



Australian Capital Territory

Planning and Land Legislation Amendment Act 2003

A2003-30

Contents

	Page	
Part 1	Preliminary	
1	Name of Act	2
2	Commencement	2
Part 2	Planning and Land Act 2002	
3	Act amended—pt 2	3
4	Delegation by land agency Section 56	3
5	New chapter 6	3
Part 3	Repeals and further amendments	
6	Repeal of Acts	9
7	Repeal of instruments	9
8	Acts, regulations and instrument amended—sch 1	9

Contents

		Page
Schedule 1	Further amendments	10
Part 1.1	Land (Planning and Environment) Act 1991	10
Part 1.2	Land Titles (Unit Titles) Act 1970	12
Part 1.3	Planning and Land Act 2002	13
Part 1.4	Public Sector Management Act 1994	13
Part 1.5	Taxation (Government Business Enterprises) Regulations 2003	14
Part 1.6	Territory plan	14



Australian Capital Territory

Planning and Land Legislation Amendment Act 2003

A2003-30

An Act to amend the *Planning and Land Act 2002*, to repeal Acts relating to certain development authorities, and for other purposes.

*Notified under the Legislation Act 2001 on 30 June 2003
(see www.legislation.act.gov.au)*

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

Part 1 Preliminary

1 Name of Act

This Act is the *Planning and Land Legislation Amendment Act 2003*.

2 Commencement

This Act commences on the day the *Planning and Land Act 2002* commences.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Part 2 Planning and Land Act 2002

3 Act amended—pt 2

This part amends the *Planning and Land Act 2002*.

Note The Act is also amended in sch 1.

4 Delegation by land agency Section 56

after

chief executive officer

insert

or a land agency staff member

5 New chapter 6

insert

Chapter 6 Transitional provisions

Part 6.1 Interpretation

78 Definitions for ch 6

In this chapter:

repealed Act means—

- (a) in relation to the Gungahlin Development Authority—the *Gungahlin Development Authority Act 1996* as in force immediately before the commencement; or

- (b) in relation to the Kingston Foreshore Development Authority—the *Kingston Foreshore Development Authority Act 1999* as in force immediately before the commencement.

repealed authority means—

- (a) the Gungahlin Development Authority as in existence immediately before the commencement; or
- (b) the Kingston Foreshore Development Authority as in existence immediately before the commencement.

Part 6.2 Assets, rights and liabilities

79 Vesting of assets, rights and liabilities

- (1) All assets, rights and liabilities of a repealed authority vest in the land agency.
- (2) However, the Minister may, in writing, exclude an asset of a repealed authority from subsection (1).
- (3) An asset excluded from subsection (1) vests in the Territory.
- (4) An exclusion under subsection (2) is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

80 Registration of changes in ownership of certain assets

- (1) This section applies if—
- (a) an asset, including an interest in land, vests in the land agency or the Territory under section 79; and
- (b) information about ownership of the asset may be entered in a statutory property register.
- (2) On application by the land agency chief executive officer or the chief executive, a person responsible for the statutory property

register must make the entries in the register and do anything else that is necessary or desirable to reflect the operation of section 79.

- (3) The evidentiary value of a statutory property register is not affected by—
- (a) the making of an entry under this section; or
 - (b) a failure to make an entry under this section; or
 - (c) a failure by the chief executive officer or the chief executive to make an application under this section.

- (4) In this section:

statutory property register means a register kept under a Territory law for recording ownership of property (including interests in property) if—

- (a) title to the property is passed by registration in the register of ownership of the property; or
- (b) the owner of an interest in the property may lose the interest if the interest is not registered in the register.

Examples

the register of land titles kept under the *Land Titles Act 1925*, section 43
a book, index or register mentioned in the *Instruments Act 1933*

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).

81 Evidentiary certificate for vested assets and liabilities

- (1) The land agency chief executive officer may certify that an asset or liability has vested in the land agency under section 79.
- (2) The chief executive may certify that an asset has vested in the Territory under section 79.
- (3) A certificate under subsection (1) or (2) is evidence of what it states.

- (4) A document that purports to be a certificate under subsection (1) or (2) is taken to be such a certificate unless the contrary is proved.

