



Australian Capital Territory

Co-operatives National Law (ACT) Act 2017

A2017-8

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Australian Capital Territory

Co-operatives National Law (ACT) Act 2017

A2017-8

An Act to apply a national law relating to co-operatives, and for other purposes

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

Part 1 Preliminary

1 Name of Act

This Act is the *Co-operatives National Law (ACT) Act 2017*.

2 Commencement

This Act commences on 1 May 2017.

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

3 Dictionary

- (1) The dictionary at the end of this Act is part of this Act.
- (2) A definition in the dictionary applies to the local application provisions of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition '*local regulations*—see section 35.' means that the term 'local regulations' is defined in that section and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

4 Terms used in Co-operatives National Law (ACT)

Terms used in the local application provisions of this Act and also in the *Co-operatives National Law (ACT)* have the same meanings in those provisions as they have in the *Co-operatives National Law (ACT)*.

Note A definition in an Act applies except so far as the contrary intention appears (see [Legislation Act](#), s 155).

5 Notes

A note included in the local application provisions of this Act is explanatory and is not part of this Act.

Note See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

6 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note *Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Part 2 Application of Co-operatives National Law and Co-operatives National Regulations

7 Application of Co-operatives National Law and Co-operatives National Regulations

- (1) Subject to this section, the Co-operatives National Law, as in force from time to time, set out in the appendix to the NSW Act—
 - (a) applies as a territory law, as modified by schedule 1; and
 - (b) as so applying may be referred to as the *Co-operatives National Law (ACT)*; and
 - (c) so applies as if it were part of this Act.
- (2) A law that amends the Co-operatives National Law set out in the appendix to the NSW Act and is passed by the New South Wales Parliament after this Act's notification day must be presented to the Legislative Assembly not later than 6 sitting days after the day it is passed.
- (3) The amending law may be disallowed by the Legislative Assembly in the same way, and within the same period, that a disallowable instrument may be disallowed.

Note See the [Legislation Act](#), s 65 (Disallowance by resolution of Assembly).
- (4) If the amending law is not presented to the Legislative Assembly in accordance with subsection (2), or is disallowed under subsection (3), the Co-operatives National Law applying under subsection (1) is taken—
 - (a) not to include the amendments made by the amending law; and
 - (b) to include any provision repealed or amended by the amending law as if the amending law had not been made.

- (5) The Co-operatives National Regulations, as in force from time to time—
- (a) apply as Co-operatives National Regulations in force under the *Co-operatives National Law (ACT)*, as modified by local regulations; and
 - (b) as so applying may be referred to as the *Co-operatives National Regulation (ACT)*.
- (6) In this section:
- NSW Act* means the *Co-operatives (Adoption of National Law) Act 2012* (NSW).

8 Exclusion of Legislation Act

- (1) The [Legislation Act](#) does not apply to the *Co-operatives National Law (ACT)*.
- (2) However, the [Legislation Act](#), chapter 7 (Presentation, amendment and disallowance of subordinate laws and disallowable instruments) applies to the *Co-operatives National Regulation (ACT)* as if—
- (a) a reference to a subordinate law were a reference to the Co-operatives National Regulations; and
 - (b) a reference to ‘notification day’ in the [Legislation Act](#), section 64 (Presentation of subordinate laws and disallowable instruments) were a reference to ‘published’ as mentioned in the *Co-operatives National Law (ACT)*, section 614 (1) (Publication and commencement of National Regulations); and
 - (c) any other necessary changes were made.
- (3) This section does not limit the application of the [Legislation Act](#) to the local application provisions of this Act.

Part 3 Some matters referred to in Co-operatives National Law (ACT)

9 Meaning of certain terms in Co-operatives National Law (ACT)

In the *Co-operatives National Law (ACT)*:

police officer means a police officer.

Note The [Legislation Act](#), dictionary, pt 1 defines ***police officer*** as a member or special member of the Australian Federal Police.

public sector official means a public employee.

Note ***Public employee*** means a public servant, a person employed by a territory instrumentality or a statutory office-holder or a person employed by a statutory office-holder (see [Legislation Act](#), dict, pt 1).

