminal responsibility) or section 717 (Accessory after the fact) that relates to the ACT law.

Example

X is the holder of a licence under the *Plant Development Act 2001* (hypothetical). The Plant Development Act, section 23 provides for the cancellation of a licence if a licence holder commits an offence against the Act. While his business premises are being inspected, X incites an employee to obstruct the inspector. As a result, the employee obstructs the inspector (which is an offence against the Act). X is later convicted of the offence of incitement against the Criminal Code, section 47 (which is an offence in the Criminal Code, pt 2.4). Because of the Legislation Act, section 189, X is taken to have committed an offence against the Plant Development Act and is therefore liable to have his licence cancelled.

Note 1 The result would be the same if X had been convicted of conspiracy relating to the offence of obstruction in the Plant Development Act.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Apart from the Legislation Act, section 189, the following offences in the Criminal Code, pt 2.4 could also apply to the offence in the Plant Development Act:

- attempt (s 44 (Attempt))
- aiding and abetting (s 45 (Complicity and common purpose)).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

190 Indictable and summary offences

(1) An offence is an ***indictable offence*** if—

(a) it is punishable by imprisonment for longer than 1 year; or

(b) it is declared by an ACT law to be an indictable offence.

(2) An ***indictable offence*** includes an indictable offence that is or may be dealt with summarily.

(3) Any other offence is a ***summary offence*** and is punishable on summary conviction.

191 Offences against 2 or more laws

(1) If an act or omission by a person is an offence against 2 or more ACT laws, the person may be prosecuted for and convicted of any of the offences, but is not liable to be punished more than once for the act or omission.

(2) If—

(a) an act or omission by a person is an offence against both an ACT law and a law of another jurisdiction; and

(b) the person has been punished for the offence against the law of the other jurisdiction;

the person is not liable to be punished for the offence against the ACT law.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

192 When must prosecutions begin?

(1) A prosecution for the following offences against an ACT law may be begun at any time:

(a) an offence by an individual punishable by imprisonment for longer than 6 months;

(b) an offence by a corporation punishable by a prescribed fine;

Note See s 161 for the fines that may be imposed on a corporation for offences punishable only by imprisonment.

(c) an aiding and abetting offence by an individual in relation to an offence by a corporation punishable by a prescribed fine.

(2) A prosecution for any other offence against an ACT law must be begun not later than—

(a) 1 year after the day of commission of the offence; or

(b) if an ACT law provides for another period—that period.

(3) However, if a coroner's inquest or inquiry, or an inquiry under the *Inquiries Act 1991* or the *Royal Commissions Act 1991*, is held into a matter that discloses or is otherwise found to relate to an offence mentioned in subsection (2), a prosecution for the offence may be begun not later than 1 year after the day when—

(a) the coroner's report is made; or

(b) the report of the board of inquiry or royal commission is given to the Chief Minister.

(4) In this section:

aiding and abetting offence means an offence against the Criminal Code, section 45 (Complicity and common purpose).

prescribed fine, for an offence, means—

(a) if the penalty for the offence is expressed in penalty units—100 penalty units or more; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) if the penalty for the offence is expressed as an amount of money—$50 000 or more.

193 Continuing offences

(1) This section applies to a requirement to do an act if—

(a) the act is required to be done under an ACT law within a particular period or before a particular time; and

(b) failure to comply with the requirement is an offence against the law.

(2) A person who fails to comply with the requirement commits an offence for each day until the act is done.

(3) A day mentioned in subsection (2) includes any day of conviction for an offence and any later day.

Note See also s 152 (Continuing effect of obligations).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 19 Administrative and machinery provisions

Part 19.1 Introductory

195 Meaning of *law* in ch 19

In this chapter:

law means an Act, subordinate law or disallowable instrument.

Note A reference to an Act, subordinate law or disallowable instrument includes a reference to a provision of the Act, law or instrument (see s 7, s 8 and s 9).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 19.2 Functions

Note to pt 19.2

Function is defined in the dict, pt 1 to include authority, duty and power.

196 Provision giving function gives power to exercise function

(1) A provision of a law that gives a function to an entity also gives the entity the powers necessary and convenient to exercise the function.

Note See dict, pt 1, defs ***entity*** and ***exercise***.

(2) The powers given to the entity under subsection (1) are in addition to any other powers of the entity under the law.

197 Statutory functions may be exercised from time to time

If a law gives a function to an entity, the function may be exercised from time to time.

Note See also s 42 (3) (Power to make statutory instruments).

199 Functions of bodies

(1) If a law authorises or requires a body to exercise a function, it may do so by resolution.

Note See dict, pt 1, def ***body***.

(2) To remove any doubt, subsection (1) applies in relation to a function even though a law authorises or requires the function to be exercised in writing.

(3) If a law authorises or requires a signature by a person and the person is a body, the signature of a person authorised by the body for the purpose is taken to be the signature of the body.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) If a law gives a function to a body, the function may be exercised by the body as constituted for the time being.

Example

The ACT Conference Organisers Registration Board is a statutory body consisting of 5 members. At a meeting of the board it is agreed to exempt a conference organiser from registration on certain conditions. On the day after the meeting, 1 of the members of the board (X) resigns and another person (Y) is appointed to the board in X's place. At the next meeting of the board, the board considers additional information submitted by the conference organiser and agrees to amend the conditions of exemption. Because of subsection (4), the board's ability to use its power of exemption is not affected by a change in the membership of the board.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(5) The exercise of the function is not affected only because of vacancies in the body's membership.

(6) Subsections (4) and (5) do not affect any quorum requirement applying to the body.

Example

The Act establishing the board mentioned in the example to subsection (4) provides that the quorum for a meeting of the board is the chair or deputy chair and 2 other members. If the quorum requirement was complied with at each meeting mentioned in the example, the result mentioned in the example would be the same whether or not X attended the first meeting and whether or not Y attended the second meeting.

(7) If a body as constituted for the time being does something in exercise of a function given to the body under a law, the effect of the thing done by the body does not end only because the membership of the body changes.

Note See also s 211 (Appointment not affected by appointer changes), s 224 (Acting appointment not affected by appointer changes), and s 241 (Delegation not affected by appointer changes).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(8) Subsection (7) does not prevent the thing done by the body being ended or changed by the body as subsequently constituted for the time being.

200 Functions of occupants of positions

(1) If a law gives a function to the occupant of a position, the function may be exercised by the person for the time being occupying the position.

Note See s 185 (References to occupant of position) and dict, pt 1, defs ***occupy*** and ***position***.

(2) If the person for the time being occupying a position does something in exercise of a function given to the occupant of the position under a law, the thing done by the person does not end only because the person ceases to be the occupant of the position.

Note See also s 211 (Appointment not affected by appointer changes), s 224 (Acting appointment not affected by appointer changes), and s 241 (Delegation not affected by appointer changes).

(3) Subsection (2) does not prevent the thing done by the person being ended or changed by any person subsequently occupying the position for the time being.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 19.3 Appointments

Division 19.3.1 Appointments—general

Note to div 19.3.1

Certain statutory appointments made by a Minister require consultation with a Legislative Assembly committee and are disallowable (see div 19.3.3 (Appointments—Assembly consultation)).

205 Application of div 19.3.1

This division applies if a law authorises or requires an entity (the ***appointer***) to appoint a person—

(a) to a position under a law; or

(b) to exercise a function or do anything else under a law.

Note ***Function*** is defined in the dict, pt 1 to include authority, duty and power.

206 Appointments must be in writing etc

(1) An appointment must be made, or evidenced, by writing (the ***instrument of appointment***) signed by the appointer.

(2) If a law provides for a maximum or minimum period of appointment, the instrument of appointment must state the period for which the appointment is made.

Examples of stated appointment periods

1 2 years

2 until age 65

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

207 Appointment may be by name or position

(1) The appointer may make an appointment by—

(a) naming the person appointed; or

(b) nominating the occupant of a position (however described), at a particular time or from time to time.

(2) For this division, the person named, or the occupant of the position nominated, is the ***appointee***.

208 Power of appointment includes power to suspend etc

(1) The appointer's power to make the appointment includes the power—

(a) to suspend the appointee, and end the suspension; or

(b) to end the appointment, and appoint someone else or reappoint the appointee if the appointee is eligible to be appointed to the position; or

(c) to reappoint the appointee if the appointee is eligible to be appointed to the position.

(2) The power to suspend the appointee, end the appointment or reappoint the appointee is exercisable in the same way, and subject to the same conditions, as the power to make the appointment.

Example

If the appointment power is exercisable only on the recommendation of a body, the power to suspend, end the appointment or reappoint is exercisable only on the recommendation of the body.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

209 Power of appointment includes power to make acting appointment

(1) If the appointer's power is the power to make an appointment to a position, the power to make the appointment also includes power to appoint a person, or 2 or more people, to act in the position—

(a) during any vacancy, or all vacancies, in the position, whether or not an appointment has previously been made to the position; or

(b) during any period, or all periods, when the appointee cannot for any reason exercise functions of the position.

Examples for par (b)

1 the appointee is ill or on leave

2 the appointee is acting in another position

3 the appointee is outside the ACT or Australia

Note 1 ***Function*** is defined in the dict, pt 1 to include authority, duty and power.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(2) The power to appoint a person to act is exercisable in the same way, and subject to the same conditions, as the power to make the appointment.

Example

If the appointment power is exercisable only on the recommendation of a body, the power to appoint a person to act is exercisable only on the recommendation of the body.

(3) Without limiting subsection (2), if the law (or another law) requires—

(a) the appointee to hold a qualification; or

(b) the appointer (or someone else) to be satisfied about the appointee's suitability (whether in terms of knowledge,

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

experience, character or any other personal quality) before appointing the appointee to the position;

a person may only be appointed to act in the position if the person holds the qualification or the appointer (or other person) is satisfied about the person's suitability.

Examples

1 If an Act requires the appointee to be a magistrate, a person can be appointed to act in the position only if the person is a magistrate.

2 If a regulation requires the appointee to be a lawyer of at least 5 years standing, a person can be appointed to act in the position only if the person is a lawyer of at least 5 years standing.

3 If an Act requires the appointee to have, in the Executive's opinion, appropriate expertise, training or experience in relation to the needs of a particular group of people, a person can be appointed to act in the position only if the person has, in the Executive's opinion, that expertise, training or experience.

210 Resignation of appointment

(1) An appointment ends if the appointee resigns by signed notice of resignation given to the appointer.

(2) However, if the appointer is the Executive, the notice of resignation may be given to a Minister.

211 Appointment not affected by appointer changes

(1) If the appointer is a body, an appointment made by the body does not end only because the membership of the body changes.

(2) If the appointer is the person for the time being occupying a position, an appointment made by the person does not end only because the person ceases to be the occupant of the position.

(3) This section does not limit the following sections:

- section 199 (Functions of bodies)
- section 200 (Functions of occupants of positions).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

212 Appointment not affected by defect etc

An appointment, or anything done under an appointment, is not invalid only because of a defect or irregularity in or in relation to the appointment.

Division 19.3.2 Acting appointments

215 Application of div 19.3.2

This division applies if a law gives an entity (the ***appointer***) power to appoint a person to act in a position under a law.

Note A power to make an appointment includes power to make an acting appointment (see s 209).

216 Acting appointments must be in writing etc

(1) An acting appointment must be made, or evidenced, by writing (the ***instrument of appointment***) signed by the appointer.

(2) If a law provides for a maximum or minimum period of appointment, the instrument of appointment must state the period for which the acting appointment is made.

Examples of stated appointment periods

1 1 year

2 until 31 December 2002 (a period of 9 months)

Note 1 See also s 219 (Appointer may decide terms of acting appointment etc) and s 221 (How long does an acting appointment operate?)

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

217 Acting appointment may be made by name or position

(1) The appointer may make an acting appointment by—

(a) naming the person appointed; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) nominating the occupant of a position (however described), at a particular time or from time to time.

(2) For this division, the person named, or the occupant of the position nominated, is the ***appointee***.

218 Instrument may provide when acting appointment has effect etc

The instrument making or evidencing the acting appointment may provide that the appointment has effect only in stated circumstances or subject to stated conditions or limitations.

Examples

1 The instrument relating to a standing (or dormant) acting appointment for a position provides that when the substantive occupant of the position (Y) is overseas X may act in the position, but may exercise stated powers of the position only with Y's approval.

2 X is appointed to act in Y's position if Y is out of the ACT and a declaration of acute fire danger is published under the *ABC Act 2000*.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

219 Appointer may decide terms of acting appointment etc

(1) The appointer may—

(a) decide the terms of the acting appointment, including any remuneration and allowances; and

(b) end the appointment at any time.

Example for par (b)

A appoints X to act in a position for 10 months. Two months after X begins to act, A ends the appointment.

Note 1 See also s 221 (How long does an acting appointment operate?)

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) The power to end the acting appointment is exercisable in the same way, and subject to the same conditions, as the power to make the acting appointment.

Example

If the power to make the acting appointment is exercisable only on the recommendation of a body, the power to end the appointment is exercisable only on the recommendation of the body.

220 Appointee may exercise functions under acting appointment etc

While the appointee is acting in the position—

(a) the appointee has, subject to the instrument making or evidencing the appointment, all the functions of the occupant of the position; and

(b) all territory laws apply in relation to the appointee as if the appointee were the occupant of the position.

Note ***Function*** is defined in the dict, pt 1 to include authority, duty and power.

221 How long does an acting appointment operate?

(1) If the appointee acts in the position because it is vacant, the appointee may not act for more than 1 year after the position became vacant.

Note See also s 219 (Appointer may decide terms of acting appointment etc)

(2) If the appointee is acting in a position that becomes vacant while the appointee is acting, the appointee may continue to act until the first of the following happens:

(a) the appointer ends the appointment;

(b) the vacancy is filled;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) 1 year after the position became vacant.

Example

A appoints X to act in Y's position for a year while Y is on secondment in another agency. Three months after X begins to act, Y is permanently transferred to the other agency. One month later, Z is appointed to the position in which X is acting. The appointment of Z brings X's acting appointment to an end.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(3) If the appointee acts in the position because the occupant of the position cannot exercise functions and the occupant resumes the exercise of the functions, the appointment no longer authorises the appointee to act on that occasion.

Note ***Function*** is defined in the dict, pt 1 to include authority, duty and power.

222 Resignation of acting appointment

(1) An acting appointment ends if the appointee resigns by signed notice of resignation given to the appointer.

(2) However, if the appointer is the Executive, the notice of resignation may be given to a Minister.

223 Effect of acting appointment on substantive appointment etc

(1) If the appointee is the occupant of another position under a law (the ***substantive position***), the appointee does not cease to occupy the substantive position only because of the appointee's appointment or because the appointee acts under the appointment.

(2) This section does not prevent an acting appointment being made to the substantive position.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

224 Acting appointment not affected by appointer changes

(1) If the appointer is a body, an acting appointment made by the body does not end only because the membership of the body changes.

(2) If the appointer is the person for the time being occupying a position, an acting appointment made by the person does not end only because the person ceases to be the occupant of the position.

(3) This section does not limit the following sections:

- section 199 (Functions of bodies)
- section 200 (Functions of occupants of positions).

225 Acting appointment not affected by defect etc

(1) An acting appointment, or anything done under an acting appointment, is not invalid only because of a defect or irregularity in or in relation to the appointment.

(2) Anything done by or in relation to the appointee while the appointee purports to act in the position is not invalid only because—

(a) the occasion for the appointment had not arisen or had ended; or

(b) the appointment had ended; or

(c) the occasion for the appointee to act had not arisen or had ended.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Division 19.3.2A Standing acting arrangements

225A Application of div 19.3.2A

This division applies to a position if a law provides that a person acts in the position in stated circumstances.

Example

The *Hypothetical Act 2003* provides for the deputy director of the hypothetical entity to act in the position of director of the entity if the position is vacant or the director cannot for any reason exercise the functions of the position.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

225B Person acting under standing acting arrangement may exercise functions etc

(1) A person acting in the position has, subject to the law providing for the acting or any other law, all the functions of the occupant of the position.

Note ***Function*** is defined in the dict, pt 1 to include authority, duty and power.

(2) All territory laws apply in relation to the person as if the person were the occupant of the position.

Division 19.3.3 Appointments—Assembly consultation

226 Meaning of *statutory position* in div 19.3.3

In this division:

statutory position means a position (including as a member of a territory authority) established under an Act.

Note ***Position*** includes office (see dict, pt 1, def ***position***).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

227 Application of div 19.3.3

(1) This division applies if a Minister has the power under an Act to appoint a person to a statutory position.

(2) However, this division does not apply to an appointment of—

(a) a public servant to a statutory position (whether or not the Act under which the appointment is made requires that the appointee be a public servant); or

(b) a person to, or to act in, a statutory position for not longer than 6 months, unless the appointment is of the person to, or to act in, the position for a 2nd or subsequent consecutive period; or

(c) a person to a statutory position if the only function of the position is to advise the Minister.

228 Consultation with appropriate Assembly committee

(1) Before making an appointment to a statutory position, a Minister must consult—

(a) a standing committee of the Legislative Assembly nominated by the Speaker for the purpose; or

(b) if no nomination under paragraph (a) is in force—the standing committee of the Legislative Assembly responsible for the scrutiny of public accounts.

(2) The committee may make a recommendation to the Minister about the proposed appointment.

(3) The Minister must not make the appointment until the Minister has received a recommendation or 30 days have passed since the consultation took place, whichever happens first.

(4) In making the appointment, the Minister must have regard to any recommendation received.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

229 Appointment is disallowable instrument

The instrument making, or evidencing, an appointment to which this division applies is a disallowable instrument.

Note A disallowable instrument must be notified and presented to the Legislative Assembly (see ch 7 (Presentation, amendment and disallowance of subordinate laws and disallowable instruments)).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 19.4 Delegations

230 Application of pt 19.4 generally

This part applies if a law authorises or requires an entity (the ***appointer***) to delegate (or subdelegate) a function.

Note ***Function*** is defined in the dict, pt 1 to include authority, duty and power.

231 Application of pt 19.4 to subdelegations

(1) This part applies to the subdelegation of a function in the same way as it applies to the delegation of the function.

(2) However, if the appointer delegates a function to a delegate, the delegate may not subdelegate the function.

(3) Subsection (2) is a determinative provision.

Examples

1 The *ABC Act 2003* provides that an appointer (X) may delegate X's functions to Y. The Act is silent on the subdelegation of the functions. Y may not subdelegate X's functions to Z.

2 The *ABC Act 2003* provides that an appointer (X) may delegate X's functions to Y, with authority for Y to subdelegate the functions. Because the Act authorises subdelegation, it expressly displaces this Act, section 231 (2) (see s 6). Y can therefore subdelegate X's functions to Z (compare s 236, which deals with the subdelegation of a power to delegate).

Note 1 See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

232 Delegation must be in writing etc

A delegation must be made, or evidenced, by writing signed by the appointer.

233 Delegation may be made by name or position

(1) The appointer may delegate by—

(a) naming the person to whom the delegation is made; or

(b) nominating the occupant of a position (however described), at a particular time or from time to time.

(2) For this part, the person named, or the occupant of the position nominated, is the ***delegate***.

234 Instrument may provide when delegation has effect etc

The instrument making or evidencing a delegation may provide—

(a) that the delegation has effect only in stated circumstances or subject to stated conditions, limitations or directions; or

(b) that all of a function, or a stated part of the function, is delegated.

Examples

1 The delegation provides that, when the appointer (Y) is outside Australia, the delegate (X) may exercise her functions except that stated functions may only be exercised with Y's approval.

2 The delegation provides that X may enter into a contract for the purchase of property of not more than $50 000 in value.

3 The delegation provides that X may grant licences under a stated Act but that, in considering applications, X must take account of the policy of the agency (authorised by the Act) that there should not be more than 100 licences current at any time.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

235 Delegation may be made to 2 or more delegates

The appointer may delegate the appointer's function, or any part of the function, to 2 or more delegates.

236 Power to delegate may not be delegated

(1) The appointer may not delegate the appointer's power to delegate.

(2) Subsection (1) is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Examples

1 The *ABC Act 2003* provides that an appointer (X) may delegate X's functions to Y. The Act is silent on X's power to delegate the power to delegate. X may not delegate X's power to delegate to Y.

2 The *ABC Act 2003* provides that an appointer (X) may delegate X's functions to Y, with authority for X to delegate X's power to delegate. Because the Act authorises the delegation of the power to delegate, it expressly displaces this Act, section 236 (1) (see s 6). X can therefore delegate X's power to delegate to Y (compare s 231, which deals with the subdelegation of a delegated function).

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

237 Delegation may be amended or revoked

(1) The appointer may amend a delegation or revoke it completely or partly.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) The power to amend or revoke a delegation is exercisable in the same way, and subject to the same conditions, as the power to delegate.

Example

If the power to delegate is exercisable only with the Minister's approval, the power to revoke the delegation is exercisable only with the Minister's approval.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

238 Appointer responsible for delegated function

The delegation of a function, or a part of a function, does not relieve the appointer of the appointer's obligation to ensure that the function is properly exercised.

239 Exercise of delegation by delegate

(1) A delegate must exercise the delegation subject to any conditions, limitations or directions in the instrument making or evidencing the delegation.

(2) All territory laws apply to the delegate in the exercise of the delegation as if the delegate were the appointer.

(3) Without limiting subsection (2), if the exercise of a function by the appointer is dependent on the appointer's state of mind and the function is delegated, the function may be exercised by the delegate on the delegate's state of mind.