82 Proceedings and evidence

- (1) For a proceeding begun before the commencement of this Act and to which a repealed authority is a party, the land agency is substituted as a party.
- (2) A proceeding for a cause of action may be brought against the land agency if, before the commencement of this Act—
- (a) the cause of action had accrued against a repealed authority; and
 - (b) a proceeding had not begun in relation to the cause of action; and
 - (c) the limitation period for the cause of action had not ended.
- (3) The *Limitation Act 1985*, part 3 (Postponement of bar) applies to the beginning of a proceeding that may be brought by or against the land agency under this section as if the cause of action had been accrued by, or had accrued against, the agency.
- (4) The court or other entity in which, or before which, a proceeding may be or has been begun or continued under this section may give directions about the proceeding.
- (5) Any evidence that, apart from the repeal of the repealed Acts, would have been admissible for or against a repealed authority is admissible for or against the land agency.
- (6) An order made in a proceeding by or against a repealed authority before the commencement of this Act may, after the commencement, be enforced by or against the land agency.
- (7) In this section:

proceeding includes a proceeding by way of appeal or review (including review under the *Ombudsman Act 1989*) or any other

civil proceeding in relation to an asset, right or liability vested in the land agency under section 79 (Vesting of assets, rights and liabilities).

repealed Acts means:

- (a) the *Gungahlin Development Authority Act 1996*; and
- (b) the *Kingston Foreshore Development Authority Act 1999*.

Part 6.3 **Reports and financial statements of repealed authorities**

83 **Continuation of repealed authorities for annual reports**

- (1) Each repealed authority continues in existence but only for this part.
- (2) The *Annual Reports (Government Agencies) Act 1995* continues to apply to a repealed authority in relation to a reporting period for the authority—
 - (a) beginning before the commencement of this section; and
 - (b) for which a report had not been presented by the authority under that Act, section 8 (Annual reports of public authorities) before the repeal of the repealed Act.
- (3) The *Gungahlin Development Authority Act 1996*, section 38 (Information to be included in annual report) applies to a report by the Gungahlin Development Authority mentioned in subsection (2).
- (4) The *Kingston Foreshore Development Authority Act 1999*, section 41 (Annual report) applies to a report by the Kingston Foreshore Development Authority mentioned in subsection (2).
- (5) A repealed authority must prepare a financial statement under the *Financial Management Act 1996*, section 59 (Annual financial statements)—

- (a) in relation to its operations for each financial year during which the authority operated; if
 - (b) a financial statement under that section had not been prepared before the repeal of the repealed Act establishing the authority.
- (6) In this section:
reporting period—see the *Annual Reports (Government Agencies) Act 1995*, section 4.

84 Continuation of repealed authorities CEOs for certain purposes

- (1) The position of chief executive officer for the Gungahlin Development Authority established under the repealed Act continues in existence but only for this part.
- (2) The position of chief executive officer of the Kingston Foreshore Development Authority established under the repealed Act continues in existence but only for this part.

Part 6.4 Other provisions

85 Transitional regulations

- (1) The regulations may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act or the *Planning and Land (Consequential Amendments) Act 2002*.
- (2) The regulations may modify the operation of this Act to make provision in relation to any matter that, in the Executive's opinion, is not, or not adequately, dealt with in this Act or the *Planning and Land (Consequential Amendments) Act 2002*.

86 Expiry of ch 6

This chapter expires 1 year after the day it commences.

Part 3 Repeals and further amendments

6 Repeal of Acts

The following Acts are repealed:

- *Gungahlin Development Authority Act 1996* No 38
- *Kingston Foreshore Development Authority Act 1999* No 89.

7 Repeal of instruments

The following instruments are repealed:

- *Gungahlin Development Authority Appointment 2002 (No 1)* DI2002-142
- *Gungahlin Development Authority Appointment 2002 (No 2)* DI2002-143
- *Gungahlin Development Authority Appointment 2002 (No 3)* DI2002-165
- *Gungahlin Development Authority - Australian Capital Territory (Gungahlin Development Authority Act 1996) 2002* NI2002-17.