Registrar means the Registrar of Co-operatives designated under section 19 (Registrar of Co-operatives—the Law, s 595).

this jurisdiction means the ACT.

10 Corporations application legislation—the Law, s 4

The Corporations application legislation for the ACT is this Act, part 4 (Application of Corporations Act).

11 Designated authority—the Law, s 4

- (1) The Registrar is the designated authority for the following provisions of the *Co-operatives National Law (ACT)*:
 - (a) section 15 (Modifications to applied provisions);
 - (b) section 492 (Appointment of inspectors);
 - (c) section 494 (Inspector's identity card);
 - (d) section 520 (Appointment of investigators);

- (e) section 601 (Inspection of register of co-operatives);
 - (f) section 622 (Approval of forms).
- (2) A magistrate is the designated authority for the following provisions of the *Co-operatives National Law (ACT)*:
- (a) section 504 (Warrants);
 - (b) section 505 (Warrants—applications made otherwise than in person).

12 Designated instrument—the Law, s 4

- (1) The designated instrument for a provision of the *Co-operatives National Law (ACT)* mentioned in an item in table 12, column 2, for the case mentioned in column 4, is the instrument mentioned in column 5 for the item and case.

Table 12 Designated instruments

column 1 item	column 2 section	column 3 description	column 4 case	column 5 designated instrument
1	33 (1)	certificate of registration	all cases	notifiable instrument
2	35 (5)	exemption from special postal ballot for amendment of rules of conversion	individual co-operative	written order
			class of co-operatives	notifiable instrument
3	60 (2)	specifying rule amendments requiring prior approval by Registrar	all cases	notifiable instrument
4	71 (1)	exemption from requirements of pt 2.4, div 2	individual co-operative	written order
			class of co-operatives	notifiable instrument

Part 3 Some matters referred to in Co-operatives National Law (ACT)

Section 12

column 1 item	column 2 section	column 3 description	column 4 case	column 5 designated instrument
5	92 (6)	exemption from complying with disclosure direction	all cases	written order
6	171 (1)	exemption from requirements of pt 2.6, div 5	individual co-operative	written order
			class of co-operatives	notifiable instrument
7	221 (1)	approval of omission of 'Limited' or 'Ltd' from name	all cases	notifiable instrument
8	226 (6)	exemption from requirement to display location notice	individual small co-operative	written order
			all small co-operatives	notifiable instrument
			class of co-operatives	notifiable instrument
9	316 (1)	exemption for individual co-operative from accounting and auditing provisions	all cases	written order
10	317 (1)	exemption for class of co-operatives from accounting and auditing provisions	all cases	notifiable instrument
11	319 (1)	exemption for non-auditor members and former members of audit firms, and former employees of audit companies from accounting and auditing provisions	all cases	notifiable instrument
12	320 (1)	exemption for classes of non-auditor members etc from accounting and auditing provisions	all cases	notifiable instrument

column 1 item	column 2 section	column 3 description	column 4 case	column 5 designated instrument
13	322 (1)	exemption from National Regulations made under pt 3.3	all cases	notifiable instrument
14	338 (6)	exemption from compliance with s 338	individual co-operative	written order
			class of co-operatives	notifiable instrument
15	343 (10)	exemption from compliance with s 343	individual co-operative	written order
			class of co-operatives	notifiable instrument
16	359 (3)	exemption from compliance with s 359 or s 248	all cases	written order
17	363 (2)	stating maximum greater than 20% of nominal value of issued share capital	individual co-operative	written order
			class of co-operatives	notifiable instrument
18	372 (1)	exemption of person or class of persons from the operation of pt 3.5, div 1	all cases	notifiable instrument
19	380 (1)	exemption from compliance with pt 3.5, div 2 or s 248	all cases	written order
20	397 (4)	exemption from compliance with s 397	all cases	written order
21	401 (7)	notification by Registrar of date of effect of transfer of engagements between co-operatives	all cases	notifiable instrument
22	404 (4)	exemption from compliance with s 404 or s 248	all cases	written order
23	443 (5)	liquidator's notice of appointment	all cases	written notice

Part 3 Some matters referred to in Co-operatives National Law (ACT)

Section 13

column 1 item	column 2 section	column 3 description	column 4 case	column 5 designated instrument
24	445 (3)	exemption from compliance with s 445 or s 248	individual co-operative	written order
			class of co-operatives	notifiable instrument
25	607 (3)	Registrar's approval	individual co-operative or person	written order
			class of co-operatives or persons	notifiable instrument

(2) In this section:

notifiable instrument means a notifiable instrument in the approved form.