(4) Anything done by or in relation to the delegate in the exercise of the delegation is taken to have been done by or in relation to the appointer.

Note 1 Section 94 provides that a delegation under a law that is in force immediately before an amendment of the law continues to have effect as if made under the amended law.

Note 2 Section 196 gives a delegate the powers necessary or convenient to exercise a delegated function.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) In this section:

state of mind includes knowledge, intention, opinion, belief or purpose.

240 Appointer may exercise delegated function

A function that has been delegated may, despite the delegation, be exercised by the appointer.

241 Delegation not affected by appointer changes

(1) If the appointer is a body, a delegation made by the body does not end only because the membership of the body changes.

(2) If the appointer is the person for the time being occupying a position, a delegation made by the person does not end only because the person ceases to be the occupant of the position.

(3) This section does not limit the following sections:

- section 199 (Functions of bodies)
- section 200 (Functions of occupants of positions).

242 Delegation not affected by defect etc

(1) A delegation, or anything done under a delegation, is not invalid only because of a defect or irregularity in or in relation to the delegation.

(2) Anything done by or in relation to the delegate while the delegate purports to exercise the delegation is not invalid only because—

(a) the delegation had been amended or revoked; or

(b) the occasion for the delegate to exercise the delegation had not arisen or had ended.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 19.5 Service of documents

245 Application of pt 19.5

This part applies to a document that is authorised or required under a law to be served (whether the word ‘serve’, ‘give’, ‘notify’, ‘send’ or ‘tell’ or any other word is used).

246 Definitions for pt 19.5

In this part:

administrator, of a law, means the entity administering or responsible for the law.

agency means—

(a) an administrative unit; or

(b) a statutory office-holder; or

(c) any other entity established for a public purpose under a law;

and includes a member of, or a member of the staff of, the agency.

business address, of an individual, corporation or agency in relation to anything done or to be done under a law, includes the latest business address, or address for service of notices (however described), of the individual, corporation or agency (if any) recorded in a register or other records kept by the administrator of the law.

corporation does not include an agency.

document includes a notice, an article that may be sent by post or anything else.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

email address, of an individual, corporation or agency in relation to anything done or to be done under a law, includes the latest email address of the individual, corporation or agency (if any) recorded in a register or other records kept by the administrator of the law.

executive officer means—

(a) for a corporation—a person (however described and whether or not the person is a director of the corporation) who is concerned with, or takes part in, the corporation's management; or

(b) for an agency that is an administrative unit—the chief executive of the administrative unit; or

(c) for an agency that is a statutory office-holder—the occupant of the position; or

(d) for an agency constituted by 2 or more people—the person who is entitled, because of the position occupied by the person, to preside at any meeting of the agency at which the person is present; or

(e) for any other agency—the chief executive officer (however described) of the agency; or

(f) for any agency—a person (however described) who is concerned with, or takes part in, the agency's management.

fax number, of an individual, corporation or agency in relation to anything done or to be done under a law, includes the latest fax number of the individual, corporation or agency (if any) recorded in a register or other records kept by the administrator of the law.

home address, of an individual in relation to anything done or to be done under a law, includes the latest home address, or address for service of notices (however described), of the person (if any) recorded in a register or other records kept by the administrator of the law.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

responsible, for a law, means allocated responsibility for the law under the *Public Sector Management Act 1994*, section 14 (1) (b) (Ministerial responsibility and functions of administrative units).

247 Service of documents on individuals

(1) A document may be served on an individual—

(a) by giving it to the individual; or

(b) by sending it by prepaid post, addressed to the individual, to a home or business address of the individual; or

(c) by faxing it to a fax number of the individual; or

(d) by emailing it to an email address of the individual; or

(e) by leaving it, addressed to the individual, at a home or business address of the individual with someone who appears to be at least 16 years old and to live or be employed at the address.

Note See s 251 for service of documents under other laws.

(2) This section applies to service of a document outside the ACT in the same way as it applies to service of the document in the ACT.

248 Service of documents on corporations

(1) A document may be served on a corporation—

(a) by giving it to an executive officer of the corporation; or

(b) by sending it by prepaid post, addressed to the corporation (or an executive officer of the corporation), to the address of any of its registered offices or any other business address of the corporation; or

(c) by faxing it to a fax number of the corporation; or

(d) by emailing it to an email address of the corporation; or

(e) by leaving it, addressed to the corporation (or an executive officer of the corporation), at the address of any of the

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

corporation's registered offices, or any other business address of the corporation, with someone who appears to be at least 16 years old and to be employed at the address.

Note See s 251 for service of documents under other laws.

(2) This section applies to service of a document outside the ACT in the same way as it applies to service of the document in the ACT.

249 Service of documents on agencies

A document may be served on an agency—

(a) by giving it to an executive officer of the agency; or

(b) by sending it by prepaid post, addressed to the agency (or an executive officer of the agency), to the address of any office of the agency or any other business address of the agency; or

(c) by faxing it to a fax number of the agency; or

(d) by emailing it to an email address of the agency; or

(e) by leaving it, addressed to the agency (or an executive officer of the agency), at the address of any of the agency's offices or any other business address of the agency with someone who appears to be employed at the agency.

Note See s 251 for service of documents under other laws.

250 When document taken to be served

(1) A document served by post under this part is taken to be served when the document would have been delivered in the ordinary course of post.

(2) However, subsection (1) does not affect the operation of the *Evidence Act 1995* (Cwlth), section 160.

Note The *Evidence Act 1995* (Cwlth), s 160 provides a rebuttable presumption that a postal article sent by prepaid post addressed to a

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

person at an address in Australia or an external territory was received on the 4th working day after posting.

(3) If the sender has no reason to suspect that a document served by fax or email under this part was not received by the recipient when sent, the document is presumed to be served when sent unless evidence sufficient to raise doubt about the presumption is given.

(4) For subsection (3), the sender has reason to suspect that a document served by fax or email under this part was not received by the recipient when sent only if, on the day the document was sent or on the next working day, the equipment the sender used to send the document indicated by way of a signal or other message that—

(a) the equipment did not send the document when the equipment was used to send the document; or

(b) for a fax—the number to which the fax was sent to the recipient was not a fax number of the recipient; or

(c) for an email—the address to which the email was sent was not an email address of the recipient.

(5) A document addressed to the recipient, and left for the recipient as mentioned in section 247 (e), section 248 (e) or section 249 (e), is taken to be served when it was left.

(6) In this section:

recipient, for a document, means the individual, corporation or agency on whom the document is intended to be served.

sender, for a document served, or to be served, by fax or email, means the person sending, or seeking to send, the document.

251 Other laws not affected etc

(1) This part does not affect the operation of any other law that authorises or requires service of a document otherwise than as provided under this part.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) Despite this part, a law (or, if the law is an Act, a regulation under the Act) may provide—

(a) that a document of a particular kind may or must be served (however described) only in a particular way or to a particular address or number; or

(b) for the date (or date and time) when service (however described) of a document is taken to have been made.

252 Powers of courts and tribunals not affected

This part does not affect the power of a court or tribunal to authorise or require service of a document otherwise than as provided under this part.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 19.6 Functions of Executive and Ministers

253 Exercise of functions of Executive

(1) A function given to the Executive under an Act may be exercised by any 2 Ministers acting in concert.

(2) The exercise of a function under subsection (1) is taken to be the exercise of the function by the Executive.

(3) A statutory instrument (other than a subordinate law or disallowable instrument) is taken to be made by the Executive if it is signed by 2 or more Ministers who are members of the Executive.

(4) A statutory instrument mentioned in subsection (3) made in accordance with the subsection is taken to be made when it is signed by the second Minister signing.

(5) This section is subject to section 41 (Making of certain statutory instruments by Executive).

(6) In this section:

Act includes an Act of the Commonwealth.

statutory instrument includes an instrument (whether or not legislative in nature) made under—

(a) an Act of the Commonwealth; or

(b) another statutory instrument of the Commonwealth ; or

(c) power given by an Act or statutory instrument of the Commonwealth and also power given otherwise by law.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

254 Administration of matters not allocated

If a matter relating to the Executive's functions is not allocated under the Self-Government Act, section 43 (1), the Chief Minister administers the matter.

254A Delegation by Minister

A Minister may delegate the Minister's functions under an Act or statutory instrument to anyone else.

Note For the making of delegations and the exercise of delegated functions, see pt 19.4.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 19.7 Other matters

255 Forms

(1) This section applies if an Act, subordinate law or disallowable instrument (the ***authorising law***) authorises or requires a form to be approved or prescribed under an Act or statutory instrument (the ***relevant law***).

Note See also s 46 (3), which deals with the repeal and replacement of forms that are legislative instruments and prevents their amendment.

(2) The authorising law authorises a form to be approved or prescribed in relation to any matter under or in relation to the relevant law.

(3) To remove any doubt, a form may be approved or prescribed for a provision of the relevant law even though the provision does not mention a form.

Example

The X Act, section 23 provides for a person to apply for registration but makes no mention of a form for the application. However, the Act, section 80 (1) provides:

(1) The Minister may approve forms for this Act.

Section 80 (3) provides that the approval of a form is a notifiable instrument.

Because section 80 (1) permits a form to be approved 'for this Act', this Act, section 255 applies in relation to section 23 and the Minister may, in writing, approve a form for the application.

Note 1 Because the approval is a notifiable instrument, it must be in writing (see s 42 (2)).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

(4) Substantial compliance with a form is sufficient.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) However, if a form requires—

(a) the form to be signed; or

(b) the form to be prepared in a particular way (for example, on paper of a particular size or quality or in a particular electronic form); or

(c) the form to be completed in a particular way; or

(d) particular information to be included in the form, or a particular document to be attached to or given with the form; or

(e) the form, information in the form, or a document attached to or given with the form, to be verified in a particular way (for example, by statutory declaration);

the form is properly completed only if the requirement is complied with.

(6) Despite subsection (5), the person need not comply with the requirement mentioned in subsection (5) (d) (and the form is taken to be properly completed despite the noncompliance) if—

(a) the form is approved or prescribed for a purpose; and

(b) the information or document is not reasonably necessary for the purpose.

Examples

1 A person need not comply with a requirement of an approved form to include personal information (eg marital status) irrelevant to a purpose for which the form is required.

2 A person need not comply with a requirement of an approved form that has some relevance to a purpose for which the form is required, but intrudes to an unreasonable extent on personal privacy.

(7) If—

(a) a form (***form 1***) may be approved or prescribed for a purpose; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) another form (***form 2***) may be approved or prescribed for the same or another purpose; and

(c) separate forms 1 and 2 are approved or prescribed;

a combination form, consisting of forms 1 and 2, may be approved or prescribed and used for the purpose or purposes.

(8) If, under a law, a form is authorised or required to be filed with (however described), or served on (however described), a person, the form may be filed with, or served on, someone else under arrangements made between them.

(9) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

256 Production of records kept in computers etc

(1) This section applies if—

(a) a person uses an electronic or other device to keep a record of information; and

(b) the person is required under a law (however the law is expressed) to give the information, or a document containing the information, to an authority.

(2) The requirement obliges the person to give to the authority a document that accurately reproduces or contains the information in a form that can be understood by the authority.

(3) In this section:

authority means a court, tribunal or other entity.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Chapter 20 Miscellaneous

300 Delegation by parliamentary counsel

(1) The parliamentary counsel may delegate the parliamentary counsel's functions under this Act or another territory law to a public servant.

Note For the making of delegations and the exercise of delegated functions, see pt 19.4.

(2) However, the parliamentary counsel may only delegate a function under part 11.3 (Editorial changes) to—

(a) a person performing the duties of deputy parliamentary counsel in the public service; or

(b) a public servant prescribed by regulation.

301 References to Administration Act 1989 etc

(1) In any Act, statutory instrument or document, a reference to the *Administration Act 1989*, the *Interpretation Act 1967*, the *Legislation* (*Republication*) *Act 1996* or the *Subordinate Laws Act 1989* is, in relation to anything dealt with in this Act, a reference to this Act.

(2) In any Act, statutory instrument or document, a reference to a particular provision of the *Administration Act 1989*, the *Interpretation Act 1967*, the *Legislation (Republication) Act 1996* or the *Subordinate Laws Act 1989* is, in relation to anything dealt with in this Act, a reference to the corresponding provision of this Act.

302 Regulation-making power

(1) The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under this Act.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) A regulation may make provision in relation to notification in the gazette under the following sections:

(a) section 28 (Notification of Acts);

(b) section 61 (Notification of legislative instruments):

(c) section 65A (Notification of disallowance by resolution of Assembly);

(d) section 69 (Notification of amendments made by resolution of Assembly).

(3) In particular, a regulation may make provision in relation to the form of the gazette and its publication, including how it may or must be published.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Schedule 1 Acts included in sources of law in the ACT

(see s 17)

Part 1.1 Former NSW and UK Acts in force before establishment of Territory

column 1 item	column 2 name of Act	column 3 number or date of assent and original jurisdiction
1	Magna Carta	(1297) 25 Edw 1 c 29 (UK)
2	*Criminal and Civil Justice Act 1351*	25 Edw 3 St 5 c 4 (UK)
3	*Due Process of Law Act 1354*	28 Edw 3 c 3 (UK)
4	*Due Process of Law Act 1368*	42 Edw 3 c 3 (UK)
5	*Free Access to Courts Act 1400*	2 Hen 4 c 1 (UK)
6	*Petition of Right 1627*	3 Chas 1 c 1 (UK)
7	*Bill of Rights 1688*	1 Will and Mary sess 2 c 2 (UK)
8	*Act of Settlement 1700*	12 and 13 Will 3 c 2 (UK)
9	*Royal Marriages Act 1772*	12 Geo 3 c 11 (UK)
10	*Contractors Debts Act 1897*	1897 No 29 (NSW)
11	*Crimes Act 1900*	1900 No 40 (NSW)
12	*Truck Act 1900*	1900 No 55 (NSW)
13	*Games, Wagers and Betting Houses Act 1901*	1902 No 18 (NSW)
14	*Pawnbrokers Act 1902*	1902 No 66 (NSW)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 item	column 2 name of Act	column 3 number or date of assent and original jurisdiction
15	*Public Roads Act 1902*	1902 No 95 (NSW)
16	*Anglican Church of Australia Constitutions Act 1902*	24 December 1902 (NSW)
17	*Fertilisers Act 1904*	1904 No 33 (NSW)
18	*Gaming and Betting Act 1906*	1906 No 13 (NSW)
19	*Second-hand Dealers Act 1906*	1906 No 30 (NSW)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1.2 Former NSW Acts applied after establishment of Territory

Note to pt 1.2

The former NSW Acts mentioned in this part are in force in the ACT as Acts of the Legislative Assembly

column 1 item	column 2 name of NSW Act	column 3 applying Territory Act
1	*Scaffolding and Lifts Act 1912*	*Scaffolding and Lifts Act 1957* (repealed)
2	*Anglican Church of Australia Trust Property Act 1917*	*Anglican Church of Australia Trust Property Act 1928*
3	*Trustee Act 1925*	*Trustee Act 1957* (repealed)
4	*Anglican Church of Australia Constitution Act 1961*	*Anglican Church of Australia Trust Property Act 1928*

Note The written law of the ACT also includes the following Acts that may not be amended or repealed by the Assembly (see Self-Government Act, s 34):

Life, Fire and Marine Insurance Act 1902 (NSW)

Demise of the Crown Act 1760 (UK)

Naval Prize Act 1864 (UK)

Naval Prize (Procedure) Act 1916 (UK)

Prize Act (1939) (UK)

Prize Courts Act 1894 (UK)

Prize Courts Act 1915 (UK)

Prize Courts (Procedure) Act 1914 (UK)

Territorial Waters Jurisdiction Act 1878 (UK).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Dictionary

(see s 2)

U Part 1 Meaning of commonly-used terms

(see s 144)

Note for pt 1

Terms that are defined only for this Act are set out in pt 2.

AAT—see definition of ***administrative appeals tribunal***.

Act—see the following sections:

(a) section 7 (Meaning of *Act* generally);

(b) section 17 (References to Acts include references to former Cwlth enactments etc).

Note See also s 102 (References to laws include references to laws as in force from time to time) and s 104 (References to laws include references to instruments under laws).

ACT means the Australian Capital Territory.

ADI—see definition of ***authorised deposit-taking institution***.

administrative appeals tribunal (or ***AAT***) means the Administrative Appeals Tribunal established under the *Administrative Appeals Tribunal Act 1989*.

administrative unit means an administrative unit for the time being established under the *Public Sector Management Act 1994*, section 13 (1).

adult means an individual who is at least 18 years old.

ambulance service means the ACT Ambulance Service established under the *Emergencies Act 2004*.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

amend includes—

(a) for an Act or statutory instrument—omit, insert, substitute, renumber or relocate a provision of the Act or instrument; and

(b) for an Act or statutory instrument (or a provision of it)—amend by implication; and

(c) for a provision of an Act or statutory instrument—omit the provision (or a part of it), substitute another provision for the provision (or a part of it), renumber the provision (or a part of it) or relocate the provision (or a part of it); and

(d) for any other instrument, a provision of an instrument or a decision—change or alter.

appoint includes reappoint.

asset includes property of any kind.

Attorney-General means the Minister designated Attorney-General by the Chief Minister, and includes a Minister authorised by the Chief Minister to act on behalf of the Attorney-General.

auditor-general means the Auditor-General for the Territory under the *Auditor-General Act 1996*.

Australia means the Commonwealth of Australia and, when used in a geographical sense, does not include an external territory.

Australian driver licence means an Australian driver licence under the *Road Transport (Driver Licensing) Act 1999*.

Note ***Australian driver licence*** is defined in that Act, dictionary to mean a driver licence of any kind issued under the law of the Commonwealth or a State or Territory. It includes a driver licence issued under ACT law (see also def ***driver licence***).

Australian statistician means the Australian Statistician under the *Australian Bureau of Statistics Act 1975* (Cwlth).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

authorised deposit-taking institution (or ***ADI***) means an authorised deposit-taking institution under the *Banking Act 1959* (Cwlth).

bank means an authorised deposit-taking institution that is permitted under the *Banking Act 1959* (Cwlth) to assume or use—

(a) the word ‘bank’, ‘banker’ or ‘banking’; or

(b) any other word (whether or not in English) similar in meaning to a word mentioned in paragraph (a).

barrister means a lawyer who practises as a barrister.

body includes any group of people joined together for a common purpose, whether or not incorporated.

Examples

1 a company

2 a statutory corporation, whether or not it has members

3 an association, club or society

4 a partnership

5 a joint venture

6 a corporation sole

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

breach includes contravene.

building code means the building code under the *Building Act 2004*, section 136.

Note The building code is the Building Code of Australia, as amended from time to time by the Australian Building Codes Board and the Australian Capital Territory Appendix to the Building Code of Australia.

building society means an authorised deposit-taking institution that is permitted under the *Banking Act 1959* (Cwlth) to assume or use—

(a) the term ‘building society’; or

(b) any other term (whether or not in English) similar in meaning.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

business day means a day that is not—

(a) a Saturday or Sunday; or

(b) a public holiday or bank holiday in the ACT under the *Holidays Act 1958*.

by regulation includes under a regulation.

Note See also def ***under***, in relation to an Act or statutory instrument.

by-law, in relation to an Act, means a by-law made or in force under the Act.

calendar month means a period beginning at the start of any day of a named month and ending—

(a) at the end of the day before the corresponding day of the next named month; or

(b) if there is no such corresponding day—at the end of the last day of the next named month.

Examples

1 The period beginning at the start of 5 July 2000 and ending at midnight on 4 August 2000 is a calendar month.

2 The period beginning at the start of 30 January 2001 and ending at midnight on 28 February 2001 is a calendar month. The calendar month ends on the last day of February because in that year February does not have a day corresponding to 29 January (because 2001 is not a leap year). If the period began at the start of 30 January 2004 (ie a leap year), the calendar month would end at midnight on 29 February 2004.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

calendar year means a period of 12 months beginning on 1 January.

change includes change by alteration, omission, substitution or addition.

chief executive—see section 163.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

chief health officer means the Chief Health Officer under the *Public Health Act 1997*.

Chief Justice means the Chief Justice of the Supreme Court.

Chief Magistrate means the Chief Magistrate of the Magistrates Court.

Chief Minister means the Chief Minister for the Territory.

Note The Chief Minister is elected under the Self-Government Act, s 40.

chief officer (ambulance service) means the chief officer (ambulance service) under the *Emergencies Act 2004*.

chief officer (fire brigade) means the chief officer (fire brigade) under the *Emergencies Act 2004*.

chief officer (rural fire service) means the chief officer (rural fire service) under the *Emergencies Act 2004*.

chief officer (SES) means the chief officer (SES) under the *Emergencies Act 2004*.

chief planning executive means the Chief Planning Executive under the *Planning and Land Act 2002*.

chief police officer means the police officer responsible to the commissioner of police for the day-to-day administration and control of police services in the ACT.

chief solicitor means the chief solicitor under the *Government Solicitor Act 1989*.

chief surveyor means the Chief Surveyor under the *Surveyors Act 2007*.

child, if age rather than descendancy is relevant, means an individual who is under 18 years old.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

children and young people commissioner means the Children and Young People Commissioner under the *Human Rights Commission Act 2005*.

Childrens Court means the Childrens Court under the *Children and Young People Act 1999*, section 53.

city area means the area that was ***the City Area*** under the *City Area Leases Act 1936* (repealed).

