



Australian Capital Territory

# Administrative Appeals Tribunal Amendment Act 2002

Act 2002 No 57

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Australian Capital Territory

# Administrative Appeals Tribunal Amendment Act 2002

Act 2002 No 57

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An Act to amend the *Administrative Appeals Tribunal Act 1989*

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*Notified under the Legislation Act 2001 on 20 December 2002  
(see [www.legislation.act.gov.au](http://www.legislation.act.gov.au))*

The Legislative Assembly for the Australian Capital Territory enacts as follows:



- 
- (b) to review decisions made by decision-makers under enactments if authorised by enactments; and
  - (c) to ensure that the AAT is accessible; and
  - (d) to ensure that proceedings in the AAT are efficient, effective and as informal as possible; and
  - (e) to ensure decisions of the AAT are fair; and
  - (f) to foster an atmosphere in which administrative review is viewed positively as a way of enhancing the delivery of services and programs; and
  - (g) to encourage, and bring about, compliance by administrators with Territory laws.

### **3B Role and main object of land and planning division**

- (1) The land and planning division of the tribunal forms part of the planning and land system within the ACT.
- (2) The main object of the land and planning division of the tribunal is to contribute to the orderly and sustainable development of the ACT by making decisions that are consistent with the land and planning system and with the social, environmental and economic background of the ACT.

## **6 Divisions**

### **Section 17 (4)**

*substitute*

- (4) The provisions of this Act (other than division 4.5) apply to each division of the tribunal.

*Note* Div 4.5 applies only to applications for review of decisions under the *Land (Planning and Environment) Act 1991* and the *Tree Protection (Interim Scheme) Act 2001*.

**7 New division 4.1 heading**

*insert*

**Division 4.1 Review, applications and parties**

**8 New division 4.2 heading**

*after section 30, insert*

**Division 4.2 Mediation and hearings before tribunal**

**9 Section 33A heading**

*substitute*

**33A Mediation generally**

**10 Section 33A (1)**

*omit*

mediator

*substitute*

registered mediator

**11 Section 33A (3)**

*omit*

subsection (1)

*substitute*

this Act

**12 New division 4.3 heading**

*before section 40, insert*

**Division 4.3 Powers of tribunal**

**13 Section 41**

*renumber as section 39A and relocate after section 39*

**14 New division 4.4 heading**

*after section 44A, insert*

**Division 4.4 After end of tribunal proceeding**

**15 New division 4.5**

*insert*

**Division 4.5 Land, planning and environment applications**

**49A Application of div 4.5**

This division applies to applications for review by the tribunal of a decision under the following Acts:

- *Land (Planning and Environment) Act 1991*
- *Tree Protection (Interim Scheme) Act 2001.*

*Note* The rest of pt 4 also applies to applications for review of a decision under the Acts mentioned in this section (see s 17 (4)).

**49B Meaning of *application* for div 4.5**

In this division:

**application** means an application for review of a decision under any of the following Acts:

- *Land (Planning and Environment) Act 1991*
- *Tree Protection (Interim Scheme) Act 2001*.

#### **49C Time for deciding land, planning and environment applications**

- (1) The tribunal must decide an application within 120 days after the day the application is made.
- (2) However, the president may, in writing, extend the period for deciding the application if satisfied that the extension is in the interests of justice.
- (3) If the tribunal does not decide the application within the 120 days, the president must ensure that the tribunal's annual report for the year when the application was decided includes—
  - (a) details of the period of time it took to decide the application; and
  - (b) if the 120 day period was extended under subsection (2)—the reasons for the extension.
- (4) A failure to comply with this section in relation to an application does not affect the validity of a decision on the application.
- (5) In this section:

**tribunal's annual report** means the annual report presented by the tribunal under the *Annual Reports (Government Agencies) Act 1995*, section 8 (Annual reports of public authorities).

#### **49D Mediation for land, planning and environment applications**

- (1) Before hearing an application, the tribunal—



- (a) must consider whether the application is suitable for mediation; and
  - (b) if the tribunal considers the application is suitable for mediation and that it is reasonably likely that the application may be resolved by mediation—may, on its own initiative, refer the application to a registered mediator and direct the parties to the application to attend the mediation.
- (2) Also, the tribunal may refer the application to a registered mediator and direct the parties to attend the mediation on application by a party.

#### **49E Costs in land, planning and environment proceedings**

- (1) The tribunal may award costs of an application or part of an application against a party to the application if the party contravenes a tribunal direction.

##### **Examples of contravention of tribunal direction**

- 1 failing to provide further information in relation to the proceeding on the application
- 2 failing to provide a list of contentions on which reliance is to be placed at the hearing of the application

*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).

- (2) However, the tribunal may award costs under subsection (1) only if satisfied that it is in the interests of justice to do so.
- (3) In deciding whether it is in the interests of justice to award costs, the tribunal must consider the following:
- (a) whether the contravention was deliberate or could easily have been avoided;

- (b) whether (and if so, the extent to which) the contravention has affected the tribunal's ability to hear the proceeding expeditiously;
  - (c) the importance to the community of people being able to afford to bring applications to the tribunal.
- (4) The tribunal may consider any other relevant matter.
- (5) Costs are payable at the prescribed scale of costs set out in the *Supreme Court Rules*, schedule 3 (Costs).
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## Endnote

### Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

*[Presentation speech made in Assembly on 14 November 2002]*

I certify that the above is a true copy of the Administrative Appeals Tribunal Amendment Bill 2002 which was passed by the Legislative Assembly on 12 December 2002.

Clerk of the Legislative Assembly

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