Note A notifiable instrument must be notified under the [Legislation Act](#).

written notice means a written notice in the approved form.

written order means a written order in the approved form.

13 Designated tribunal—the Law, s 4

(1) The designated tribunal for the *Co-operatives National Law (ACT)* is—

(a) for part 7.3 (Appeals and review) of the Law—the ACAT; or

(b) for any other provision of the Law—the Magistrates Court.

- (2) In a proceeding under this Act in which the Magistrates Court is the designated tribunal, the Magistrates Court may, on its own initiative or on application by a party to the proceeding—
 - (a) transfer the proceeding to the Supreme Court on the ground that the proceeding raises a complex question or matter of general importance; or
 - (b) reserve a question of law for determination by the Supreme Court.
- (3) If a proceeding has been transferred to the Supreme Court under subsection (2) (a), the proceeding may be continued and completed as if steps taken in the proceeding prior to the transfer had been taken in the Supreme Court.

14 Shares compulsorily acquired—the Law, s 436

For the *Co-operatives National Law (ACT)*, section 436 (3) (b) (ii), the [Corporations Act](#), section 1341 (1) and (2) (Entitlement to unclaimed property) are taken to be omitted and substituted by the following subsections and note:

- ‘(1) If unclaimed property is an amount of money, the amount must be paid to the public trustee and guardian.

Note A person who claims to be entitled to an amount paid to the public trustee and guardian under this section may apply to the public trustee for payment of the amount (see [Unclaimed Money Act 1950](#), pt 5).

- (2) If unclaimed property has been sold or disposed of under section 1339 (2), the amount of the proceeds must be paid to the public trustee and guardian.’

15 Deregistration—the Law, s 453

- (1) For the *Co-operatives National Law (ACT)*, section 453 (d) (Application of Corporations Act—deregistration), a reference to the Commonwealth in any of the following sections of the [Corporations Act](#) is taken to be a reference to the Territory:
 - (a) section 601AD (Effect of deregistration);
 - (b) section 601AE (What the Commonwealth or ASIC does with the property);
 - (c) section 601AF (The Commonwealth’s and ASIC’s power to fulfil outstanding obligations of deregistered company).
- (2) For the *Co-operatives National Law (ACT)*, section 453 (e), a reference in the [Corporations Act](#), section 601AE, to crediting an amount to a Special Account (within the meaning of the [Public Governance, Performance and Accountability Act 2013](#) of the Commonwealth) is taken to be a reference to crediting the amount to the consolidated revenue fund.

16 Costs of inquiry—the Law, s 530

For the *Co-operatives National Law (ACT)*, section 530 (3) (b) (Costs of inquiry), the prescribed entity is the Territory.

17 Secrecy—the Law, s 537

- (1) For the *Co-operatives National Law (ACT)*, section 537 (4) (c) (Secrecy), information may be divulged to the following entities:
 - (a) the Treasurer;
 - (b) the commissioner for revenue;
 - (c) the auditor-general;

- (d) the ombudsman;
 - (e) a person nominated by a person mentioned in paragraphs (a) to (d).
- (2) For the *Co-operatives National Law (ACT)*, section 537 (6), definition of *former Act*, the *Cooperatives Act 2002* is specified.

18 Pecuniary penalty orders—the Law, s 556

For the *Co-operatives National Law (ACT)*, section 556 (2) (Pecuniary penalty orders), a pecuniary penalty ordered to be paid in this jurisdiction is to be paid and treated as a civil debt owed to the Territory.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

19 Registrar of Co-operatives—the Law, s 595

The commissioner for fair trading is designated as the Registrar of Co-operatives and may exercise the functions of the Registrar of Co-operatives under—

- (a) the local application provisions of this Act; and
- (b) the local regulations; and
- (c) the *Co-operatives National Law (ACT)*; and
- (d) the *Co-operatives National Regulation (ACT)*.