Note See s 103 for the meaning of references to repealed laws.

clerk, in relation to the Legislative Assembly, means the Clerk of the Legislative Assembly.

Note The office of Clerk is established under the *Public Sector Management Act 1994*.

commencement, of an Act or statutory instrument—see section 80.

commencement notice—see section 11.

commissioner for fair trading means the Commissioner for Fair Trading of the Australian Capital Territory under the *Fair Trading (Consumer Affairs) Act 1973*.

commissioner for public administration means the Commissioner for Public Administration under *the Public Sector Management Act 1994*.

commissioner for revenue means the Commissioner for Australian Capital Territory Revenue under the *Taxation Administration Act 1999*.

commissioner for the environment means the Commissioner for the Environment under the *Commissioner for the Environment Act 1993*.

commissioner of police means the Commissioner of Police of the Australian Federal Police.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

commit, a person for trial, means—

(a) to order that the person be remanded in custody until tried by the Supreme Court; or

(b) to grant bail to the person to appear and be tried by the Supreme Court.

Commonwealth means the Commonwealth of Australia and, when used in a geographical sense, does not include an external territory.

Commonwealth country means a country that forms part of the Commonwealth of Nations, and includes a territory for the international relations of which a Commonwealth country is responsible.

Commonwealth DPP means the Director of Public Prosecutions under the *Director of Public Prosecutions Act 1983* (Cwlth).

Commonwealth gazette means the *Commonwealth of Australia Gazette* or the *Australian Government Gazette*.

Note The *Australian Government Gazette* was published from 1 July 1973 to 30 June 1976.

confer, in relation to a function, includes impose.

conservator of flora and fauna means the Conservator of Flora and Fauna under the *Nature Conservation Act 1980*.

construction occupations registrar means the Australian Capital Territory Construction Occupations Registrar under the *Construction Occupations (Licensing) Act 2004*.

consumer and trader tribunal means the Consumer and Trader Tribunal established under the *Consumer and Trader Tribunal Act 2003*.

Consumer Credit (Australian Capital Territory) Code means the provisions applying because of the *Consumer Credit Act 1995*, section 4.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Consumer Credit (Australian Capital Territory) Regulations means the provisions applying because of the *Consumer Credit Act 1995*, section 5.

contravene includes fail to comply with.

converted ordinance means an enactment that was an ordinance immediately before self-government day.

Coroner's Court means the Coroner's Court under the *Coroners Act 1997*.

corporation includes a body politic or corporate.

Corporations Act means the *Corporations Act 2001* (Cwlth).

correctional centre means a correctional centre under the *Corrections Management Act 2007*.

corrections officer means a corrections officer under the *Corrections Management Act 2007*.

Court of Appeal means the Court of Appeal constituted under the *Supreme Court Act 1933*.

court of summary jurisdiction means the Magistrates Court.

credit tribunal means the Australian Capital Territory Credit Tribunal established under the *Consumer Credit (Administration) Act 1996*.

credit union means an authorised deposit-taking institution that is permitted under the *Banking Act 1959* (Cwlth) to assume or use—

(a) the term 'credit union'; or

(b) any other term (whether or not in English) similar in meaning.

Criminal Code means the *Criminal Code 2002*.

daylight means the period in a day from sunrise to sunset.

definition—see section 130.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

dental prosthetist means a person registered as a dental prosthetist under the *Health Professionals Act 2004*.

dental technician means a person registered as a dental technician under the *Health Professionals Act 2004*.

dentist—

(a) means a person unconditionally registered as a dentist under the *Health Professionals Act 2004*; and

(b) for an activity, includes a person conditionally registered as a dentist under the *Health Professionals Act 2004* to the extent that the person is allowed to do the activity under the person's conditional registration.

Deputy Speaker means the Deputy Presiding Officer of the Legislative Assembly.

Note The Deputy Presiding Officer is elected under the Self-Government Act, s 21 (2).

designation, of a position under the *Public Sector Management Act 1994*, includes a designation given under that Act.

director of public prosecutions **(**or ***DPP*****)** means the Director of Public Prosecutions under the *Director of Public Prosecutions Act 1990*.

disability and community services commissioner means the Disability and Community Services Commissioner under the *Human Rights Commission Act 2005*.

disallowable instrument—see section 9.

discrimination commissioner means the Discrimination Commissioner under the *Human Rights Commission Act 2005*.

discrimination tribunal means the Discrimination Tribunal established under the *Discrimination Act 1991*.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

doctor—

(a) means a person unconditionally registered as a medical practitioner under the *Health Professionals Act 2004*; and

(b) for an activity, includes a person conditionally registered as a medical practitioner under the *Health Professionals Act 2004* to the extent that the person is allowed to do the activity under the person's conditional registration.

document means any record of information, and includes—

(a) anything on which there is writing; or

(b) anything on which there are figures, marks, numbers, perforations, symbols or anything else having a meaning for people qualified to interpret them; or

(c) anything from which images, sounds, messages or writings can be produced or reproduced, whether with or without the aid of anything else; or

(d) a drawing, map, photograph or plan.

domestic partner—see section 169 (1).

domestic partnership—see section 169 (2).

DPP—see definition of ***director of public prosecutions***.

driver licence means a driver licence under the *Road Transport (Driver Licensing) Act 1999*.

Note ***Driver licence*** is defined in that Act, dictionary to mean a driver licence of any kind issued under that Act (see also def ***Australian driver licence***).

electoral commission means the Australian Capital Territory Electoral Commission established under the *Electoral Act 1992*.

electoral commissioner means the Electoral Commissioner under the *Electoral Act 1992*.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

emergency service means the ambulance service, the fire brigade, the rural fire service or the SES.

emergency services commissioner means the ACT Emergency Services Commissioner under the *Emergencies Act 2004*.

enactment, of an Act—see section 29 (References to *enactment* or *passing* of Acts).

enrolled nurse—

(a) means a person unconditionally enrolled as a nurse under the *Health Professionals Act 2004*; and

(b) for an activity, includes a person conditionally enrolled as a nurse under the *Health Professionals Act 2004* to the extent that the person is allowed to do the activity under the person's conditional registration.

entity includes an unincorporated body and a person (including a person occupying a position).

environment protection authority means the Environment Protection Authority established under the *Environment Protection Act 1997*.

establish includes constitute and continue in existence.

estate includes any charge, claim, demand, easement, encumbrance, lien, right and title, whether at law or in equity.

Executive means the Australian Capital Territory Executive.

Note The Executive is established by the Self-Government Act, s 36.

exercise a function includes perform the function.

expire includes lapse or otherwise cease to have effect.

external territory means a Commonwealth territory, other than an internal territory.

fail includes refuse.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Federal Court means the Federal Court of Australia.

file includes lodge.

financial year means a period of 12 months beginning on 1 July.

fire brigade means the ACT Fire Brigade established under the *Emergencies Act 2004*.

for, in relation to an Act or statutory instrument, includes for the purposes of the Act or statutory instrument.

Note Under s 7 (3) and s 13 (3) a reference to an Act or statutory instrument includes a reference to a provision of an Act or statutory instrument.

foreign country means a country (whether or not an independent sovereign country) outside Australia and the external territories, and includes a state, province or other part of such a country.

former NSW Act means an Act corresponding to a NSW Act mentioned in schedule 1.

Note 1 The *Crimes Act 1900* is taken to have been enacted by the Legislative Assembly because of the *Crimes Legislation (Status and Citation) Act 1992*. The 1992 Act was repealed by the *Law Reform (Miscellaneous Provisions) Act 1999*, but its previous operation was saved (see s 5 (2)).

Note 2 The other former NSW Acts are taken to have been enacted by the Legislative Assembly because of the *Interpretation Act 1967*, s 65. Section 65 has expired, but its previous operation was saved (see s 65 (3)).

former UK Act means an Act corresponding to a UK Act mentioned in schedule 1.

Note Former UK Acts are also taken to have been enacted by the Legislative Assembly because of the *Interpretation Act 1967*, s 65. Section 65 has expired, but its previous operation was saved (see s 65 (3)).

found guilty, of an offence, includes—

(a) having an order made for the offence under the *Crimes (Sentencing) Act 2005*, section 17 (Non-conviction orders—general); and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) having the offence taken into account under the *Crimes (Sentencing) Act 2005*, section 57 (Outstanding additional offences taken into account in sentencing); and

(c) having an order made for the offence under the *Children and Young People Act 1999*, section 98 (Disposition without proceeding to conviction).

function includes authority, duty and power.

gambling and racing commission means the Gambling and Racing Commission established under the *Gambling and Racing Control Act 1999*.

gazette means the *Australian Capital Territory Gazette*.

give, in relation to a function, includes impose.

government printer includes anyone printing for or by the authority of the Executive.

government solicitor means the Government Solicitor under the *Government Solicitor Act 1989*.

Governor means—

(a) for a State (other than the Northern Territory)—the Governor of the State, and includes a person administering the Government of the State; or

(b) for the Northern Territory—the Administrator of the Northern Territory, and includes a person administering the Government of the Northern Territory.

Governor-General means the Governor-General of the Commonwealth, and includes a person administering the Government of the Commonwealth.

GST—see the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth), dictionary.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

guardianship tribunal means the Guardianship and Management of Property Tribunal established under the *Guardianship and Management of Property Act 1991*.

health services commissioner means the Health Services Commissioner under the *Human Rights Commission Act 2005*.

heritage council means the Australian Capital Territory Heritage Council under the *Heritage Act 2004*.

heritage register means the heritage register under the *Heritage Act 2004*.

High Court means the High Court of Australia.

Note The High Court is established by the Commonwealth Constitution, s 71 and provided for under the *High Court of Australia Act 1979* (Cwlth).

housing commissioner means the Commissioner for Social Housing under the *Housing Assistance Act 2007*.

human rights commission means the Human Rights Commission established under the *Human Rights Commission Act 2005*.

human rights commissioner means the Human Rights Commissioner under the *Human Rights Commission Act 2005*.

Imperial Act means an Act of the United Kingdom Parliament.

independent competition and regulatory commission means the Independent Competition and Regulatory Commission for the Australian Capital Territory established under the *Independent Competition and Regulatory Commission Act 1997*.

indictable offence—see section 190.

indictment includes information.

individual means a natural person.

infringement notice includes an infringement notice under the *Magistrates Court Act 1930* or the *Road Transport (General) Act 1999*.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

in relation to includes the following:

(a) in respect of;

(b) with respect to;

(c) in connection with;

(d) in regard to;

(e) with reference to;

(f) relating to;

(g) for or with respect to.

institute of technology means the Canberra Institute of Technology under the *Canberra Institute of Technology Act 1987*.

instrument—see section 14.

interest, in relation to land or other property, means—

(a) a legal or equitable estate in the land or other property; or

(b) a right, power or privilege over, or in relation to, the land or other property.

internal territory means the Australian Capital Territory, the Jervis Bay Territory or the Northern Territory.

intersex person—see section 169B.

Jervis Bay Territory means the Territory accepted by the Commonwealth under the *Jervis Bay Territory Acceptance Act 1915* (Cwlth).

Note The Jervis Bay Territory is described in the agreement set out in that Act, sch.

judge means a resident judge, additional judge or acting judge under the *Supreme Court Act 1933*.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Lake Burley Griffin means Lake Burley Griffin as defined in the *Lakes Act 1976*.

Lake Ginninderra means Lake Ginninderra as defined in the *Lakes Act 1976*.

land includes messuages, tenements and hereditaments, corporeal or incorporeal, of any tenure or description, whatever the interest in the land.

Note A number of the terms mentioned in the definition of ***land*** have a technical meaning at law. A *messuage* is a house together with its gardens, orchards and outbuildings. The term *tenement* signifies land capable of being held in freehold. *Hereditament* refers to real property that can be inherited. Hereditaments may be *corporeal*, that is, tangible things such as lands and buildings, or *incorporeal*, that is, intangible rights attaching to land such as rents, easements, tithes and profits a prendre. (Profits a prendre are the right to take some product of, or part of the soil from, the land of someone else.)

land development agency means the Land Development Agency established under the *Planning and Land Act 2002*.

law, of the Territory, means—

(a) an Act; or

(b) a subordinate law; or

(c) any other statutory instrument of a legislative nature; or

(d) the common law.

lawyer means a legal practitioner.

legal aid commission means the Legal Aid Commission (A.C.T.) established under the *Legal Aid Act 1977*.

legal practitioner means a person who is admitted to the legal profession under the *Legal Profession Act 2006* or a law that is a corresponding law for that Act.

Legislation Act means the *Legislation Act 2001*.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Legislative Assembly means the Legislative Assembly for the Australian Capital Territory.

Note The Assembly is established by the Self-Government Act, s 8 (1).

legislative instrument—see section 12.

liability means any liability or obligation (whether liquidated or unliquidated, certain or contingent, or accrued or accruing).

magistrate means a Magistrate under the *Magistrates Court Act 1930*.

Magistrates Court means the Magistrates Court established under the *Magistrates Court Act 1930*.

make an instrument includes issue and grant the instrument.

making, of a statutory instrument, means the signing, sealing, approval or other endorsement of the instrument by the entity authorised or required to make it.

master, in relation to the Supreme Court, means the Master of the Supreme Court.

Note The office of master is established under the *Supreme Court Act 1933*.

may—see section 146.

medical practitioner means a doctor.

mental health tribunal means the Mental Health Tribunal established under the *Mental Health (Treatment and Care) Act 1994*.

midnight, in relation to a particular day, means the time when the day ends.

midwife—

(a) means a person unconditionally registered as a midwife under the *Health Professionals Act 2004*; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) for an activity, includes a person conditionally registered as a midwife under the *Health Professionals Act 2004* to the extent that the person is allowed to do the activity under the person's conditional registration.

Minister—see section 162.

modification includes modification by alteration, omission, substitution and addition.

month means calendar month.

must—see section 146.

name includes—

(a) for an Act—the Act's short title; and

(b) for an instrument—the instrument's citation; and

(c) for a position—the position's title or designation.

named month means one of the 12 months of the year.

national capital authority means the National Capital Authority established under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth).

national capital plan means the National Capital Plan under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth).

national land means National Land under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth).

Note If an area of land in the ACT is, or is intended to be, used by or on behalf of the Commonwealth, it may be declared National Land under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth), s 27.

night means the period between sunset on one day and sunrise on the next day.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Northern Territory means the Northern Territory of Australia.

notifiable instrument—see section 10.

notification—

(a) of an Act—see section 30; and

(b) of a legislative instrument—see section 63.

notification day, for an Act or statutory instrument, means the day the Act or instrument is notified.

NSW Act means an Act of the New South Wales Parliament.

NSW correctional centre means a correctional centre (however described) under the *Crimes (Administration of Sentences) Act 1999* (NSW).

number means—

(a) a number expressed in figures or words; or

(b) a combination of a number expressed in figures or words and of a letter of the alphabet.

nurse—

(a) means a person unconditionally registered as a nurse under the *Health Professionals Act 2004*; and

(b) for an activity, includes a person conditionally registered as a nurse under the *Health Professionals Act 2004* to the extent that the person is allowed to do the activity under the person's conditional registration; but

(c) does not include an enrolled nurse.

Note Under the *Mutual Recognition Act 1992* (Cwlth), s 25 people registered as nurses in a State may be deemed to be registered in the ACT.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

nurse practitioner means a person registered as a nurse under the *Health Professionals Act 2004* in the specialist area of nurse practitioner.

Note Under the *Mutual Recognition Act 1992* (Cwlth), s 25 people registered as nurses in a specialty in a State may be deemed to be registered in the specialty in the ACT.

oath includes affirmation.

Note The *Evidence Act 1995* (Cwlth), ch 2, pt 2.1, div 2 and the *Oaths and Affirmations Act 1984* make provision in relation to oaths and affirmations.

occupy a position includes hold the position, act in the position or exercise functions of the position (including under a delegation or subdelegation).

office includes position.

office of fair trading means the Office of Fair Trading of the Australian Capital Territory established under the *Fair Trading (Consumer Affairs) Act 1973*.

OH&S commissioner means the Occupational Health and Safety Commissioner under the *Occupational Health and Safety Act 1989*.

ombudsman means the Ombudsman under the *Ombudsman Act 1989*.

omit, in relation to a provision of an Act or statutory instrument, includes repeal.

optometrist means a person registered as an optometrist under the *Health Professionals Act 2004*.

ordinance means an ordinance made under the *Seat of Government (Administration) Act 1910* (Cwlth), section 12.

parent, of a child, means—

(a) the child's mother; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the child's father; or

(c) someone else who is presumed under the *Parentage Act 2004*, part 2 to be a parent of the child.

Note A child cannot have more than 2 parents at any one time (see *Parentage Act 2004*, s 14).

parliamentary counsel means the person performing the duties of Parliamentary Counsel in the public service.

passing, of an Act—see section 29.

penalty unit—see section 133.

person includes an individual and a corporation.

Note Section 160 deals with references to a person generally.

pharmacist—

(a) means a person unconditionally registered as a pharmacist under the *Health Professionals Act 2004*; and

(b) for an activity, includes a person conditionally registered as a pharmacist under the *Health Professionals Act 2004* to the extent that the person is allowed to do the activity under the person's conditional registration.

planning and land authority means the Planning and Land Authority established under the *Planning and Land Act 2002*.

police officer means a member or special member of the Australian Federal Police.

position includes office.

power includes authority.

prescribed, in an Act, means prescribed by the Act or by regulation under the Act.

present an indictment includes lay an information.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

privacy commissioner means the Privacy Commissioner under the *Privacy Act 1998* (Cwlth).

proceeding means a legal or other action or proceeding.

property means any legal or equitable estate or interest (whether present or future, vested or contingent, or tangible or intangible) in real or personal property of any description (including money), and includes a thing in action.

Note A *thing in action* is an intangible personal property right recognised and protected by the law. Examples include debts, money held in a bank, shares, rights under a trust, copyright and right to sue for breach of contract.

provision, of an Act or instrument—see section 16.

public advocate means the Public Advocate under the *Public Advocate Act 2005*.

public employee means—

(a) a public servant; or

(b) a person employed by a territory instrumentality; or

(c) a statutory office-holder or a person employed by a statutory office-holder.

public health officer means a public health officer under the *Public Health Act 1997*.

public money, of the Territory, means revenues, loans and other money received by the Territory.

public servant means a person employed in the public service.

public service means the Australian Capital Territory Public Service.

Note The *Public Sector Management Act 1994*, s 12 deals with the constitution of the public service.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

public trustee means the Public Trustee for the Australian Capital Territory under the *Public Trustee Act 1985*.

quarter means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October in any year.

recognised transgender person—see section 169A (3).

registered surveyor means a surveyor under the *Surveyors Act 2007*.

registrar means—

(a) in relation to the Supreme Court—the Registrar of the Supreme Court; or

(b) in relation to the Magistrates Court—the Registrar of the Magistrates Court; or

(c) in relation to a tribunal—the registrar of the tribunal.

registrar-general means the Registrar-General under the *Registrar-General Act 1993*.

registrar of firearms means the Registrar of Firearms under the *Firearms Act 1996*.

registrar of liquor licences means the Registrar of Liquor Licences under the *Liquor Act 1975*.

regulation, in relation to an Act, means a regulation made or in force under the Act.

remuneration tribunal means the Remuneration Tribunal established under the *Remuneration Tribunal Act 1995*.

repeal includes—

(a) for an Act or statutory instrument—omit a provision of the Act or instrument; and

(b) for a provision of an Act or statutory instrument—omit the provision (or a part of it); and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) for an Act or statutory instrument (or a provision of it)—abrogate or limit its effect, or exclude from its application any circumstance, matter, person, place or purpose; and

(d) for an Act or statutory instrument (or a provision of it)—any other implied repeal; and

(e) for a statutory instrument—revoke the instrument (or part of it); and

(f) for a decision—revoke it or cancel it.

residential tenancies tribunal means the Residential Tenancies Tribunal established under the *Residential Tenancies Act 1997*.

resident judge means a resident judge under the *Supreme Court Act 1933*.

retrospectively, for the commencement of legislation—see section 75A.

road transport authority means the Australian Capital Territory Road Transport Authority.

Note The chief executive of the department responsible for the *Road Transport (General) Act 1999* is the road transport authority (see *Road Transport (General) Act 1999*, s 16).

rules means—

(a) of a court or tribunal—rules made by the entity having power to make rules (however described) regulating the practice and procedure of the court or tribunal; and

(b) in relation to an Act—rules made or in force under the Act.

rural fire service means the ACT Rural Fire Service under the *Emergencies Act 2004*.

see, in a definition—see section 131 (Signpost definitions).

Self-Government Act means the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

self-government day means 11 May 1989.

Note This is the day when the remaining provisions of the Self-Government Act commenced and, in particular, the Australian Capital Territory was established as a body politic, the Legislative Assembly was empowered to make laws for the ACT and the Executive was established.

sentence administration board means the Sentence Administration Board under the *Crimes (Sentence Administration) Act 2005*.

SES means the ACT State Emergency Service established under the *Emergencies Act 2004*.

sign includes attach a seal and make a mark.

sitting day, of the Legislative Assembly, means a day when the Assembly meets.

Small Claims Court means the Magistrates Court when it is exercising jurisdiction under the *Magistrates Court Act 1930*, part 4.6.

solicitor means a lawyer who practises as a solicitor.