8 Acts, regulations and instrument amended—sch 1

Schedule 1 amends the Acts, regulations and instrument mentioned in it.

Schedule 1 Further amendments

(see s 7)

Part 1.1 Land (Planning and Environment) Act 1991

[1.1] New section 24 (1A)

insert

- (1A) The planning and land authority must give the Executive a written report about the authority's consultation with the national capital authority.

[1.2] Section 24

renumber subsections when Act next republished under Legislation Act

[1.3] Section 229 (4) (ac)

omit

[1.4] Section 246 (1) (b) (i)

omit

(other than an application)

[1.5] Section 283 (1)

substitute

- (1) The Executive may, in writing, authorise anybody to act on its behalf in the exercise of a function under part 2 (Planning) or part 5 (Land administration), other than a function under the following sections:
- section 163 (4) (Leases to community organisations)

- section 164 (3) (Special leases)
- section 167 (1) (Eligibility for certain classes of leases)
- section 178 (3) (Refund of amount paid for grant of lease).

[1.6] Section 283 (3)

omit

[1.7] New section 293

insert

293 Proceedings and evidence

- (1) This section applies if—
 - (a) a provision of this Act, as in force immediately before the commencement of this section, expressly authorised or required the commissioner to do something; and
 - (b) after the commencement of this section, the thing may be done by another entity (the *substituted entity*).
- (2) For a proceeding begun in relation to the thing before the commencement of this section and to which the commissioner is a party, the substituted entity is substituted as a party.
- (3) A proceeding for a cause of action in relation to the thing may be brought against the substituted entity if, before the commencement of this section —
 - (a) the cause of action had accrued against the commissioner; and
 - (b) a proceeding had not begun in relation to the cause of action; and
 - (c) the limitation period for the cause of action had not ended.
- (4) The *Limitation Act 1985*, part 3 (Postponement of bar) applies to the beginning of a proceeding that may be brought by or against the

substituted entity under this section as if the cause of action had been accrued by, or had accrued against, the entity.

- (5) The court or other entity in which, or before which, a proceeding may be or has been begun or continued under this section may give directions about the proceeding.
- (6) Any evidence that, apart from the abolition of the position of commissioner, would have been admissible for or against the commissioner is admissible for or against the substituted entity.
- (7) An order made in a proceeding by or against the commissioner before the commencement of this section may, after the commencement, be enforced by or against the substituted entity.
- (8) In this section:

commissioner means the commissioner under this Act as in force immediately before the commencement of this section.

proceeding means a civil or administrative proceeding, and includes a proceeding by way of appeal or review (including review under the *Ombudsman Act 1989*).

- (9) This section expires 1 year after the day it commences.

[1.8] Dictionary, definition of *Gungahlin central area*

omit

**Part 1.2 Land Titles (Unit Titles) Act
1970**

[1.9] Section 21

omit

the chief executive of the administrative unit responsible for the administration of the *Unit Titles Act 2001*

substitute

the planning and land authority

Part 1.3 Planning and Land Act 2002

[1.10] Section 48 (4) (a) and (b)

omit

authority

insert

land agency

[1.11] Section 48 (5)

omit

subsection (3)

substitute

subsection (4)

[1.12] Section 75 (3), definition of *official*, paragraph (c)

substitute

(c) the land agency chief executive officer; or

(d) a land agency board member.

Part 1.4 Public Sector Management Act 1994

[1.13] Section 5 (i) and (j)

substitute

(i) the University of Canberra.

Part 1.5 Taxation (Government Business Enterprises) Regulations 2003

[1.14] Regulation 4

omit

- Gungahlin Development Authority
- Kingston Foreshore Development Authority

substitute

- land development agency

Part 1.6 Territory plan

[1.15] Part D, schedule 1, definition of *Authority*

substitute

Authority means the planning and land authority

Endnote

Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

[Presentation speech made in Assembly on 8 May 2003]

I certify that the above is a true copy of the Planning and Land Legislation Amendment Bill 2003 which was passed by the Legislative Assembly on 26 June 2003.

Acting Clerk of the Legislative Assembly

© Australian Capital Territory 2003