20 Protection of officials from liability—the Law, s 595

- (1) An official is not civilly liable for conduct engaged in honestly and without recklessness—
- (a) in the exercise of a function; or
 - (b) in the reasonable belief that the conduct was in the exercise of a function.

(2) Any civil liability that would, apart from this section, attach to the official attaches instead to the Territory.

(3) In this section:

conduct means an act or omission to do an act.

function means a function under—

- (a) the local application provisions of this Act; or
- (b) the local regulations; or
- (c) the *Co-operatives National Law (ACT)*; or
- (d) the *Co-operatives National Regulation (ACT)*.

official means—

- (a) the Minister; or
- (b) the Registrar; or
- (c) a public sector official engaged in the administration of the local application provisions of this Act or the *Co-operatives National Law (ACT)*.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

21 Stamp duty on transfer—the Law, s 620

(1) This section applies if—

- (a) a co-operative that transfers its incorporation under the *Co-operatives National Law (ACT)*, part 4.3 (Mergers and transfers of engagements), division 2 (Transfer of incorporation), was before its registration as a co-operative under that Law a company under the [Corporations Act](#); and

- (b) stamp duty had been paid on its incorporation as a company in relation to the amount of the nominal capital of the company (or, if the nominal capital was subsequently increased, on the amount of its nominal capital as increased).
- (2) Any stamp duty paid must be taken into account and included in assessing the stamp duty payable on its incorporation or registration in accordance with the transfer.

22 Registration fees—the Law, s 620

No fee is chargeable under any Act for registration of an instrument executed or registered in relation to a transfer of any property to give effect to the *Co-operatives National Law (ACT)*, section 413 (Effect of merger or transfer on assets and liabilities) or section 481 (Effect of merger or transfer of engagements) in relation to—

- (a) a merger of co-operatives; or
- (b) a transfer of engagements; or
- (c) a transfer of incorporation.

Part 4 Application of Corporations Act

23 Definitions—pt 4

In this part:

applied Corporations law means a provision or provisions of the Corporations legislation, or of an Act, regulation or other instrument forming part of the Corporations legislation, that this part applies to a matter as if the provision were a territory law.

Corporations legislation means the Corporations legislation to which the [Corporations Act](#), part 1.1A (Interaction between Corporations legislation and State and Territory laws) applies.

declaratory provision means a provision of a territory law to which this part applies by operation of section 24.

matter includes act, omission, body, person or thing.

modification includes addition, exception, omission or substitution.

24 Provisions to which this part applies

- (1) This part applies to a provision if the provision declares a matter to be an applied Corporations legislation matter for the purposes of this part in relation to any of the following (whether with or without modifications):
 - (a) the whole of the Corporations legislation;
 - (b) a specified Act, regulations or other instrument forming part of the Corporations legislation;
 - (c) a specified provision of the Corporations legislation or of an Act, regulation or other instrument forming part of the Corporations legislation.

- (2) Subsection (1) does not apply to a provision to the extent that it declares a matter to be an applied Corporations legislation matter for the purposes of this part in relation to a provision of the Corporations legislation, or of an Act, regulations or other instrument forming part of the Corporations legislation, that already applies to the matter as a law of the Commonwealth.

25 Effect of declaratory provisions

- (1) Subject to this part, a declaratory provision has effect in relation to a matter as follows:
- (a) if the declaratory provision is one to which section 24 (1) (a) applies—the whole of the Corporations legislation applies to the matter as if it were a territory law;
 - (b) if the declaratory provision is one to which section 24 (1) (b) applies—the Act, regulation or other instrument specified by the declaratory provision applies to the matter as if it were a territory law;
 - (c) if the declaratory provision is one to which section 24 (1) (c) applies—the provision specified by the declaratory provision applies in relation to the matter as if it were a territory law.
- (2) A provision applied to a matter by a declaratory provision, or taken by force of section 29 (1) (Implied application of regulations and other provisions of Corporations legislation) to apply to the matter, is applied as in force from time to time unless the declaratory provision applies it as in force at a particular time specified by the declaratory provision.