Speaker means the Presiding Officer of the Legislative Assembly.

Note The Presiding Officer is elected under the Self-Government Act, s 11.

Standards Australia means the company named Standards Australia International Limited (ACN 087 326 690).

State means a State of the Commonwealth, and includes the Northern Territory.

statutory declaration means a statutory declaration made under the *Statutory Declarations Act 1959* (Cwlth).

statutory instrument—see section 13.

statutory office-holder means a person occupying a position under an Act or statutory instrument (other than a position in the public service).

subordinate law—see section 8.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

summary offence—see section 190.

Supreme Court means the Supreme Court of the Australian Capital Territory.

Note The Supreme Court is established by the *Supreme Court Act 1933*, s 3. The Self-Government Act, s 48A deals with the jurisdiction and powers of the court.

swear an oath includes make an affirmation.

take an oath includes make an affirmation.

territory authority means a body established under an Act, but does not include a body declared by regulation not to be a territory authority.

territory instrumentality means a corporation that—

(a) is established under an Act or statutory instrument, or under the Corporations Act; and

(b) is a territory instrumentality under the *Public Sector Management Act 1994*.

Note ***Territory instrumentality*** is defined in the *Public Sector Management Act 1994*, dict.

territory land means Territory Land under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth).

Note The *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth), s 28 provides that if land in the ACT is not national land it is territory land.

territory law—see ***law***, of the Territory.

territory-owned corporation means a Territory owned corporation under the *Territory-owned Corporations Act 1990*.

territory plan means the territory plan under the *Land (Planning and Environment) Act 1991*.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

the Territory means—

(a) when used in a geographical sense—the Australian Capital Territory; or

(b) in any other case—the body politic established by the Self-Government Act, section 7.

transgender person—see section 169A (1) and (2).

transitional includes application and saving.

Treasurer means the Minister designated Treasurer by the Chief Minister, and includes a Minister authorised by the Chief Minister to act on behalf of the Treasurer.

tribunal includes any entity that is authorised to hear, receive and examine evidence.

UK Act means an Act of the United Kingdom Parliament.

under, in relation to an Act or statutory instrument, includes the following:

(a) by;

(b) by virtue of;

(c) for or for the purposes of;

(d) in accordance with;

(e) in pursuance of;

(f) pursuant to;

(g) within the meaning of.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 and s 13).

United Kingdom means the United Kingdom of Great Britain and Northern Ireland.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

United Kingdom Parliament means—

(a) the Parliament of England; or

(b) the Parliament of Great Britain; or

(c) the Parliament of the United Kingdom of Great Britain and Ireland; or

(d) the Parliament of the United Kingdom of Great Britain and Northern Ireland.

veterinary surgeon—

(a) means a person unconditionally registered as a veterinary surgeon under the *Health Professionals Act 2004*; and

(b) for an activity, includes a person conditionally registered as a veterinary surgeon under the *Health Professionals Act 2004* to the extent that the person is allowed to do the activity under the person's conditional registration.

will includes a codicil.

word includes any drawing, figure, number and symbol.

working day means a day that is not—

(a) a Saturday or Sunday; or

(b) a public holiday in the ACT under the *Holidays Act 1958*.

writing includes any way of representing or reproducing words in visible form.

Examples

printing, photocopying, photography, typewriting

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

year, without specifying the kind of year, means calendar year.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 2 Terms for Legislation Act 2001 only

Note for pt 2

Terms that apply to all Acts and statutory instruments are set out in pt 1.

Act, for chapter 14 (Interpretation of Acts and statutory instruments)—see section 136.

Note See also def ***Act*** in dict, pt 1.

ACT law—

(a) for chapter 10 (Referring to laws)—see section 97 (1); and

(b) for chapter 18 (Offences)—see section 188.

administrator, for part 19.5 (Service of documents)—see section 246.

agency, for part 19.5 (Service of documents)—see section 246.

amend, for chapter 9 (Repeal and amendment of laws)—see section 82.

another jurisdiction means the Commonwealth, a State, another Territory, the United Kingdom or New Zealand.

appointee—

(a) for division 19.3.1 (Appointments—general)—see section 207 (2); and

(b) for division 19.3.2 (Acting appointments)—see section 217 (2).

appointer—

(a) for division 19.3.1 (Appointments—general)—see section 205; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) for division 19.3.2 (Acting appointments)—see section 215; and

(c) for part 19.4 (Delegations)—see section 230 (1).

approved web site means an internet site approved under section 21.

authorised republication—see section 15.

authorising law, for chapter 5 (Regulatory impact statements for subordinate laws and disallowable instruments)—see section 31.

benefits, for chapter 5 (Regulatory impact statements for subordinate laws and disallowable instruments)—see section 31.

business address, for part 19.5 (Service of documents)—see section 246.

corporation, for part 19.5 (Service of documents)—see section 246.

costs, for chapter 5 (Regulatory impact statements for subordinate laws and disallowable instruments)—see section 31.

current legislative drafting practice means the legislative drafting practices from time to time used in the Parliamentary Counsel's Office.

delegate, for part 19.4 (Delegations)—see section 233 (2).

determinative provision—see section 5 (2).

document, for part 19.5 (Service of documents)—see section 246.

Note See also def of ***document*** in dict, pt 1

editorial amendment, of a law—see section 116.

email address, for part 19.5 (Service of documents)—see section 246.

executive officer, for part 19.5 (Service of documents)—see section 246.

fax number, for part 19.5 (Service of documents)—see section 246.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

fee, for part 6.3 (Making of certain statutory instruments about fees)—see section 55.

home address, for part 19.5 (Service of documents)—see section 246.

law—

(a) for chapter 3 (Authorised versions and evidence of laws and legislative material)—see section 22A; and

(b) for chapter 8 (Commencement and exercise of powers before commencement)—see section 72; and

(c) for chapter 9 (Repeal and amendment of laws)—see section 82; and

(d) for chapter 10 (Referring to laws)—see section 97 (1); and

(e) for chapter 11 (Republication of Acts and statutory instruments)—see section 107; and

(f) for chapter 13 (Structure of Acts and statutory instruments)—see section 125; and

(g) for chapter 16 (Courts, tribunals and other decision-makers)—see section 175; and

(h) for chapter 17 (Entities and positions)—see section 182; and

(i) for chapter 19 (Administrative and machinery provisions)—see section 195.

law of another jurisdiction, for chapter 10 (Referring to laws)—see section 97 (1).

legislative material, for chapter 3 (Authorised versions and evidence of laws and legislative material)—see section 22A.

non-determinative provision—see section 5 (3).

provide a service, for part 6.3 (Making of certain statutory instruments about fees)—see section 55.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

register means the ACT legislation register.

repeal, for chapter 9 (Repeal and amendment of laws)—see section 82.

republication—

(a) for chapter 3 (Authorised versions and evidence of laws and legislative material)—see section 22A; and

(b) for chapter 11 (Republication of Acts and statutory instruments)—see section 107.

republication date, for an authorised republication, means the date stated in the republication as the republication date.

responsible, for part 19.5 (Service of documents)—see section 246.

scrutiny committee principles, for chapter 5 (Regulatory impact statements for subordinate laws and disallowable instruments)—see section 31.

service, for part 6.3 (Making of certain statutory instruments about fees)—see section 55.

working out the meaning of an Act, for part 14.2 (Key principles of interpretation)—see section 138.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended
amdt = amendment
ch = chapter
def = definition
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
renum = renumbered
reloc = relocated
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
sub = substituted
SL = Subordinate Law
<u>underlining</u> = whole or part not commenced or to be expired

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

3 Legislation history

Legislation Act 2001 No 14
notified 5 April 2001 (Gaz 2001 No 14)
s 1, s 2 commenced 5 April 2001 (IA s 10B)
remainder commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

as amended by

Legislation (Consequential Amendments) Act 2001 No 44 pt 220
notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 220 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 2.2
notified 5 September 2001 (Gaz 2001 No S65)
s 1, s 2 commenced 5 September 2001 (IA s 10B)
amdts 2.67, 2.69, 2.78, 2.81 commenced 12 September 2001 (s 2 (2))
pt 2.2 remainder commenced 5 September 2001 (s 2 (1))

as modified by

Legislation Regulations 2001 SL 2001 No 34 reg 6
notified LR 13 September 2001
commenced 13 September 2001 (reg 2)

as amended by

Justice and Community Safety Legislation Amendment Act 2001 No 70 sch 1
notified LR 14 September 2001
amdt commenced 14 September 2001 (s 2 (5))

Defamation Act 2001 No 88 s 43 (2)
notified LR 24 September 2001
s 1, s 2 commenced 24 September 2001 (LA s 75)
s 43 (2) commenced 1 July 2002 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Legislation Amendment Act 2002 No 11 ss 3-29, sch 1, pt 2.29
notified LR 27 May 2002
s 1, s 2 commenced 27 May 2002 (LA s 75)
ss 3-29, sch 1, pt 2.29 commenced 28 May 2002 (s 2 (1))

Justice and Community Safety Legislation Amendment Act 2002 No 27 pt 8
notified LR 9 September 2002
s 1, s 2 commenced 9 September 2002 (LA s 75)
pt 8 commenced 7 October 2002 (s 2 (2))

Statute Law Amendment Act 2002 No 30 pt 2.1
notified LR 16 September 2002
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))
amdt 2.3 taken to have commenced 12 September 2001 (s 2 (2))
pt 2.1 remainder commenced 17 September 2002 (s 2 (1))

Civil Law (Wrongs) Act 2002 No 40 div 3.2.8
notified LR 10 October 2002
s 1, s 2 commenced 10 October 2002 (LA s 75 (1))
div 3.2.8 commenced 1 November 2002 (s 2 (2) and CN2002-13)

Statute Law Amendment Act 2002 (No 2) No 49 pt 2.1
notified LR 20 December 2002
s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))
pt 2.1 commenced 17 January 2003 (s 2 (1))

Criminal Code 2002 No 51 pt 1.12
notified LR 20 December 2002
s 1, s 2 commenced 20 December 2002 (LA 75 (1))
pt 1.12 commenced 1 January 2003 (s 2 (1))

Planning and Land (Consequential Amendments) Act 2002 No 56 pt 3.13
notified LR 20 December 2002
s 1, s 2 commenced 20 December 2002 (LA s 75 (1))
sch 3 pt 3.13 commences 1 July 2003 (s 2 and see Planning and Land Act 2002 A2002-55, s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Legislation (Gay, Lesbian and Transgender) Amendment Act 2003 A2003-14 pt 2

notified LR 27 March 2003
s 1, s 2 commenced 27 March 2003 (LA s 75 (1))
pt 2 commenced 28 March 2003 (s 2)

Consumer and Trader Tribunal Act 2003 A2003-16 s 70

notified LR 9 April 2003
s 1, s 2 commenced 9 April 2003 (LA s 75 (1))
s 70 commenced 9 October 2003 (s 2 and LA s 79)

Legislation (Statutory Interpretation) Amendment Act 2003 A2003-18

notified LR 9 April 2003
s 1, s 2 commenced 9 April 2003 (LA s 75 (1))
remainder commenced 10 April 2003 (s 2)

Statute Law Amendment Act 2003 A2003-41 sch 2 pt 2.1

notified LR 11 September 2003
s 1, s 2 commenced 11 September 2003 (LA s 75 (1))
sch 2 pt 2.1 commenced 9 October 2003 (s 2 (1))

Statute Law Amendment Act 2003 (No 2) A2003-56 sch 2 pt 2.1

notified LR 5 December 2003
s 1, s 2 commenced 5 December 2003 (LA s 75 (1))
sch 2 pt 2.1 commenced 19 December 2003 (s 2)

Parentage Act 2004 A2004-1 sch 1 pt 1.7

notified LR 18 February 2004
s 1, s 2 commenced 18 February 2004 (LA s 75 (1))
sch 1 pt 1.7 commenced 22 March 2004 (s 2 and CN2004-3)

Human Rights Act 2004 A2004-5 sch 2 pt 2.3

notified LR 10 March 2004
s 1, s 2 commenced 10 March 2004 (LA s 75 (1))
sch 2 pt 2.3 commenced 1 July 2004 (s 2)

Dangerous Substances Act 2004 A2004-7 sch 1 pt 1.4

notified LR 19 March 2004
s 1, s 2 commenced 19 March 2004 (LA s 75 (1))
sch 1 pt 1.4 commenced 5 April 2004 (s 2 and CN2004-6)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Nurse Practitioners Legislation Act 2004 A2004-10 pt 3

notified LR 19 March 2004
s 1, s 2 commenced 19 March 2004 (LA s 75 (1))
pt 3 commenced 27 May 2004 (s 2 and CN2004-9)

Construction Occupations Legislation Amendment Act 2004 A2004-13 sch 2 pt 2.20

notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 2 pt 2.20 commenced 1 September 2004 (s 2 and see Construction Occupations (Licensing) Act 2004 A2004-12, s 2 and CN2004-8)

Education Act 2004 A2004-17 sch 2 pt 2.5

notified LR 8 April 2004
s 1, s 2 commenced 8 April 2004 (LA s 75 (1))
sch 2 pt 2.5 commenced 1 January 2005 (s 2)

Emergencies Act 2004 A2004-28 sch 3 pt 3.12

notified LR 29 June 2004
s 1, s 2 commenced 29 June 2004 (LA s 75 (1))
sch 3 pt 3.12 commenced 1 July 2004 (s 2 (1) and CN2004-11)

Justice and Community Safety Legislation Amendment Act 2004 (No 2) A2004-32 pt 13

notified LR 29 June 2004
s 1, s 2 commenced 29 June 2004 (LA s 75 (1))
pt 13 commenced 13 July 2004 (s 2 (3))

Health Professionals Legislation Amendment Act 2004 A2004-39 sch 3 pt 3.1, sch 4 pt 4.3, sch 5 pt 5.9, sch 6 pt 6.6, sch 8 pt 8.2, sch 11A pt 11A.1 (as am by A2005-28 amdt 1.61)

notified LR 8 July 2004
s 1, s 2 commenced 8 July 2004 (LA s 75 (1))
sch 5 pt 5.9 commenced 7 July 2005 (s 2 and see Health Professionals Act 2004 A2004-38, s 2 and CN2005-11)
sch 6 pt 6.6 commenced 17 January 2006 (s 2 and see Health Professionals Act 2004 A2004-38, s 2 (as am by A2005-28 amdt 1.1) and CN2006-2)
sch 3 pt 3.1, sch 4 pt 4.3, sch 8 pt 8.2, sch 11A pt 11A.1 commenced 9 January 2007 (s 2 and see Health Professionals Act 2004 A2004-38, s 2 (as am by A2005-28 amdt 1.1; A2006-27 s 12))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Statute Law Amendment Act 2004 A2004-42 sch 2 pt 2.1

notified LR 11 August 2004
s 1, s 2 commenced 11 August 2004 (LA s 75 (1))
sch 2 pt 2.1 commenced 25 August 2004 (s 2 (1))

Heritage Act 2004 A2004-57 sch 1 pt 1.8

notified LR 9 September 2004
s 1, s 2 commenced 9 September 2004 (LA s 75 (1))
sch 1 pt 1.8 commenced 9 March 2005 (s 2 and LA s 79)

Court Procedures (Consequential Amendments) Act 2004 A2004-60 sch 1 pt 1.37

notified LR 2 September 2004
s 1, s 2 commenced 2 September 2004 (LA s 75 (1))
sch 1 pt 1.37 commenced 10 January 2005 (s 2 and see Court Procedures Act 2004 A2004-59, s 2 and CN2004-29)

Justice and Community Safety Legislation Amendment Act 2005 A2005-5 pt 7

notified LR 23 February 2005
s 1, s 2 commenced 23 February 2005 (LA s 75 (1))
pt 7 commenced 24 February 2005 (s 2 (2))

Optometrists Legislation Amendment Act 2005 A2005-9 sch 1 pt 1.1

notified LR 14 March 2005
s 1, s 2 commenced 14 March 2005 (LA s 75 (1))
sch 1 pt 1.1 commenced 14 September 2005 (s 2 and LA s 79)

Statute Law Amendment Act 2005 A2005-20 sch 2 pt 2.1

notified LR 12 May 2005
s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))
sch 2 pt 2.1 commenced 2 June 2005 (s 2 (1))

Health Legislation Amendment Act 2005 A2005-28 amdt 1.61

notified LR 6 July 2005
s 1, s 2 commenced 6 July 2005 (LA s 75 (1))
amdt 1.61 commenced 9 January 2007 (LA s 79A)

Note This Act only amends the Health Professionals Legislation Amendment Act 2004 A2004-39.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Human Rights Commission Legislation Amendment Act 2005 A2005-41 sch 1 pt 1.8 (as am by A2006-3 amdt 1.3)

notified LR 1 September 2005
s 1, s 2 commenced 1 September 2005 (LA s 75 (1))
sch 1 pt 1.8 commenced 1 November 2006 (s 2 (3) (as am by A2006-3 amdt 1.3) and see Human Rights Commission Act 2005 A2005-40, s 2 (as am by A2006-3 s 4) and CN2006-21)

Public Sector Management Amendment Act 2005 (No 2) A2005-44 sch 1 pt 1.4

notified LR 30 August 2005
s 1, s 2 commenced 30 August 2005 (LA s 75 (1))
sch 1 pt 1.4 commenced 8 September 2005 (s 2 and CN2005-19)

Human Rights Commission (Children and Young People Commissioner) Amendment Act 2005 A2005-46 sch 1 pt 1.1 (as am by A2006-3 amdt 1.2)

notified LR 2 September 2005
s 1, s 2 commenced 2 September 2005 (LA s 75 (1))
sch 1 pt 1.1 commenced 1 November 2006 (s 2 (as am by A2006-3 amdt 1.2) and see Human Rights Commission Act 2005 A2005-40, s 2 (as am by A2006-3 s 4) and CN2006-21)

Public Advocate Act 2005 A2005-47 sch 1 pt 1.6 (as am by A2006-3 amdt 1.8)

notified LR 2 September 2005
s 1, s 2 commenced 2 September 2005 (LA s 75 (1))
sch 1 pt 1.6 commenced 1 March 2006 (s 2 (1) as am by A2006-3 amdt 1.8)

Criminal Code (Administration of Justice Offences) Amendment Act 2005 A2005-53 sch 1 pt 1.18

notified LR 26 October 2005
s 1, s 2 commenced 26 October 2005 (LA s 75 (1))
sch 1 pt 1.18 commenced 23 November 2005 (s 2)

Statute Law Amendment Act 2005 (No 2) A2005-62 sch 2 pt 2.1

notified LR 21 December 2005
s 1, s 2 commenced 21 December 2005 (LA s 75 (1))
sch 2 pt 2.1 commenced 11 January 2006 (s 2 (1))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Human Rights Commission Legislation Amendment Act 2006 A2006-3 amdts 1.2, 1.3, 1.8

notified LR 22 February 2006
s 1, s 2 commenced 22 February 2006 (LA s 75 (1))
amdts 1.2, 1.3, 1.8 commenced 23 February 2006 (s 2)

Note This Act only amends the Human Rights Commission Legislation Amendment Act 2005 A2005-41, Human Rights Commission (Children and Young People Commissioner) Amendment Act 2005 A2005-46 and the Public Advocate Act 2005 A2005-47

Civil Unions Act 2006 A2006-22 sch 1 pt 1.21

notified LR 19 May 2006
s 1, s 2 commenced 19 May 2006 (LA s 75 (1))
sch 1 pt 1.21 never commenced

Note Act repealed by disallowance 14 June 2006 (see Cwlth Gaz 2006 No S93)

Sentencing Legislation Amendment Act 2006 A2006-23 sch 1 pt 1.26

notified LR 18 May 2006
s 1, s 2 commenced 18 May 2006 (LA s 75 (1))
sch 1 pt 1.26 commenced 2 June 2006 (s 2 (1) and see Crimes (Sentence Administration) Act 2005 A2005-59 s 2, Crimes (Sentencing) Act 2005 A2005-58, s 2 and LA s 79)

Legal Profession Act 2006 A2006-25 sch 2 pt 2.8

notified LR 21 June 2006
s 1, s 2 commenced 21 June 2006 (LA s 75 (1))
sch 2 pt 2.8 commenced 1 July 2006 (s 2)

Administrative (Miscellaneous Amendments) Act 2006 A2006-30 sch 1 pt 1.7

notified LR 16 June 2006
s 1, s 2 commenced 16 June 2006 (LA s 75 (1))
sch 1 pt 1.7 commenced 1 July 2006 (s 2 (1))

Civil Law (Property) Act 2006 A2006-38 sch 1 pt 1.6

notified LR 28 September 2006
s 1, s 2 commenced 28 September 2006 (LA s 75 (1))
sch 1 pt 1.6 commenced 28 March 2007 (s 2 and LA s 79)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Statute Law Amendment Act 2006 A2006-42 sch 2 pt 2.1

notified LR 26 October 2006
s 1, s 2 taken to have commenced 12 November 2005 (LA s 75 (2))
sch 2 pt 2.1 commenced 16 November 2006 (s 2 (1))

Health Legislation Amendment Act 2006 (No 2) A2006-46 sch 2 pt 2.11

notified LR 17 November 2006
s 1, s 2 commenced 17 November 2006 (LA s 75 (1))
sch 2 pt 2.11 commenced 18 November 2006 (s 2 (1))

Statute Law Amendment Act 2007 A2007-3 sch 2 pt 2.1

notified LR 22 March 2007
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))
sch 2 pt 2.1 commenced 12 April 2007 (s 2 (1))

Housing Assistance Act 2007 A2007-8 sch 1 pt 1.6

notified LR 10 May 2007
s 1, s 2 commenced 10 May 2007 (LA s 75 (1))
sch 1 pt 1.6 commenced 10 November 2007 (s 2 and LA s 79)

Statute Law Amendment Act 2007 (No 2) A2007-16 sch 2

notified LR 20 June 2007
s 1, s 2 taken to have commenced 12 April 2007 (LA s 75 (2))
sch 2 commenced 11 July 2007 (s 2 (1))

Planning and Development (Consequential Amendments) Act 2007 A2007-25 sch 1 pt 1.22

notified LR 13 September 2007
s 1, s 2 commenced 13 September 2007 (LA s 75 (1))
sch 1 pt 1.22 commences on the commencement of Planning and Development Act 2007 A2007-24 s 428 (s 2)

Surveyors Act 2007 A2007-33 sch 1 pt 1.4

notified LR 25 October 2007
s 1, s 2 commenced 25 October 2007 (LA s 75 (1))
sch 1 pt 1.4 commenced 14 November 2007 (s 2 and CN2007-15)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

4 Amendment history

Dictionary

s 2	orig s 2 om LA s 89 (4) (prev s 3) am 2001 No 56 amdt 2.18 renum 2002 No 11 s 5 am A2003-56 amdt 2.1

Notes

s 2A	(prev s 4) am 2001 No 56 amdt 2.19; 2002 No 11 amdt 1.1 renum 2002 No 11 s 5 (2), (3) exp 2 September 2003 (s 2A (3))

Objects

s 3	orig s 3 renum as s 2 (prev s 5) am 2002 No 11 s 4 renum 2002 No 11 s 5

Application of Act

s 4	orig s 4 renum as s 2A ins 2002 No 11 s 6 am A2006-42 amdt 2.1, amdt 2.2

Determinative and non-determinative provisions

s 5	orig s 5 renum as s 3 ins 2002 No 11 s 6

Legislation Act provisions must be applied

s 6	sub 2002 No 11 s 6

Meaning of *Act* generally

s 7	am A2005-20 amdt 2.1

Meaning of *legislative instrument*

s 12	sub A2006-42 amdt 2.3

Meaning of *instrument*

s 14	am 2001 No 56 amdt 2.20

Meaning of *provision*

s 16	am 2001 No 56 amdt 2.21

ACT legislation register

s 18	am 2001 No 56 amdt 2.22

Contents of register

s 19	sub 2001 No 56 amdt 2.23 am 2002 No 11 s 7; 2002 No 11 amdt 1.2; ss renum R5 LA (see 2002 No 11 amdt 1.3); 2002 No 49 amdt 2.1, amdt 2.1; pars renum R13 LA (see 2002 No 49 amdt 2.3); A2003-41 amdt 2.1, amdt 2.2; A2004-5 amdt 2.6; A2004-42 amdt 2.1; A2005-20 amdt 2.2; A2006-42 amdt 2.18, amdt 2.19

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Access to registered material at approved web site
s 22 am 2001 No 56 amdt 2.24

Authorised versions and evidence of laws and legislative material
ch 3 hdg sub A2003-41 amdt 2.3

Definitions for ch 3
s 22A ins A2003-41 amdt 2.4
def ***law*** ins A2003-41 amdt 2.4
def ***legislative material*** ins A2003-41 amdt 2.4
am A2005-20 amdt 2.3
def ***republication*** ins A2003-41 amdt 2.4

Authorisation of versions by parliamentary counsel
s 23 sub A2003-41 amdt 2.5

Authorised electronic versions
s 24 am 2001 No 56 amdt 2.25, amdt 2.26; 2002 No 11 amdt 1.4
sub A2003-41 amdt 2.6

Authorised written versions
s 25 sub A2003-41 amdt 2.7

Judicial notice of certain matters
s 26 am A2003-41 amdt 2.8, amdt 2.9; A2005-20 amdt 2.4

Notification of Acts
s 28 am 2001 No 56 amdts 2.27-2.29; 2002 No 11 amdt 1.5; A2003-41 amdt 2.10, amdt 2.11; ss renum R20 LA (see A2003-41 amdt 2.12); A2005-62 amdt 2.1, amdt 2.2

References to *notification* of Acts
s 30 am 2001 No 56 amdt 2.30, amdt 2.31

Guidelines about costs of proposed subordinate laws and disallowable instruments
s 33 (3), (4) exp 12 March 2002 (s 33 (4))
am A2005-20 amdt 2.5, amdt 2.6

Preparation of regulatory impact statements
s 34 am A2005-20 amdts 2.7-2.9; A2005-62 amdt 2.3

When is preparation of regulatory impact statement unnecessary?
s 36 am 2002 No 30 amdt 2.1; A2005-20 amdt 2.10

When must regulatory impact statement be presented?
s 37 am A2005-20 amdt 2.11

Making of certain statutory instruments by Executive
s 41 hdg sub 2001 No 56 amdt 2.32
sub 2002 No 11 s 8
s 41 am 2001 No 56 amdts 2.33-2.36
sub 2002 No 11 s 8

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Power to make statutory instruments

s 42 am 2002 No 11 amdt 1.6; A2005-20 amdt 2.12, amdt 2.13; A2006-42 amdt 2.18

Statutory instruments to be interpreted not to exceed powers under authorising law

s 43 am 2002 No 11 amdt 1.7; A2003-56 amdt 2.2, amdt 2.3

Power to make statutory instruments for Act etc

s 44 am 2002 No 11 amdt 1.8, amdt 1.9; 2002 No 49 amdt 2.54; A2005-20 amdt 2.14

Power to make court rules

s 45 sub 2002 No 11 s 9
am 2002 No 49 amdt 2.4, amdt 2.54; A2005-20 amdt 2.15, amdt 2.16

Power to make instrument includes power to amend or repeal

s 46 am 2002 No 11 s 10; A2006-42 amdt 2.18

Statutory instrument may make provision by applying law or instrument

s 47 sub 2002 No 11 s 11
am 2002 No 49 amdt 2.5; A2003-56 amdt 2.4; A2005-20 amdts 2.17-2.19

Power to make instrument includes power to make different provision for different categories etc

s 48 am 2002 No 11 amdt 1.10; 2002 No 49 amdt 2.54

Single instrument may exercise several powers or satisfy several requirements

s 49 am 2002 No 11 amdt 1.11

Relationship between authorising law and instrument dealing with same matter

s 50 am 2002 No 11 amdt 1.12, amdt 1.13; 2002 No 49 amdt 2.54

Instrument may make provision in relation to land by reference to map etc

s 51 am A2005-20 amdt 2.20

Instrument may authorise determination of matter etc

s 52 am 2002 No 11 amdt 1.14; ss renum R5 LA (see 2002 No 11 amdt 1.15)

Instrument may prohibit

s 53 am 2002 No 11 amdt 1.16, amdt 1.17

Instrument may require making of statutory declaration

s 54 am 2002 No 11 amdt 1.18; 2002 No 30 amdt 2.2

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Determination of fees by disallowable instrument

s 56 am 2001 No 56 amdt 2.37, amdt 2.38; ss renum R1 LA (see 2001 No 56 amdt 2.39); 2002 No 11 amdt 1.19, amdt 1.20; 2002 No 49 amdt 2.54; A2005-20 amdts 2.21-2.27; A2006-42 amdt 2.4

Fees payable in accordance with determination etc

s 57 am 2002 No 11 amdt 1.21

Regulations may make provision about fees

s 58 am 2001 No 56 amdt 2.40; 2002 No 11 amdt 1.22; ss renum R5 LA (see 2002 No 11 amdt 1.23); A2005-20 amdt 2.28

Numbering and notification of legislative instruments

pt 6.4 hdg am A2006-42 amdt 2.19

Numbering

s 59 am 2001 No 56 amdt 2.41; A2003-41 amdt 2.13; A2005-20 amdt 2.29; A2006-42 amdt 2.18, amdt 2.19

Correction etc of name of legislative instrument

s 60 hdg sub A2003-41 amdt 2.14
am A2006-42 amdt 2.18

s 60 am 2001 No 56 amdt 2.42, amdt 2.43; 2001 No 70 amdt 1.8; 2002 No 49 amdt 2.6, amdt 2.7; A2003-41 amdt 2.15; A2004-42 amdt 2.2, amdt 2.3; A2006-42 amdt 2.18, amdt 2.19

Correction of name of explanatory statement etc

s 60A ins A2004-42 amdt 2.4
am A2006-42 amdt 2.18

Notification of legislative instruments

s 61 hdg am A2006-42 amdt 2.19

s 61 sub 2001 No 56 amdt 2.44
am 2002 No 11 s 12, amdt 1.24; ss renum R5 LA (see 2002 No 11 amdt 1.25) ; A2003-41 amdts 2.16-2.19; A2004-60 amdt 1.173; pars renum R31 LA (see A2004-60 amdt 1.174); A2005-20 amdts 2.30-2.33; A2005-62 amdt 2.4, amdt 2.5; A2006-42 amdt 2.18

Effect of failure to notify legislative instrument

s 62 hdg am A2006-42 amdt 2.18

s 62 am 2002 No 11 amdt 1.26, amdt 1.27; A2006-42 amdt 2.18

References to *notification* of legislative instruments

s 63 hdg am A2006-42 amdt 2.19

s 63 am 2001 No 56 amdt 2.45, amdt 2.46; A2006-42 amdt 2.18

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Presentation of subordinate laws and disallowable instruments

s 64 hdg	sub 2002 No 11 amdt 1.28
s 64	am 2002 No 11 amdt 1.29; A2005-20 amdt 2.34; A2005-62 amdt 2.6

Disallowance by resolution of Assembly

s 65 hdg	sub 2001 No 56 amdt 2.47
s 65	am 2001 No 56 amdt 2.48, amdt 2.49; 2002 No 11 amdt 1.30; A2003-56 amdt 2.5; ss renum R21 LA (see A2003-56 amdt 2.6); A2004-42 amdt 2.5, amdt 2.6; A2005-20 amdt 2.35; A2005-62 amdt 2.7

Notification of disallowance by resolution of Assembly

s 65A	ins 2001 No 56 amdt 2.50 am 2002 No 11 amdt 1.31; A2003-41 amdt 2.20; A2005-62 amdt 2.8

Revival of affected laws

s 66	am 2002 No 11 amdt 1.32

Making of instrument same in substance within 6 months after disallowance

s 67	am 2002 No 11 amdt 1.33; A2005-20 amdt 2.36; A2005-62 amdt 2.9

Amendment by resolution of Assembly

s 68	am 2001 No 56 amdts 2.51-2.53; ss renum R1 LA (see 2001 No 56 amdt 2.54); 2002 No 11 amdt 1.34; A2004-42 amdt 2.7, amdt 2.8; A2005-20 amdt 2.37; A2005-62 amdt 2.10

Notification of amendments made by resolution of Assembly

s 69	am 2001 No 56 amdt 2.55, amdt 2.56; 2002 No 11 amdt 1.35; 2002 No 49 amdt 2.8; A2005-62 amdt 2.11

Making of amendment restoring effect of law within 6 months after amendment

s 70	am 2002 No 11 amdt 1.36; A2005-20 amdt 2.38; A2005-62 amdt 2.12

Effect of dissolution or expiry of Assembly on notice of motion

s 71	am 2002 No 11 amdt 1.37; A2005-20 amdt 2.39, amdt 2.40; A2005-62 amdt 2.13

Meaning of *law* in ch 8

s 72	am A2004-42 amdt 2.9; A2005-20 amdt 2.41

General rules about commencement

s 73	am 2002 No 11 s 13, s 14, amdt 1.38, amdt 1.39; A2003-41 amdt 2.21; A2003-56 amdts 2.7-2.9; A2004-42 amdt 2.10; A2005-20 amdt 2.42; A2006-42 amdt 2.18

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Time of commencement

s 74	sub 2002 No 11 s 15

Commencement of naming and commencement provisions

s 75 hdg	sub A2004-42 amdt 2.11
s 75	am 2002 No 11 s 16; 2002 No 49 amdt 2.9, amdt 2.10; A2003-56 amdt 2.10, amdt 2.11; A2004-42 amdt 2.12; ss renum R27 LA (see A2004-42 amdt 2.13) ; A2006-42 amdt 2.18

Commencement of provisions identifying amended laws

s 75AA	ins A2006-42 amdt 2.5

Meaning of commences *retrospectively*

s 75A	ins A2003-56 amdt 2.12 am A2006-42 amdt 2.18

Retrospective commencement requires clear indication

s 75B	ins A2003-56 amdt 2.12 am A2004-42 amdt 2.14; ss renum R27 LA (see A2004-42 amdt 2.15)

Non-prejudicial provision may commence retrospectively

s 76	am 2002 No 11 amdt 1.40; ss renum R5 LA (see 2002 No 11 amdt 1.41); A2003-56 amdt 2.13, amdt 2.14; A2005-20 amdt 2.46

Commencement by commencement notice

s 77	am 2002 No 11 s 17, amdt 1.42; 2002 No 49 amdt 2.11; A2004-42 amdts 2.16-2.18

Separate commencement of amendments

s 78	sub 2002 No 11 amdt 1.43

Automatic commencement of postponed law

s 79	am 2002 No 11 amdt 1.44; 2002 No 49 amdt 2.12; A2003-41 amdt 2.22; A2003-56 amdt 2.15, amdt 2.16; ss renum R21 LA (see A2003-56 amdt 2.17); A2004-42 amdt 2.19; A2005-20 amdt 2.44, amdt 2.45

Commencement of amendment of uncommenced law

s 79A	ins A2003-41 amdt 2.23

References to *commencement* of law

s 80	am 2002 No 49 amdt 2.13

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Exercise of powers between notification and commencement

s 81 am 2002 No 11 amdts 1.45-1.47; A2004-42 amdt 2.20, amdt 2.21; ss renum R27 LA (see A2004-42 amdt 2.22); A2005-5 s 25; ss renum R32 LA (see A2005-5 s 26); A2005-20 amdt 2.46; A2006-42 amdt 2.18

Definitions for ch 9

s 82 def ***law*** sub A2004-42 amdt 2.23; A2005-20 amdt 2.47
def ***repeal*** sub 2002 No 49 amdt 2.14
am A2004-42 amdt 2.24

Consequences of amendment of statutory instrument by Act

s 83 am 2002 No 11 amdt 1.48, amdt 1.49

Saving of operation of repealed and amended laws

s 84 am 2002 No 11 amdt 1.50; ss renum R5 LA (see 2002 No 11 amdt 1.51); A2005-20 amdt 2.48

Creation of offences and changes in penalties

s 84A ins 2001 No 56 amdt 2.57
am 2002 No 11 amdt 1.52; A2004-42 amdt 2.25; ss renum R27 LA (see A2004-42 amdt 2.26); A2005-20 amdt 2.49

When repeal takes effect

s 85 sub 2002 No 11 s 18

Repealed and amended laws not revived on repeal of repealing and amending laws

s 86 am 2002 No 11 amdt 1.53; ss renum R5 LA (see 2002 No 11 amdt 1.54)

Commencement not undone if repealed

s 87 am 2002 No 11 amdt 1.55

Repeal does not end effect of transitional laws etc

s 88 hdg sub 2002 No 49 amdt 2.15
s 88 am 2002 No 11 amdt 1.56; A2003-56 amdt 2.18; A2005-20 amdt 2.50, amdt 2.51; ss renum R34 LA (see A2005-20 amdt 2.52); A2006-42 amdt 2.6, amdt 2.7

Automatic repeal of certain laws and provisions

s 89 am 2002 No 11 amdts 1.57-1.59; ss renum R5 LA (see 2002 No 11 amdt 1.60); 2002 No 30 amdt 2.3; 2002 No 49 amdts 2.16-2.18, 2.20-2.23; ss renum R13 LA (see 2002 No 49 amdt 2.19); A2003-56 amdts 2.19-2.23; ss renum R21 LA (see A2003-56 amdt 2.24); A2004-42 amdt 2.27, amdt 2.28, amdts 2.30-2.32; ss renum R27 LA (see A2004-42 amdt 2.29); A2005-20 amdts 2.53-2.56; A2006-42 amdt 2.8, amdt 2.18

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Insertion of provisions by amending law

s 91 am 2001 No 56 amdt 2.58; 2002 No 11 amdts 1.61-1.63; ss renum R5 LA (see 2002 No 11 amdt 1.64) ; A2003-41 amdt 2.24; A2004-42 amdt 2.33, amdt 2.34; A2005-20 amdt 2.57

Amendment to be made whenever possible

s 92 am 2002 No 11 amdts 1.65-1.68; A2005-20 amdt 2.58

Provisions included in another provision for amendment purposes

s 93 am 2001 No 56 amdt 2.59, amdt 2.60; 2002 No 11 amdt 1.69; A2004-42 amdt 2.35, amdt 2.36; A2005-20 amdt 2.59

Continuance of appointments etc made under amended provisions

s 94 am 2002 No 11 amdt 1.70; ss renum R5 LA (see 2002 No 11 amdt 1.71); 2002 No 49 amdt 2.24; A2003-41 amdt 2.25

Status of modifications

s 95 am 2002 No 11 amdt 1.72, amdt 1.73

Relocated provisions

s 96 am 2002 No 11 amdt 1.74; A2005-20 amdt 2.60

Referring to laws

ch 10 hdg sub A2005-20 amdt 2.61

Definitions for ch 10

s 97 hdg sub 2001 No 56 amdt 2.61
s 97 am 2001 No 56 amdt 2.62
sub A2005-20 amdt 2.61
def ***ACT law*** ins A2005-20 amdt 2.61
def ***law*** ins A2005-20 amdt 2.61
def ***law of another jurisdiction*** ins A2005-20 amdt 2.61

References to ACT law include law containing reference

s 98 am 2002 No 11 amdt 1.75
sub A2005-20 amdt 2.61

References in ACT statutory instruments to *the Act*

s 99 am A2003-56 amdt 2.25
sub A2005-20 amdt 2.61

Referring to particular ACT laws

s 100 am A2003-56 amdt 2.26
sub A2005-20 amdt 2.61

Referring to particular laws of other jurisdictions etc

s 101 am 2002 No 49 amdt 2.25
sub A2005-20 amdt 2.61

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Reference to provisions of law or instrument is inclusive
s 101A ins 2001 No 56 amdt 2.63
om A2005-20 amdt 2.61

References to paragraphs etc
s 101B ins 2001 No 56 amdt 2.63
om A2005-20 amdt 2.61

References to laws include references to laws as in force from time to time
s 102 am 2002 No 11 amdt 1.76, amdt 1.77; A2003-56 amdt 2.27; ss renum R21 LA (see A2003-56 amdt 2.28)
sub A2005-20 amdt 2.61

References to repealed laws
s 103 sub A2005-20 amdt 2.61

References to laws include references to instruments under laws
s 104 am 2001 No 56 amdt 2.64
sub A2005-20 amdt 2.61

Referring to provisions of laws
s 105 am 2002 No 11 amdt 1.78, amdt 1.79
sub A2005-20 amdt 2.61

References to provisions of laws are inclusive
s 106 am 2002 No 30 amdt 2.4
sub A2005-20 amdt 2.61

References to paragraphs etc of laws
s 106A ins A2005-20 amdt 2.61

Meaning of *law* in ch 11
s 107 hdg sub A2004-42 amdt 2.37
s 107 def ***law*** am A2003-41 amdt 2.26; A2005-20 amdt 2.62
def ***republication*** ins A2004-42 amdt 2.38

Republication in register
s 108 am 2001 No 56 amdt 2.65

Republications may be published with other information
s 109 am A2003-41 amdt 2.27

Incorporation of amendments
s 111 am A2005-20 amdt 2.63, amdt 2.64

Authorisation for parliamentary counsel
s 114 am 2001 No 70 amdt 1.8

Ambit of editorial amendments
s 116 am A2003-56 amdt 2.29; A2005-20 amdts 2.65-2.68, amdt 2.146

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Delegation by parliamentary counsel

s 119	renum as s 260

Scope of Acts and statutory instruments

ch 12 hdg	orig ch 12 hdg renum as ch 19 hdg and then ch 20 hdg ins 2001 No 56 amdt 2.68

Act to be interpreted not to exceed legislative powers of Assembly

s 120	orig s 120 renum as s 261 ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.80

Binding effect of Acts

s 121	orig s 121 renum as s 262 and then s 302 ins 2002 No 11 s 19 am A2006-38 amdt 1.8

Application to Territory

s 122	orig s 122 renum as s 263 ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.81

Application of s 47 (2) and (3)

s 122A	renum as s 264 and then s 304

Application of s 61 and s 62

s 123	renum as s 265 and then s 305

Application of s 69

s 124	renum as s 266

Structure of Acts and statutory instruments

ch 13 hdg	orig ch 13 hdg renum as ch 20 hdg and then ch 21 hdg ins 2001 No 56 amdt 2.68

General

pt 13.1 hdg	ins 2001 No 56 amdt 2.68

Meaning of *law* in ch 13

s 125	orig s 125 renum as s 267 and then s 306 ins 2001 No 56 amdt 2.68 am A2005-20 amdt 2.69

Material that is part of Act or statutory instrument

s 126	orig s 126 renum as s 268 and then s 307 ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.82; 2002 No 30 amdt 2.5; A2003-56 amdt 2.30; ss renum R21 LA (see A2003-56 amdt 2.31); A2005-20 amdt 2.70

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Material that is not part of Act or statutory instrument

s 127	orig s 127 renum as s 269 and then s 308 ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.83; A2005-20 amdt 2.71

Status of certain instruments as notifiable instruments

s 128	renum as s 270 and then s 309

Compliance with authorisation or requirement to do something by notice in gazette

s 129	renum as s 271 and then s 310

Particular kinds of provisions

pt 13.2 hdg	ins 2001 No 56 amdt 2.68

What is a definition?

s 130	orig s 130 renum as s 272 and then s 313 ins 2001 No 56 amdt 2.68 am A2003-56 amdts 2.32-2.34

Signpost definitions

s 131	ins 2001 No 56 amdt 2.68 am 2002 No 49 amdt 2.26, amdt 2.27; A2003-56 amdt 2.35, amdt 2.36; ss renum R21 LA (see A2003-56 amdt 2.37)

Examples

s 132	ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.84

Penalty units

s 133	ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.85

Penalties at end of sections and subsections

s 134	ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.86; 2002 No 49 amdt 2.28; A2005-20 amdt 2.72; amdt 2.73

Penalties not at end of sections and subsections

s 135	ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.87; 2002 No 49 amdt 2.29; A2005-20 amdt 2.74, amdt 2.75

Interpretation of Acts and statutory instruments

ch 14 hdg	ins 2002 No 11 s 20 sub A2003-18 s 4

Purpose and scope

pt 14.1 hdg	ins A2003-18 s 4

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Meaning of *Act* in ch 14

s 136	ins 2001 No 56 amdt 2.68 om 2002 No 11 amdt 1.88 ins A2003-18 s 4

Purpose and scope of ch 14

s 137	ins 2002 No 11 s 20 sub A2003-18 s 4

Key principles of interpretation

pt 14.2 hdg	ins A2003-18 s 4

Meaning of *working out the meaning of an Act*

s 138	reloc from IA 2002 No 11 amdt 2.63 sub A2003-18 s 4

Interpretation best achieving Act's purpose

s 139	reloc from IA 2002 No 11 amdt 2.63 pars renum R5 LA am 2002 No 49 amdt 2.30 sub A2003-18 s 4 am A2004-5 amdt 2.7

Legislative context

s 140	ins A2003-18 s 4 am A2006-23 amdt 1.211

Non-legislative context generally

s 141	ins A2003-18 s 4 am A2003-41 amdt 2.28

Non-legislative context—material that may be considered

s 142	ins A2003-18 s 4 am A2003-41 amdt 2.29; table renum R22 LA; A2005-20 amdt 2.76

Law stating material for consideration in working out meaning

s 143	ins A2003-18 s 4

Aids to interpretation

ch 15 hdg	ins 2001 No 56 amdt 2.68
ch 15 hdg note	om 2002 No 11 amdt 1.89

General

pt 15.1 hdg	ins 2001 No 56 amdt 2.68

Meaning of commonly-used terms

s 144 hdg	sub A2003-56 amdt 2.38
s 144	ins 2001 No 56 amdt 2.68

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Gender and number

s 145	ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.90

Meaning of *may* and *must*

s 146	ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.91, amdt 1.92; 2002 No 30 amdt 2.6; A2003-56 amdt 2.39; A2005-20 amdt 2.77

Changes of drafting practice not to affect meaning

s 147	ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.93

Terms used in instruments have same meanings as in authorising laws

s 148	ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.94; A2003-56 amdt 2.40

Age in years

s 149	ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.95

Measurement of distance

s 150	ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.96

Working out periods of time generally

s 151	ins 2002 No 11 s 21 am 2002 No 49 amdt 2.31; A2003-56 amdt 2.41 sub A2005-62 amdt 2.14 am A2006-42 amdt 2.9, amdt 2.10; ss renum R47 LA (10)-(12) exp 11 January 2007 (s 151 (12))

Periods of time ending on non-working days

s 151A	ins A2005-62 amdt 2.14 am A2006-42 amdt 2.11 (5)-(7) exp 11 January 2007 (s 151A (7))

Doing things for which no time is fixed

s 151B	ins A2005-62 amdt 2.14

Power to extend time

s 151C	ins A2005-62 amdt 2.14

Continuing effect of obligations

s 152	ins 2002 No 11 s 21 sub 2002 No 49 amdt 2.32

Definitions

pt 15.2 hdg	ins 2001 No 56 amdt 2.68

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Definitions apply subject to contrary intention
s 155 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.97, amdt 1.98

Application of definitions in dictionaries and sections
s 156 ins 2001 No 56 amdt 2.68
am A2003-56 amdt 2.42; A2005-20 amdts 2.78-2.80

Defined terms—other parts of speech and grammatical forms
s 157 ins 2001 No 56 amdt 2.68
sub 2002 No 11 amdt 1.99
am A2003-56 amdt 2.43

References to various entities and things
pt 15.3 hdg ins 2001 No 56 amdt 2.68

References to people generally
s 160 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.100, amdt 1.101

Corporations liable to offences
s 161 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.102; 2002 No 51 amdt 1.23; 2002 No 49 amdt 2.33

References to *a Minister* or *the Minister*
s 162 ins 2001 No 56 amdt 2.68

References to *a chief executive* or *the chief executive*
s 163 ins 2001 No 56 amdt 2.68
am A2005-44 amdt 1.5

References to Australian Standards etc
s 164 ins 2001 No 56 amdt 2.68
sub A2003-56 amdt 2.44

References to Assembly committees that no longer exist
s 165 ins 2001 No 56 amdt 2.68

References to person with interest in land include personal representative etc
s 168 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.103

References to *domestic partner* and *domestic partnership*
s 169 ins A2003-14 s 4
am A2006-22 amdt 1.72, amdt 1.73 (A2006-22 rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))

References to *transgender people*
s 169A ins A2003-14 s 4

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

References to *intersex people*
s 169B ins A2003-14 s 4

Preservation of certain common law privileges
pt 15.4 hdg ins 2002 No 11 s 22

Privileges against selfincrimination and exposure to civil penalty
s 170 ins 2002 No 11 s 22

Client legal privilege
s 171 ins 2002 No 11 s 22

Courts, tribunals and other decision-makers
ch 16 hdg ins 2001 No 56 amdt 2.68

Meaning of *law* in ch 16
s 175 ins 2001 No 56 amdt 2.68
am A2005-20 amdt 2.81

Jurisdiction of courts and tribunals
s 176 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.104

Recovery of amounts owing under laws
s 177 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.105

Power to decide includes power to take evidence etc
s 178 hdg am A2003-41 amdt 2.30
s 178 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.106, amdt 1.107; A2003-41 amdt 2.31
sub A2005-53 amdt 1.92

Content of statements of reasons for decisions
s 179 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.108; A2003-56 amdt 2.45

Power to make decision includes power to reverse or change
s 180 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.109

Entities and positions
ch 17 hdg ins 2001 No 56 amdt 2.68

Meaning of *law* in ch 17
s 182 (prev s 185) ins 2001 No 56 amdt 2.68
renum 2002 No 11 amdt 1.110
sub A2003-56 amdt 2.46
am A2005-20 amdt 2.81

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Change of name of entity

s 183	(prev s 187) ins 2001 No 56 amdt 2.68 renum 2002 No 11 amdt 1.112 am A2003-56 amdt 2.47 sub A2005-20 amdt 2.83

Change in constitution of entity

s 184	(prev s 188) ins 2001 No 56 amdt 2.68 renum 2002 No 11 amdt 1.112

References to entity

s 184A	ins A2005-20 amdt 2.84

References to occupant of position

s 185	orig s 185 renum as s 182 (prev s 189) ins 2001 No 56 amdt 2.68 renum 2002 No 11 amdt 1.112 am A2003-56 amdt 2.48; A2005-20 amdt 2.85, amdt 2.86

Change of name of position

s 186	(orig s 186) ins 2001 No 56 amdt 2.68 om 2002 No 11 amdt 1.111 (prev s 190) ins 2001 No 56 amdt 2.68 renum 2002 No 11 amdt 1.112 am A2003-56 amdt 2.49 sub A2005-20 amdt 2.87

Chair and deputy chair etc

s 187	orig s 187 renum as s 183 (prev s 191) ins 2001 No 56 amdt 2.68 renum 2002 No 11 amdt 1.112 sub A2005-20 amdt 2.88

Offences

ch 18 hdg	orig ch 18 hdg renum as ch 19 hdg ins 2002 No 11 s 23

Introductory

pt 18.1 hdg	renum as pt 19.1 hdg

Functions

pt 18.2 hdg	renum as pt 19.2 hdg

Appointments

pt 18.3 hdg	renum as pt 19.3 hdg

Appointments—other than acting appointments

div 18.3.1 hdg	renum as div 19.3.1.hdg

Acting appointments

div 18.3.2 hdg	renum as div 19.3.2 hdg

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Delegations
pt 18.4 hdg renum as pt 19.4 hdg

Service of documents
pt 18.5 hdg renum as pt 19.5 hdg

Other matters
pt 18.6 hdg renum as pt 19.7 hdg

Meaning of *ACT law* in ch 18
s 188 orig s 188 renum as s 184
ins 2002 No 11 s 23
sub A2005-20 amdt 2.89

Reference to offence includes reference to related ancillary offences
s 189 orig s 189 renum as s 185
ins 2002 No 11 s 23
am 2002 No 51 amdt 1.24, amdt 1.25; A2005-20 amdt 2.90, amdt 2.91; A2005-53 amdt 1.93

Indictable and summary offences
s 190 orig s 190 renum as s 186
ins 2002 No 11 s 23
am A2003-56 amdt 2.50; ss renum R21 LA (see A2003-56 amdt 2.51); A2005-20 amdt 2.92

Offences against 2 or more laws
s 191 orig s 191 renum as s 187
ins 2002 No 11 s 23
am A2005-20 amdts 2.93-2.96

When must prosecutions begin?
s 192 ins 2002 No 11 s 23
am 2002 No 51 amdt 1.26; A2004-32 s 90; A2005-5 s 27; A2005-20 amdt 2.97; A2005-53 amdt 1.94; A2005-62 amdt 2.15, amdt 2.16; A2007-16 amdt 2.1, amdt 2.2

Continuing offences
s 193 ins 2002 No 11 s 23
am A2005-20 amdt 2.98

Administrative and machinery provisions
ch 19 hdg (prev ch 12 hdg) renum as ch 19 hdg and then ch 20 hdg
(prev ch 18 hdg) ins 2001 No 56 amdt 2.68
renum as ch 19 hdg 2002 No 11 s 24

Introductory
pt 19.1 hdg (prev pt 18.1 hdg) ins 2001 No 56 amdt 2.68
renum 2002 No 11 s 24

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Meaning of *law* in ch 19

s 195	ins 2001 No 56 amdt 2.68 am A2005-20 amdt 2.99

Functions

pt 19.2 hdg	(prev pt 18.2 hdg) ins 2001 No 56 amdt 2.68 renum 2002 No 11 s 24

Provision giving function gives power to exercise function

s 196	ins 2001 No 56 amdt 2.68

Statutory functions may be exercised from time to time

s 197	ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.113, amdt 1.114; A2005-20 amdt 2.100

Functions of bodies

s 199	ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.115, amdt 1.116; ss renum R5 LA (see 2002 No 11 amdt 1.117); A2003-41 amdt 2.32, amdt 2.33; ss renum R20 LA (see A2003-41 amdt 2.34)

Functions of occupants of positions

s 200	ins 2001 No 56 amdt 2.68

Appointments

pt 19.3 hdg	(prev pt 18.3 hdg) ins 2001 No 56 amdt 2.68 renum 2002 No 11 s 24

Appointments—general

div 19.3.1 hdg	(prev div 18.3.1 hdg) ins 2001 No 56 amdt 2.68 renum 2002 No 11 s 24 sub A2003-56 amdt 2.52
div 19.3.1 note	ins 2002 No 11 amdt 1.118

Application of div 19.3.1

s 205	ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.119, amdt 1.120

Appointments must be in writing etc

s 206	ins 2001 No 56 amdt 2.68 sub 2002 No 11 s 25

Appointment may be by name or position

s 207	ins 2001 No 56 amdt 2.68

Power of appointment includes power to suspend etc

s 208	ins 2001 No 56 amdt 2.68 am A2005-20 amdt 2.101

Power of appointment includes power to make acting appointment

s 209	ins 2001 No 56 amdt 2.68

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Resignation of appointment
s 210 ins 2001 No 56 amdt 2.68

Appointment not affected by appointer changes
s 211 ins 2001 No 56 amdt 2.68

Appointment not affected by defect etc
s 212 ins 2001 No 56 amdt 2.68

Acting appointments
div 19.3.2 hdg (prev div 18.3.2 hdg) ins 2001 No 56 amdt 2.68
renum 2002 No 11 s 24

Application of div 19.3.2
s 215 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.121, amdt 1.122

Acting appointments must be in writing etc
s 216 ins 2001 No 56 amdt 2.68
sub 2002 No 11 s 26

Acting appointment may be made by name or position
s 217 ins 2001 No 56 amdt 2.68

Instrument may provide when acting appointment has effect etc
s 218 ins 2001 No 56 amdt 2.68

Appointer may decide terms of acting appointment etc
s 219 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.123

Appointee may exercise functions under acting appointment etc
s 220 ins 2001 No 56 amdt 2.68

How long does an acting appointment operate?
s 221 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.124

Resignation of acting appointment
s 222 ins 2001 No 56 amdt 2.68

Effect of acting appointment on substantive appointment etc
s 223 ins 2001 No 56 amdt 2.68

Acting appointment not affected by appointer changes
s 224 ins 2001 No 56 amdt 2.68

Acting appointment not affected by defect etc
s 225 ins 2001 No 56 amdt 2.68

Standing acting arrangements
div 19.3.2A hdg ins A2003-41 amdt 2.35

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Application of div 19.3.2A
s 225A ins A2003-41 amdt 2.35

Person acting under standing acting arrangement may exercise functions etc
s 225B hdg sub A2005-20 amdt 2.102
s 225B ins A2003-41 amdt 2.35

Appointments—Assembly consultation
div 19.3.3 hdg ins 2002 No 11 s 27

Meaning of *statutory position* in div 19.3.3
s 226 ins 2002 No 11 s 27

Application of div 19.3.3
s 227 ins 2002 No 11 s 27
am 2002 No 49 amdt 2.34; A2004-28 amdt 3.32
(3), (4) exp 22 December 2004 (s 227 (4) and see A2004-28, s 211 (1) and NI2004-486)
am A2007-3 amdt 2.1

Consultation with appropriate Assembly committee
s 228 ins 2002 No 11 s 27

Appointment is disallowable instrument
s 229 hdg sub 2002 No 49 amdt 2.35
s 229 ins 2002 No 11 s 27

Delegations
pt 19.4 hdg (prev pt 18.4 hdg) ins 2001 No 56 amdt 2.68
renum 2002 No 11 s 24

Application of pt 19.4 generally
s 230 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.125; A2005-20 amdt 2.103, amdt 2.104

Application of pt 19.4 to subdelegations
s 231 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.126; A2003-56 amdt 2.53, amdt 2.54

Delegation must be in writing etc
s 232 ins 2001 No 56 amdt 2.68

Delegation may be made by name or position
s 233 ins 2001 No 56 amdt 2.68

Instrument may provide when delegation has effect etc
s 234 ins 2001 No 56 amdt 2.68
am A2003-41 amdt 2.36

Delegation may be made to 2 or more delegates
s 235 ins 2001 No 56 amdt 2.68

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Power to delegate may not be delegated

s 236	ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.127 sub A2003-56 amdt 2.55

Delegation may be amended or revoked

s 237	ins 2001 No 56 amdt 2.68 am A2005-20 amdt 2.105

Appointer responsible for delegated function

s 238	ins 2001 No 56 amdt 2.68

Exercise of delegation by delegate

s 239	ins 2001 No 56 amdt 2.68 am 2002 No 49 amdt 2.36, amdt 2.37; A2003-56 amdt 2.56

Appointer may exercise delegated function

s 240	ins 2001 No 56 amdt 2.68

Delegation not affected by appointer changes

s 241	ins 2001 No 56 amdt 2.68

Delegation not affected by defect etc

s 242	ins 2001 No 56 amdt 2.68

Service of documents

pt 19.5 hdg	(prev pt 18.5 hdg) ins 2001 No 56 amdt 2.68 renum 2002 No 11 s 24

Application of pt 19.5

s 245	ins 2001 No 56 amdt 2.68

Definitions for pt 19.5

s 246	ins 2001 No 56 amdt 2.68 def ***home address*** am 2002 No 30 amdt 2.7

Service of documents on individuals

s 247	ins 2001 No 56 amdt 2.68 am 2002 No 49 amdt 2.38, amdt 2.39

Service of documents on corporations

s 248	ins 2001 No 56 amdt 2.68 am 2002 No 49 amdt 2.40, amdt 2.41

Service of documents on agencies

s 249	ins 2001 No 56 amdt 2.68

When document taken to be served

s 250 hdg	sub A2005-20 amdt 2.106
s 250	ins 2001 No 56 amdt 2.68 am 2002 No 11 amdt 1.128

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Other laws not affected etc
s 251 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.129

Powers of courts and tribunals not affected
s 252 ins 2001 No 56 amdt 2.68

Functions of Executive and Ministers
pt 19.6 hdg ins 2002 No 11 s 29

Exercise of functions of Executive
s 253 ins 2002 No 11 s 29
am A2003-41 amdt 2.37; A2005-62 amdt 2.17

Administration of matters not allocated
s 254 ins 2002 No 11 s 29

Delegation by Minister
s 254A ins 2002 No 11 s 29

Other matters
pt 19.7 hdg (prev pt 18.6 hdg) ins 2001 No 56 amdt 2.68
sub 2002 No 11 s 28

Forms
s 255 ins 2001 No 56 amdt 2.68
am 2002 No 11 amdt 1.130, amdt 1.131; 2002 No 49 amdt 2.42; A2003-41 amdt 2.38; A2005-20 amdt 2.107, amdt 2.108; A2006-42 amdt 2.12, amdt 2.19

Production of records kept in computers etc
s 256 ins 2001 No 56 amdt 2.68
am A2005-20 amdt 2.109

Delegation by parliamentary counsel
s 260 (prev s 119) renum 2001 No 56 amdt 2.67
om 2002 No 11 amdt 1.132

References to Administration Act 1989 etc
s 261 (prev s 120) renum 2001 No 56 amdt 2.67
om 2002 No 11 amdt 1.132

Regulation-making power
s 262 (prev s 121) renum as s 262 and then s 302

Application of s 28
s 263 (prev s 122) renum 2001 No 56 amdt 2.67
exp 12 March 2002 (s 263 (2))

Application of s 47 (2) to (6)
s 264 (prev s 122A) renum as s 264 and then s 304

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Application of s 61 and s 62
s 265 (prev s 123) renum as s 265 and then s 305

Application of s 69
s 266 (prev s 124) renum 2001 No 56 amdt 2.67
exp 12 March 2002 (s 266 (2))

Transitional regulations
s 267 (prev s 125) renum as s 267 and then s 306

Modification of ch 20's operation
s 268 (prev s 126) renum as s 268 and then s 307

Status of certain instruments as disallowable instruments
s 269 (prev s 127) renum as s 269 and then s 308

Status of certain instruments as notifiable instruments
s 270 (prev s 128) renum as s 270 and then s 309

Compliance with authorisation or requirement to do something by notice in gazette
s 271 (prev s 129) renum as s 271 and then s 310

Commencement of Acts that refer to notification or notice in the gazette
s 271B renum as s 311

Commencement of registrable instruments that refer to notification or notice in the gazette
s 271C renum as s 312

Status of republications under Legislation (Republication) Act 1996
s 272 (prev s 130) renum as s 272 and then s 313

Transitional provisions about penalties
s 273 renum as s 314

Status of certain determinations
s 274 renum as s 315

Miscellaneous
ch 20 hdg (prev ch 13 hdg) renum as ch 20 hdg and then ch 21 hdg
(prev ch 12 hdg) renum as ch 19 hdg 2001 No 56 amdt 2.66
renum as ch 20 hdg 2002 No 11 s 24

Delegation by parliamentary counsel
s 300 ins 2002 No 11 amdt 1.132
am A2004-60 amdt 1.175

References to Administration Act 1989 etc
s 301 ins 2002 No 11 amdt 1.132

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Regulation-making power

s 302	(prev s 121) renum as s 262 2001 No 56 amdt 2.67 renum as s 302 R5 LA (see 2002 No 11 amdt 1.133) sub A2003-41 amdt 2.39 am A2006-42 amdt 2.19

Transitional

ch 21 hdg	(prev ch 13 hdg) renum as ch 20 hdg 2001 No 56 amdt 2.66 renum as ch 21 hdg 2002 No 11 s 24 om R29 LA

Transitional—meaning of optometrist

s 303	ins A2005-9 amdt 1.1 exp 9 January 2007 (see the Health Professionals Act 2004 s 136 (1) (h)) (s 303 (2))

Application of s 47 (2) to (6)

s 304 hdg	(prev s 122A hdg) renum as s 264 hdg and then s 304 hdg sub 2002 No 11 amdt 1.134
s 304	(prev s 122A) ins 2001 No 44 amdt 1.2623 renum as s 264 2001 No 56 amdt 2.67 am 2002 No 11 amdt 1.135 renum as s 304 R5 LA (see 2002 No 11 amdt 1.136) exp 12 September 2004 (s 304 (4))

Application of s 61 and s 62

s 305	(prev s 123) renum as s 265 2001 No 56 amdt 2.67 renum as s 305 R5 LA (see 2002 No 11 amdt 1.136) exp 12 September 2002 (s 305 (3))

Transitional regulations

s 306	(prev s 125) am 2001 No 44 amdt 1.2624 renum as s 267 2001 No 56 amdt 2.67 am 2001 No 56 amdts 2.69-2.71; 2002 No 11 amdts 1.137-1.140 renum as s 306 R5 LA (see 2002 No 11 amdt 1.136) exp 28 May 2003 (s 306 (5))

Modification of ch 20's operation

s 307 hdg	(prev s 268 hdg) sub 2001 No 56 amdt 2.72
s 307	(prev s 126) renum as s 268 2001 No 56 amdt 2.67 am 2002 No 11 amdt 1.141 renum as s 307 R5 LA (see 2002 No 11 amdt 1.13) am 2002 No 49 amdt 2.54 exp 28 May 2003 (s 307 (2))

Status of certain instruments as disallowable instruments

s 308	(prev s 127) renum as s 269 2001 No 56 amdt 2.67 renum as s 308 R5 LA (see 2002 No 11 amdt 1.136) exp 12 September 2004 (s 308 (4))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Status of certain instruments as notifiable instruments

s 309	(prev s 128) renum as s 270 2001 No 56 amdt 2.67 renum as s 309 R5 LA (see 2002 No 11 amdt 1.136) exp 12 September 2004 (s 309 (7))

Compliance with authorisation or requirement to do something by notice in gazette

s 310	(prev s 129) renum as s 271 2001 No 56 amdt 2.67 am 2001 No 56 amdt 2.73 renum as s 310 R5 LA (see 2002 No 11 amdt 1.136) exp 12 September 2004 (s 310 (5))

Application of s 89 to registrable instrument

s 310A	ins A2003-56 amdt 2.57 exp 12 September 2004 (s 310A (2))

Commencement of Acts that refer to notification or notice in the gazette

s 311	(prev s 271B) ins as mod SL 2001 No 34 reg 6 renum R5 LA (see 2002 No 11 amdt 1.136) exp 13 September 2002 (s 311 (5))

Commencement of registrable instruments that refer to notification or notice in the gazette

s 312	(prev s 271C) ins as mod SL 2001 No 34 reg 6 renum R5 LA (see 2002 No 11 amdt 1.136) exp 13 September 2002 (s 312 (5))

Status of republications under Legislation (Republication) Act 1996

s 313	(prev s 130) renum as s 272 2001 No 56 amdt 2.67 renum as s 313 R5 LA (see 2002 No 11 amdt 1.136) exp 12 September 2004 (s 313 (3))

Transitional provisions about penalties

s 314	(prev s 273) ins 2001 No 56 amdt 2.74 renum R5 LA (see 2002 No 11 amdt 1.136) exp 12 September 2003 (s 314 (5))

Status of certain determinations

s 315	(prev s 274) ins 2001 No 56 amdt 2.74 renum R5 LA (see 2002 No 11 amdt 1.136) exp 12 September 2003 (s 315 (6))

Delegations under Administration Act 1989

s 316	ins A2003-56 amdt 2.58 exp 12 September 2004 (s 316 (3))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Former NSW and UK Acts in force before establishment of Territory

sch 1 pt 1.1 hdg	(prev sch 1 pt 1 hdg) sub and renum 2001 No 56 amdt 2.75
sch 1 pt 1.1	am 2001 No 44 amdt 1.2625; 2001 No 56 amdts 2.76-2.79; 2001 No 88 s 43 (2); 2002 No 40 amdt 3.28; items renum R11 LA (see 2002 No 40 amdt 3.29)
	sub 2002 No 49 amdt 2.43
	am A2003-56 amdt 2.59; items renum R21 LA (see A2003-56 amdt 2.60); A2004-17 amdt 2.10; items renum R30 LA (see A2004-17 amdt 2.11); A2004-60 amdt 1.176; items renum R31 LA (see A2004-60 amdt 1.177); A2006-38 amdt 1.9; items renum R52 LA (see A2006-38 amdt 1.10)

Former NSW Acts applied after establishment of Territory

sch 1 pt 1.2 hdg	(prev sch 1 pt 2 hdg) sub and renum 2001 No 56 amdt 2.80
sch 1 pt 1.2	am 2001 No 44 amdt 1.2626, amdt 1.2627; 2001 No 56 amdt 2.81; A2004-7 amdt 1.5; A2006-38 amdt 1.11; items renum R52 LA (see A2006-38 amdt 1.12)

Meaning of commonly-used terms

dict pt 1 hdg	sub A2003-56 amdt 2.61
dict pt 1 note	sub A2003-56 amdt 2.61
dict pt 1	def ***AAT*** ins 2002 No 49 amdt 2.44
	def ***Act*** sub 2001 No 56 amdt 2.82 am A2005-20 amdt 2.110
	def ***ACT*** reloc from IA 2001 No 56 amdt 2.16
	def ***ADI*** reloc from IA 2001 No 56 amdt 2.16 sub 2002 No 49 amdt 2.45
	def ***administrative appeals tribunal*** reloc from IA 2001 No 56 amdt 2.16
	def ***administrative unit*** reloc from IA 2001 No 56 amdt 2.16
	def ***adult*** reloc from IA 2001 No 56 amdt 2.16
	def ***affidavit*** reloc from IA 2001 No 56 amdt 2.16 om A2005-53 amdt 1.95
	def ***ambulance service*** reloc from IA 2001 No 56 amdt 2.16 sub A2004-28 amdt 3.33
	def ***amend*** sub 2001 No 56 amdt 2.82 am A2005-20 amdt 2.111, amdt 2.112
	def ***appoint*** reloc from IA 2001 No 56 amdt 2.16
	def ***asset*** reloc from IA 2001 No 56 amdt 2.16
	def ***Attorney-General*** ins 2001 No 56 amdt 2.82
	def ***auditor-general*** reloc from IA 2001 No 56 amdt 2.16 sub A2005-20 amdt 2.113
	def ***Australia*** reloc from IA 2001 No 56 amdt 2.16
	def ***Australian driver licence*** reloc from IA 2001 No 56 amdt 2.16
	def ***Australian Statistician*** ins A2005-20 amdt 2.114

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***authorised deposit-taking institution*** reloc from IA 2001 No 56 amdt 2.16
sub 2002 No 49 amdt 2.46
def ***bank*** reloc from IA 2001 No 56 amdt 2.16
def ***barrister*** reloc from IA 2001 No 56 amdt 2.16
def ***body*** reloc from IA 2001 No 56 amdt 2.16
def ***breach*** reloc from IA 2001 No 56 amdt 2.16
def ***building code*** ins A2004-13 amdt 2.79
def ***building society*** reloc from IA 2001 No 56 amdt 2.16
sub A2003-56 amdt 2.62
def ***business day*** reloc from IA 2001 No 56 amdt 2.16
def ***by*** ins A2005-20 amdt 2.115
def ***by-laws*** ins 2002 No 11 amdt 1.142
om A2005-20 amdt 2.116
def ***by-law*** ins A2005-20 amdt 2.116
def ***calendar month*** reloc from IA 2001 No 56 amdt 2.16
def ***calendar year*** reloc from IA 2001 No 56 amdt 2.16
def ***change*** reloc from IA 2001 No 56 amdt 2.16
sub A2006-42 amdt 2.13
def ***chief executive*** ins 2001 No 56 amdt 2.82
def ***chief fire control officer*** ins 2001 No 56 amdt 2.82
om A2004-28 amdt 3.34
def ***chief health officer*** reloc from IA 2001 No 56 amdt 2.16
def ***Chief Justice*** reloc from IA 2001 No 56 amdt 2.16
def ***Chief Magistrate*** reloc from IA 2001 No 56 amdt 2.16
def ***Chief Minister*** reloc from IA 2001 No 56 amdt 2.16
def ***chief officer (ambulance service)*** ins A2004-28 amdt 3.35
def ***chief officer (fire brigade)*** ins A2004-28 amdt 3.35
def ***chief officer (rural fire service)*** ins A2004-28 amdt 3.35
def ***chief officer (SES)*** ins A2004-28 amdt 3.35
def ***chief planning executive*** ins 2002 No 56 amdt 3.43
sub A2005-20 amdt 2.117; A2007-25 amdt 1.96
def ***chief police officer*** reloc from IA 2001 No 56 amdt 2.16
def ***chief solicitor*** ins A2004-42 amdt 2.39
def ***chief surveyor*** ins A2007-33 amdt 1.9
def ***child*** reloc from IA 2001 No 56 amdt 2.16
def ***children and young people commissioner*** ins A2005-46 amdt 1.1
def ***Childrens Court*** reloc from IA 2001 No 56 amdt 2.16
def ***city area*** reloc from IA 2001 No 56 amdt 2.16
am A2005-20 amdt 2.118
def ***civil union*** ins A2006-22 amdt 1.74 (A2006-22 rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))
def ***clerk*** reloc from IA 2001 No 56 amdt 2.16
def ***commencement*** sub 2001 No 56 amdt 2.82
def ***commencement notice*** sub 2001 No 56 amdt 2.82

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***commissioner for fair trading*** reloc from IA 2001 No 56 amdt 2.16
sub A2005-20 amdt 2.119
def ***commissioner for health complaints*** ins 2001 No 56 amdt 2.82
om A2005-41 amdt 1.110
def ***commissioner for housing*** reloc from IA 2001 No 56 amdt 2.16
om A2007-8 amdt 1.12
def ***commissioner for land and planning*** reloc from IA 2001 No 56 amdt 2.16
om 2002 No 56 amdt 3.44
def ***commissioner for public administration*** reloc from IA 2001 No 56 amdt 2.16
def ***commissioner for revenue*** reloc from IA 2001 No 56 amdt 2.16
def ***commissioner for surveys*** reloc from IA 2001 No 56 amdt 2.16
om A2007-33 amdt 1.10
def ***commissioner for the environment*** ins 2001 No 56 amdt 2.82
def ***commissioner of police*** reloc from IA 2001 No 56 amdt 2.16
def ***commit*** ins A2006-23 amdt 1.212
def ***committed for trial*** reloc from IA 2001 No 56 amdt 2.16
om A2006-23 amdt 1.212
def ***Commonwealth*** reloc from IA 2001 No 56 amdt 2.16
def ***Commonwealth country*** reloc from IA 2001 No 56 amdt 2.16
def ***Commonwealth DPP*** ins A2005-20 amdt 2.120
def ***Commonwealth gazette*** reloc from IA 2001 No 56 amdt 2.16
def ***community advocate*** reloc from IA 2001 No 56 amdt 2.16
om A2005-47 amdt 1.12
def ***confer*** reloc from IA 2001 No 56 amdt 2.16
def ***conservator of flora and fauna*** reloc from IA 2001 No 56 amdt 2.16
def ***construction occupations registrar*** ins A2004-13 amdt 2.80
sub A2005-20 amdt 2.121
def ***consumer and trader tribunal*** ins A2003-16 s 70
def ***Consumer Credit (Australian Capital Territory) Code*** reloc from IA 2001 No 56 amdt 2.16
def ***Consumer Credit (Australian Capital Territory) Regulations*** reloc from IA 2001 No 56 amdt 2.16
def ***contravene*** reloc from IA 2001 No 56 amdt 2.16
def ***converted ordinance*** reloc from IA 2001 No 56 amdt 2.16

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***Coroner's Court*** reloc from IA 2001 No 56 amdt 2.16
def ***corporation*** reloc from IA 2001 No 56 amdt 2.16
def ***Corporations Act*** ins in IA 2001No 56 amdt 2.14
reloc from IA 2001 No 56 amdt 2.16
def ***correctional centre*** ins A2006-23 amdt 1.213
def ***corrections officer*** ins A2006-23 amdt 1.213
def ***Court of Appeal*** ins A2004-42 amdt 2.39
def ***court of summary jurisdiction*** reloc from IA 2001 No 56 amdt 2.16
def ***credit tribunal*** reloc from IA 2001 No 56 amdt 2.16
sub A2005-20 amdt 2.122
def ***credit union*** reloc from IA 2001 No 56 amdt 2.16
sub A2003-56 amdt 2.63
def ***Criminal Code*** ins 2002 No 51 amdt 1.27
def ***custodial escort*** ins 2002 No 30 amdt 2.8
om A2006-23 amdt 1.214
def ***daylight*** reloc from IA 2001 No 56 amdt 2.16
def ***definition*** ins 2001 No 56 amdt 2.82
def ***dental prosthetist*** reloc from IA 2001 No 56 amdt 2.16
sub A2004-39 amdt 3.1
def ***dental technician*** reloc from IA 2001 No 56 amdt 2.16
sub A2004-39 amdt 3.2
def ***dentist*** reloc from IA 2001 No 56 amdt 2.16
sub A2004-39 amdt 4.3
def ***Deputy Speaker*** ins A2005-20 amdt 2.123
def ***designation*** reloc from IA 2001 No 56 amdt 2.16
def ***director of corrective services*** ins 2002 No 30 amdt 2.8
om A2006-23 amdt 1.215
def ***director of public prosecutions*** (or ***DPP***) reloc from IA 2001 No 56 amdt 2.16
def ***disability and community services commissioner*** ins A2005-41 amdt 1.111
def ***disallowable instrument*** sub 2001 No 56 amdt 2.82
def ***discrimination commissioner*** reloc from IA 2001 No 56 amdt 2.16
sub A2005-41 amdt 1.112
def ***discrimination tribunal*** reloc from IA 2001 No 56 amdt 2.16
def ***doctor*** reloc from IA 2001 No 56 amdt 2.16
sub A2004-39 amdt 5.13
def ***document*** reloc from IA 2001 No 56 amdt 2.16
am A2003-56 amdt 2.64
def ***domestic partner*** ins A2003-14 s 5
def ***domestic partnership*** ins A2003-14 s 5
def ***DPP*** ins 2002 No 49 amdt 2.47
def ***driver licence*** reloc from IA 2001 No 56 amdt 2.16

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***electoral commission*** reloc from IA 2001 No 56 amdt 2.16
def ***electoral commissioner*** reloc from IA 2001 No 56 amdt 2.16
def ***emergency service*** ins A2004-28 amdt 3.35
def ***emergency services authority*** ins A2004-28 amdt 3.35 om A2007-3 amdt 2.2
def ***emergency services commissioner*** ins A2004-28 amdt 3.35
def ***enactment*** sub 2001 No 56 amdt 2.82
def ***enrolled nurse*** ins A2006-46 amdt 2.28
def ***entity*** ins 2001 No 56 amdt 2.82
def ***environment protection authority*** ins 2002 No 11 amdt 1.142
def ***establish*** reloc from IA 2001 No 56 amdt 2.16
def ***estate*** reloc from IA 2001 No 56 amdt 2.16
def ***Executive*** reloc from IA 2001 No 56 amdt 2.16
def ***exercise*** reloc from IA 2001 No 56 amdt 2.16
def ***expire*** reloc from IA 2001 No 56 amdt 2.16
def ***external territory*** reloc from IA 2001 No56 amdt 2.16
def ***fail*** reloc from IA 2001 No 56 amdt 2.16
def ***Federal Court*** reloc from IA 2001 No 56 amdt 2.16
def ***file*** reloc from IA 2001 No 56 amdt 2.16
def ***financial year*** reloc from IA 2001 No 56 amdt 2.16
def ***fire brigade*** reloc from IA 2001 No 56 amdt 2.16 sub A2004-28 amdt 3.36
def ***fire commissioner*** reloc from IA 2001 No 56 amdt 2.16 om A2004-28 amdt 3.37
def ***for*** ins 2002 No 11 amdt 1.142
def ***foreign country*** reloc from IA 2001 No 56 amdt 2.16 sub A2006-42 amdt 2.14
def ***former NSW Act*** sub 2001 No 56 amdt 2.82; 2002 No 11 amdt 1.143
def ***former UK Act*** sub 2001 No 56 amdt 2.82; 2002 No 11 amdt 1.143
def ***found guilty*** reloc from IA 2001 No 56 amdt 2.16 sub 2002 No 49 amdt 2.48; A2006-23 amdt 1.216
def ***function*** reloc from IA 2001 No 56 amdt 2.16
def ***gambling and racing commission*** reloc from IA 2001 No 56 amdt 2.16
def ***gazette*** reloc from IA 2001 No 56 amdt 2.16
def ***give*** reloc from IA 2001 No 56 amdt 2.16
def ***government printer*** reloc from IA 2001 No 56 amdt 2.16
def ***government solicitor*** reloc from IA 2001 No 56 amdt 2.16
def ***Governor*** ins 2001 No 56 amdt 2.82
def ***Governor-General*** ins 2001 No 56 amdt 2.82
def ***GST*** ins 2002 No 27 s 27

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***guardianship tribunal*** reloc from IA 2001 No 56 amdt 2.16
def ***health services commissioner*** ins A2005-41 amdt 1.113
def ***heritage council*** ins A2004-57 amdt 1.53
def ***heritage register*** ins A2004-57 amdt 1.53
def ***High Court*** reloc from IA 2001 No 56 amdt 2.16
def ***housing commissioner*** ins A2007-8 amdt 1.13
def ***human rights commission*** ins A2005-41 amdt 1.113
def ***human rights commissioner*** ins A2005-41 amdt 1.113
def ***Imperial Act*** reloc from IA 2001 No 56 amdt 2.16
def ***independent competition and regulatory commission*** ins A2004-42 amdt 2.39
def ***indictable offence*** ins 2001 No 56 amdt 2.82
sub 2002 No 11 amdt 1.144; A2003-56 amdt 2.65
def ***indictment*** reloc from IA 2001 No 56 amdt 2.16
def ***individual*** reloc from IA 2001 No 56 amdt 2.16
def ***infringement notice*** ins A2004-42 amdt 2.39
def ***in relation to*** ins 2002 No 49 amdt 2.49
def ***insolvent under administration*** ins A2003-56 amdt 2.66
om A2005-20 amdt 2.124
def ***institute of technology*** ins A2007-3 amdt 2.3
def ***instrument*** sub 2001 No 56 amdt 2.82
def ***interest*** reloc from IA 2001 No 56 amdt 2.16
def ***internal territory*** reloc from IA 2001 No 56 amdt 2.16
def ***intersex person*** ins A2003-14 s 5
def ***Jervis Bay Territory*** reloc from IA 2001 No 56 amdt 2.16
def ***judge*** reloc from IA 2001 No 56 amdt 2.16
am 2002 No 11 amdt 1.145
def ***Lake Burley Griffin*** reloc from IA 2001 No 56 amdt 2.16
def ***Lake Ginninderra*** reloc from IA 2001 No 56 amdt 2.16
def ***land*** reloc from IA 2001 No 56 amdt 2.16
def ***land development agency*** ins 2002 No 56 amdt 3.45
sub A2005-20 amdt 2.125; A2007-25 amdt 1.97
def ***law*** reloc from IA 2001 No 56 amdt 2.16
def ***lawyer*** reloc from IA 2001 No 56 amdt 2.16
def ***legal aid commission*** ins 2001 No 56 amdt 2.82
def ***legal practitioner*** reloc from IA 2001 No 56 amdt 2.16
sub A2006-25 amdt 2.16
def ***Legislation Act*** ins 2002 No 49 amdt 2.50
def ***Legislative Assembly*** reloc from IA 2001 No 56 amdt 2.16
def ***legislative instrument*** ins A2006-42 amdt 2.15
def ***liability*** reloc from IA 2001 No 56 amdt 2.16
def ***magistrate*** reloc from IA 2001 No 56 amdt 2.16
def ***Magistrates Court*** reloc from IA 2001 No 56 amdt 2.16
def ***make*** reloc from IA 2001 No 56 amdt 2.16
def ***making*** sub 2001 No 56 amdt 2.82

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***master*** reloc from IA 2001 No 56 amdt 2.16
def ***may*** ins 2001 No 56 amdt 2.82
def ***medical practitioner*** ins 2001 No 56 amdt 2.82
def ***mental health tribunal*** reloc from IA 2001 No 56 amdt 2.16
def ***midnight*** reloc from IA 2001 No 56 amdt 2.16
def ***midwife*** ins A2006-46 amdt 2.28
def ***Minister*** ins 2001 No 56 amdt 2.82
def ***modification*** reloc from IA 2001 No 56 amdt 2.16
sub A2006-42 amdt 2.16
def ***month*** reloc from IA 2001 No 56 amdt 2.16
def ***must*** ins 2001 No 56 amdt 2.82
def ***name*** reloc from IA 2001 No 56 amdt 2.16
def ***named month*** reloc from IA 2001 No 56 amdt 2.16
def ***national capital authority*** ins 2002 No 11 amdt 1.146
def ***national capital plan*** ins A2004-42 amdt 2.39
def ***national land*** reloc from IA 2001 No 56 amdt 2.16
def ***night*** reloc from IA 2001 No 56 amdt 2.16
def ***Northern Territory*** reloc from IA 2001 No 56 amdt 2.16
def ***notifiable instrument*** sub 2001 No 56 amdt 2.82
def ***notification*** sub 2001 No 56 amdt 2.82
am A2004-42 amdt 2.40; A2006-42 amdt 2.18
def ***notification day*** sub 2001 No 56 amdt 2.82
def ***NSW Act*** reloc from IA 2001 No 56 amdt 2.16
def ***NSW correctional centre*** ins A2006-23 amdt 1.217
def ***number*** reloc from IA 2001 No 56 amdt 2.16
def ***nurse*** reloc from IA 2001 No 56 amdt 2.16
sub A2004-39 amdt 6.7
def ***nurse practitioner*** ins A2004-10 s 6
sub A2004-39 amdt 6.8
def ***oath*** reloc from IA 2001 No 56 amdt 2.16
sub A2005-53 amdt 1.96
def ***occupy*** ins 2001 No 56 amdt 2.82
sub A2005-20 amdt 2.126
def ***office*** reloc from IA 2001 No 56 amdt 2.16
def ***office of fair trading*** reloc from IA 2001 No 56 amdt 2.16
sub A2005-20 amdt 2.127
def ***OH&S commissioner*** ins A2003-41 amdt 2.40
def ***ombudsman*** reloc from IA 2001 No 56 amdt 2.16
def ***omit*** ins 2001 No 56 amdt 2.82
def ***optometrist*** ins A2005-9 amdt 1.2
note exp 9 January 2007 (see the Health Professionals Act 2004 s 136 (1) (h)) (s 303 (2))
def ***ordinance*** reloc from IA 2001 No 56 amdt 2.16
def ***parent*** ins A2004-1 amdt 1.22

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***parliamentary counsel*** sub 2001 No 56 amdt 2.82
def ***passing*** sub 2001 No 56 amdt 2.82
def ***penalty unit*** ins 2001 No 56 amdt 2.82
def ***person*** ins 2001 No 56 amdt 2.82
def ***pharmacist*** reloc from IA 2001 No 56 amdt 2.16
sub A2004-39 amdt 8.2
def ***planning and land authority*** ins 2002 No 56 amdt 3.47
sub A2005-20 amdt 2.128; A2007-25 amdt 1.98
def ***planning and land council*** ins 2002 No 56 amdt 3.46
sub A2005-20 amdt 2.129
om A2006-30 amdt 1.70
def ***planning authority*** reloc from IA 2001 No 56 amdt 2.16
om 2002 No 56 amdt 3.47
def ***police officer*** reloc from IA 2001 No 56 amdt 2.16
def ***position*** reloc from IA 2001 No 56 amdt 2.16
def ***power*** reloc from IA 2001 No 56 amdt 2.16
def ***prescribed*** reloc from IA 2001 No 56 amdt 2.16
am 2002 No 49 amdt 2.51; A2005-20 amdt 2.130
def ***present*** ins A2005-5 s 28
def ***privacy commissioner*** reloc from IA 2001 No 56 amdt 2.16
def ***proceeding*** reloc from IA 2001 No 56 amdt 2.16
def ***property*** reloc from IA 2001 No 56 amdt 2.16
def ***provision*** sub 2001 No 56 amdt 2.82
def ***public advocate*** ins A2005-47 amdt 1.13
def ***public employee*** reloc from IA 2001 No 56 amdt 2.16
def ***public health officer*** reloc from IA 2001 No 56 amdt 2.16
sub A2005-20 amdt 2.131
def ***public money*** reloc from IA 2001 No 56 amdt 2.16
def ***public servant*** reloc from IA 2001 No 56 amdt 2.16
def ***public service*** reloc from IA 2001 No 56 amdt 2.16
def ***public trustee*** reloc from IA 2001 No 56 amdt 2.16
def ***quarter*** ins 2002 No 30 amdt 2.8
def ***recognised transgender person*** ins A2003-14 s 5
def ***registered surveyor*** reloc from IA 2001 No 56 amdt 2.16
am A2007-33 amdt 1.11
def ***registrable instrument*** sub 2001 No 56 amdt 2.82
om A2006-42 amdt 2.17
def ***registrar*** reloc from IA 2001 No 56 amdt 2.16
def ***registrar-general*** reloc from IA 2001 No 56 amdt 2.16
def ***registrar of firearms*** reloc from IA 2001 No 56 amdt 2.16
def ***registrar of liquor licences*** reloc from IA 2001 No 56 amdt 2.16
def ***regulations*** reloc from IA 2001 No 56 amdt 2.16
om A2005-20 amdt 2.132
def ***regulation*** ins A2005-20 amdt 2.132

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***remand centre*** ins 2002 No 30 amdt 2.8
om A2006-23 amdt 1.218
def ***remand centre administrator*** ins 2002 No 30 amdt 2.8
om A2006-23 amdt 1.218
def ***remuneration tribunal*** reloc from IA 2001 No 56 amdt 2.16
def ***repeal*** sub 2001 No 56 amdt 2.82
pars renum 2002 No 11 amdt 1.147
am 2002 No 11 amdt 1.148; A2004-42 amdts 2.41-2.43; pars renum R27 LA (see A2004-42 amdt 2.44); A2005-20 amdt 2.133, amdt 2.134
def ***residential tenancies tribunal*** reloc from IA 2001 No 56 amdt 2.16
def ***resident judge*** ins A2004-42 amdt 2.45
def ***retrospectively*** reloc from dict, pt 2 A2005-20 amdt 2.148
def ***road transport authority*** reloc from IA 2001 No 56 amdt 2.16
def ***rules*** reloc from IA 2001 No 56 amdt 2.16
sub 2002 No 11 amdt 1.149
am A2005-20 amdt 2.135
def ***rural firefighting service*** reloc from IA 2001 No 56 amdt 2.16
om A2004-28 amdt 3.38
def ***rural fire service*** ins A2004-28 amdt 3.38
def ***see*** ins 2001 No 56 amdt 2.82
def ***Self-Government Act*** reloc from IA 2001 No 56 amdt 2.16
def ***self-government day*** reloc from IA 2001 No 56 amdt 2.16
def ***sentence administration board*** ins 2002 No 30 amdt 2.8
sub A2006-23 amdt 1.219
def ***SES*** ins A2004-28 amdt 3.39
def ***sign*** reloc from IA 2001 No 56 amdt 2.16
def ***sitting day*** reloc from IA 2001 No 56 amdt 2.16
def ***Small Claims Court*** reloc from IA 2001 No 56 amdt 2.16
sub A2004-60 amdt 1.178
def ***solicitor*** reloc from IA 2001 No 56 amdt 2.16
def ***Speaker*** reloc from IA 2001 No 56 amdt 2.16
def ***Standards Australia*** reloc from IA 2001 No 56 amdt 2.16
def ***State*** reloc from IA 2001 No 56 amdt 2.16
def ***statutory declaration*** reloc from IA 2001 No 56 amdt 2.16
def ***statutory instrument*** sub 2001 No 56 amdt 2.82
def ***statutory office-holder*** ins 2001 No 56 amdt 2.82
sub 2002 No 11 amdt 1.150
def ***subordinate law*** sub 2001 No 56 amdt 2.82
def ***summary offence*** ins 2001 No 56 amdt 2.82
sub 2002 No 11 amdt 1.151; A2003-56 amdt 2.67
def ***Supreme Court*** reloc from IA 2001 No 56 amdt 2.16

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***swear*** reloc from IA 2001 No 56 amdt 2.16
sub A2005-53 amdt 1.97
def ***take*** ins A2005-53 amdt 1.98
def ***tenancy tribunal*** reloc from IA 2001 No 56 amdt 2.16
om 2002 No 49 amdt 2.52
def ***territory authority*** reloc from IA 2001 No 56 amdt 2.16
sub A2003-41 amdt 2.41
def ***territory instrumentality*** ins 2001 No 56 amdt 2.82
am A2007-3 amdt 2.4
def ***territory land*** reloc from IA 2001 No 56 amdt 2.16
def ***territory law*** ins A2005-62 amdt 2.18
def ***territory lease*** ins A2007-25 amdt 1.99
def ***territory-owned corporation*** reloc from IA 2001 No 56 amdt 2.16
def ***territory plan*** reloc from IA 2001 No 56 amdt 2.16
am 2002 No 49 amdt 2.53
sub A2007-25 amdt 1.100
def ***the Territory*** ins 2001 No 56 amdt 2.82
def ***transgender person*** ins A2003-14 s 5
def ***transitional*** reloc from IA 2001 No 56 amdt 2.16
sub A2005-20 amdt 2.136
def ***Treasurer*** ins 2001 No 56 amdt 2.82
def ***tribunal*** sub 2001 No 56 amdt 2.82
def ***UK Act*** reloc from IA 2001 No 56 amdt 2.16
def ***under*** ins 2001 No 52 amdt 2.82
sub 2002 No 30 amdt 2.9
am A2005-20 amdt 2.137, amdt 2.138
def ***United Kingdom*** reloc from IA 2001 No 56 amdt 2.16
def ***United Kingdom Parliament*** reloc from IA 2001 No 56 amdt 2.16
def ***veterinary surgeon*** reloc from IA 2001 No 56 amdt 2.16
sub A2004-39 amdt 11A.1 (as am by A2005-28 amdt 1.61)
def ***will*** ins 2001 No 56 amdt 2.82
def ***word*** reloc from IA 2001 No 56 amdt 2.16
def ***working day*** ins 2002 No 11 amdt 1.152
sub A2003-56 amdt 2.68
def ***writing*** reloc from IA 2001 No 56 amdt 2.16
def ***year*** reloc from IA 2001 No 56 amdt 2.16

Terms for Legislation Act 2001 only

dict pt 2 hdg sub A2003-56 amdt 2.69
dict pt 2 note sub A2003-56 amdt 2.69
dict pt 2 def ***Act*** ins A2003-41 amdt 2.42
def ***ACT law*** ins A2005-20 amdt 2.139
def ***administrator*** ins 2001 No 56 amdt 2.82
def ***agency*** ins 2001 No 56 amdt 2.82
def ***amend*** ins A2005-20 amdt 2.140
def ***another jurisdiction*** ins A2005-20 amdt 2.141

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***appointee*** ins 2001 No 56 amdt 2.82
am A2003-56 amdt 2.70
def ***appointer*** ins 2001 No 56 amdt 2.82
am A2003-56 amdt 2.71
def ***approved web site*** sub 2001 No 56 amdt 2.82
def ***authorised republication*** sub 2001 No 56 amdt 2.82
def ***authorising law*** sub 2001 No 56 amdt 2.82
def ***benefits*** sub 2001 No 56 amdt 2.82
def ***business address*** ins 2001 No 56 amdt 2.82
def ***corporation*** ins 2001 No 56 amdt 2.82
def ***costs*** sub 2001 No 56 amdt 2.82
def ***current legislative drafting practice*** sub 2001 No 56 amdt 2.82
def ***delegate*** ins 2001 No 56 amdt 2.82
def ***determinative provision*** ins 2002 No 11 amdt 1.153
def ***document*** ins 2001 No 56 amdt 2.82
def ***editorial amendment*** sub 2001 No 56 amdt 2.82
def ***email address*** ins 2001 No 56 amdt 2.82
def ***executive officer*** ins 2001 No 56 amdt 2.82
def ***fax number*** ins 2001 No 56 amdt 2.82
def ***fee*** sub 2001 No 56 amdt 2.82
def ***home address*** ins 2001 No 56 amdt 2.82
def ***law*** sub 2001 No 56 amdt 2.82
am 2002 No 11 amdt 1.154; pars renum 2002 No 11 amdt 1.155; A2003-41 amdt 2.43; pars renum R20 LA (see A2003-41 amdt 2.44); A2005-20 amdt 2.142, amdt 2.143; pars renum R34 LA (see A2005-20 amdt 2.144)
def ***law of another jurisdiction*** ins A2005-20 amdt 2.145
def ***legislative material*** ins A2003-41 amdt 2.45
def ***non-determinative provision*** ins 2002 No 11 amdt 1.156
def ***provide*** sub 2001 No 56 amdt 2.82
def ***referential term*** ins A2003-56 amdt 2.72
reloc to s 116 (2) A2005-20 amdt 2.146
def ***referential words*** sub 2001 No 56 amdt 2.82
om A2003-56 amdt 2.72
def ***register*** sub 2001 No 56 amdt 2.82
def ***repeal*** ins A2005-20 amdt 2.147
def ***republication*** sub 2001 No 56 amdt 2.82; A2003-41 amdt 2.46
def ***republication date*** sub 2001 No 56 amdt 2.82
def ***responsible*** ins 2001 No 56 amdt 2.82
def ***retrospectively*** ins A2003-56 amdt 2.73
reloc to dict, pt 1 A2005-20 amdt 2.148
def ***scrutiny committee principles*** sub 2001 No 56 amdt 2.82
def ***service*** sub 2001 No 56 amdt 2.82

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***working out the meaning of an Act*** ins A2003-41 amdt 2.47

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R0A 17 Sept 2002	12 Sept 2001– 12 Sept 2001	A2001-56	amendments by A2001-44, A2001-56 and retrospective amendments by A2002-30
R1 13 Sept 2001	13 Sept 2001– 13 Sept 2001	SL2001-34	modification by SL2001-34
R1 (RI) 17 Sept 2001	13 Sept 2001– 13 Sept 2001	SL2001-34	reissue for retrospective amendments by A2002-30
R2 14 Sept 2001	14 Sept 2001– 20 Feb 2002	A2001-70	amendments by A2001-70
R2 (RI) 17 Sept 2002	14 Sept 2001– 20 Feb 2002	A2001-70	reissue for retrospective amendments by A2002-30
R3 21 Feb 2002	21 Feb 2002– 12 Mar 2002	A2001-88	changed endnotes and editorial changes

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R3 (RI) 17 Sept 2002	21 Feb 2002– 12 Mar 2002	A2001-88	reissue for retrospective amendments by A2002-30
R4 13 Mar 2002	13 Mar 2002– 27 May 2002	A2001-88	commenced expiry
R4 (RI) 17 Sept 2002	13 Mar 2002– 27 May 2002	A2001-88	reissue for retrospective amendments by A2002-30
R5* 28 May 2002	28 May 2002– 30 June 2002	A2002-11	amendments by A2002-11
R5 (RI) 17 Sept 2002	28 May 2002– 30 June 2002	A2002-11	reissue for retrospective amendments by A2002-30
R6 1 July 2002	1 July 2002– 12 Sept 2002	A2002-11	amendments by A2001-88
R6 (RI) 17 Sept 2002	1 July 2002– 12 Sept 2002	A2002-11	reissue for retrospective amendments by A2002-30
R7 13 Sept 2002	13 Sept 2002– 13 Sept 2002	A2002-27	commenced expiry
R7 (RI) 17 Sept 2002	13 Sept 2002– 13 Sept 2002	A2002-27	reissue for retrospective amendments by A2002-30
R8 14 Sept 2002	14 Sept 2002– 16 Sept 2002	A2002-27	commenced expiry
R8 (RI) 17 Sept 2002	14 Sept 2002– 16 Sept 2002	A2002-27	reissue for retrospective amendments by A2002-30

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R9 17 Sept 2002	17 Sept 2002– 6 Oct 2002	A2002-30	amendments by A2002-30
R10 7 Oct 2002	7 Oct 2002– 31 Oct 2002	A2002-30	amendments by A2002-27
R11 1 Nov 2002	1 Nov 2002– 31 Dec 2002	A2002-40	amendments by A2002-40
R12 1 Jan 2003	1 Jan 2003– 16 Jan 2003	A2002-56	amendments by A2002-51
R13 17 Jan 2003	17 Jan 2003– 27 Mar 2003	A2002-56	amendments by A2002-49
R14 28 Mar 2003	28 Mar 2003– 9 Apr 2003	A2003-14	amendments by A2003-14
R15 10 Apr 2003	10 Apr 2003– 28 May 2003	A2003-18	amendments by A2003-18
R16 29 May 2003	29 May 2003– 30 June 2003	A2003-18	commenced expiry
R17 1 July 2003	1 July 2003– 2 Sept 2003	A2003-18	amendments by A2002-56
R18 3 Sept 2003	3 Sept 2003– 12 Sept 2003	A2003-18	commenced expiry
R19 13 Sept 2003	13 Sept 2003– 8 Oct 2003	A2003-41	commenced expiry
R20* 9 Oct 2003	9 Oct 2003– 18 Dec 2003	A2003-41	amendments by A2003-16 and A2003-41
R21 19 Dec 2003	19 Dec 2003– 21 Mar 2004	A2003-56	amendments by A2003-56
R22 22 Mar 2004	22 Mar 2004– 4 Apr 2004	A2004-10	amendments by A2004-1
R23 5 Apr 2004	5 Apr 2004– 26 May 2004	A2004-10	amendments by A2004-7
R24 27 May 2004	27 May 2004– 30 June 2004	A2004-17	amendments by A2004-10

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R25 1 July 2004	1 July 2004– 12 July 2004	A2004-28	amendments by A2004-5 and A2004-28
R26 13 July 2004	13 July 2004– 24 Aug 2004	A2004-32	amendments by A2004-32
R27 25 Aug 2004	25 Aug 2004– 31 Aug 2004	A2004-42	amendments by A2004-42
R28 1 Sept 2004	1 Sept 2004– 12 Sept 2004	A2004-42	amendments by A2004-13
R29 13 Sept 2004	13 Sept 2004– 22 Dec 2004	A2004-42	commenced expiry
R29A 23 Dec 2004	23 Dec 2004– 31 Dec 2004	A2004-42	commenced expiry
R30 (RI) 5 Jan 2005	1 Jan 2005– 9 Jan 2005	A2004-60	amendments by A2004-17 reissue for commenced expiry
R31 10 Jan 2005	10 Jan 2005– 23 Feb 2005	A2004-60	amendments by A2004-60
R32 24 Feb 2005	24 Feb 2005– 8 Mar 2005	A2005-5	amendments by A2005-5
R33 9 Mar 2005	9 Mar 2005– 1 June 2005	A2005-5	amendments by A2004-57
R34* 2 June 2005	2 June 2005– 6 July 2005	A2005-20	amendments by A2005-20
R35 7 July 2005	7 July 2005– 7 Sept 2005	A2005-20	amendments by A2004-39 as am by A2005-28
R36 8 Sept 2005	8 Sept 2005– 13 Sept 2005	A2005-47	amendments by A2005-44
R37 14 Sept 2005	13 Sept 2005– 22 Nov 2005	A2005-47	amendments by A2005-9

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R38 23 Nov 2005	23 Nov 2005– 10 Jan 2006	A2005-53	amendments by A2005-53
R39 11 Jan 2006	11 Jan 2006– 16 Jan 2006	A2005-62	amendments by A2005-62
R40 17 Jan 2006	17 Jan 2006– 22 Feb 2006	A2005-62	amendments by A2004-39
R41 23 Feb 2006	23 Feb 2006– 28 Feb 2006	A2006-3	updated endnotes as amended by A2006-3
R42 1 Mar 2006	1 Mar 2006– 1 June 2006	A2006-3	amendments by A2005-47 as amended by A2006-3
R43 2 June 2006	2 June 2006– 15 June 2006	A2006-23	amendments by A2006-23
R44 16 June 2006	16 June 2006– 30 June 2006	A2006-23	updated endnotes as amended by A2006-27
R45 1 July 2006	1 July 2006– 31 Oct 2006	A2006-30	amendments by A2006-25 and A2006-30
R46 1 Nov 2006	1 Nov 2006– 15 Nov 2006	A2006-42	amendments by A2005-41 and A2005-46 as amended by A2006-3
R47 16 Nov 2006	16 Nov 2006– 17 Nov 2006	A2006-42	amendments by A2006-42
R48 18 Nov 2006	18 Nov 2006– 8 Jan 2007	A2006-46	amendments by A2006-46
R49 9 Jan 2007	9 Jan 2007– 9 Jan 2007	A2006-46	amendments by A2004-39
R50 10 Jan 2007	10 Jan 2007– 11 Jan 2007	A2006-46	commenced expiry

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R51* 12 Jan 2007	12 Jan 2007– 27 Mar 2007	A2006-46	commenced expiry
R52 28 Mar 2007	28 Mar 2007– 11 Apr 2007	A2007-3	amendments by A2006-38
R53 12 Apr 2007	12 Apr 2007– 10 July 2007	A2007-3	amendments by A2007-3
R54 11 July 2007	11 July 2007– 9 Nov 2007	A2007-16	amendments by A2007-16
R55 10 Nov 2007	10 Nov 2007– 13 Nov 2007	A2007-33	amendments by A2007-8

6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

Planning and Development (Consequential Amendments) Act 2007 A2007-25 sch 1 pt 1.22

Part 1.22 Legislation Act 2001

[1.96] Dictionary, part 1, definition of *chief planning executive*

substitute

chief planning executive means the Chief Planning Executive under the *Planning and Development Act 2007*.

[1.97] Dictionary, part 1, definition of *land development agency*

substitute

land development agency means the Land Development Agency established under the *Planning and Development Act 2007*.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

[1.98] Dictionary, part 1, definition of *planning and land authority*

substitute

planning and land authority means the Planning and Land Authority established under the *Planning and Development Act 2007*.

[1.99] Dictionary, part 1, new definition of *territory lease*

insert

territory lease—

(a) means—

(i) a lease granted under the *Planning and Development Act 2007*; or

(ii) a lease under the *Unit Titles Act 2001*; but

(b) does not include a sublease.

[1.100] Dictionary, part 1, definition of *territory plan*

substitute

territory plan means the territory plan under the *Planning and Development Act 2007*.

© Australian Capital Territory 2007

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au