26 Modifications to applied Corporations law

- (1) This part operates to apply a provision of the Corporations legislation, or of an Act, regulation or other instrument forming part of the Corporations legislation, as a territory law subject to the following modifications:
 - (a) any modifications specified by or under the declaratory provision;

Note The *Co-operatives National Law (ACT)*, s 15 also modifies the applied provisions, including modifying references to ASIC and the gazette.
 - (b) a reference to the Minister is a reference to the Minister administering the declaratory provision;
 - (c) a reference to this jurisdiction is a reference to the ACT;
 - (d) any other modifications that are necessary or prescribed by regulation, whether generally or in relation to a particular applied Corporations law.
- (2) Any power to make regulations under an Act containing a declaratory provision extends to the making of regulations specifying modifications for the purposes of this part.
- (3) Except as provided by subsection (1), definitions and other interpretation provisions of the Corporations legislation, or of the Act, regulations or other instrument forming part of the Corporations legislation, relevant to the applied Corporations law are taken also to apply to the matter that is the subject of the declaratory provision.
- (4) This section has effect subject to the following sections:
 - (a) section 27 (Conferral of functions on ASIC);
 - (b) section 28 (Conferral of functions on ACT courts);

- (c) section 29 (Implied application of regulations and other provisions of Corporations legislation);
- (d) section 30 (Proceedings for offences).

27 Conferral of functions on ASIC

- (1) Neither a declaratory provision nor an applied Corporations law operates to confer a function on ASIC in relation to the applied Corporations law unless—
 - (a) the declaratory provision provides for ASIC to exercise that function pursuant to an agreement or arrangement of the kind referred to in the *Australian Securities and Investments Commission Act 2001* (Cwlth), section 11 (8) or (9A) (b) (Corporations legislation functions and powers and other functions and powers); and
 - (b) ASIC is authorised to exercise that function under the *Australian Securities and Investments Commission Act 2001* (Cwlth), section 11.
- (2) If a declaratory provision operates to confer a function on ASIC in relation to an applied Corporations law, the conferral of that function is taken not to impose a duty to exercise that function despite anything to the contrary in the applied Corporations law.

28 Conferral of functions on ACT courts

An applied Corporations law that confers a function or duty on a court or on the Court is taken to confer that function or duty (along with the jurisdiction to exercise that function or duty) on the Supreme Court or such other court of the ACT specified by or under the declaratory provision.

29 Implied application of regulations and other provisions of Corporations legislation

- (1) Unless a declaratory provision provides otherwise, the following provisions of the Corporations legislation, or of an Act, regulation or other instrument forming part of the Corporations legislation, are also taken to apply to a matter that is the subject of a declaratory provision as if they were a territory law:
 - (a) the provisions of any regulations made under the applied Corporations law;
 - (b) any provision of the Corporations legislation, or of an Act, regulation or other instrument forming part of the Corporations legislation, that creates an offence in relation to a contravention of the applied Corporations law or specifies the penalty for an offence created by a provision of the applied Corporations law;
 - (c) the provisions of the [Corporations Act](#), part 9.4B (Civil consequences of contravening civil penalty provisions) for the purposes of any provision of the applied Corporations law that is a civil penalty provision within the meaning of that part.
- (2) The regulations may prescribe modifications (whether generally or in relation to a particular applied Corporations law) of any of the provisions that are also taken to apply to a matter by force of subsection (1) for the purposes of that application.

30 Proceedings for offences

- (1) Proceedings for an offence against an applied Corporations law may be dealt with as an offence against a territory law.

- (2) For the purposes of an offence against an applied Corporations law—
- (a) the amount of a penalty unit specified in relation to the offence by the applied Corporations law, or a provision taken by force of section 29 (1) to apply to the matter that is the subject of the declaratory provision, is \$100; and
 - (b) territory laws apply in relation to the offence as if the applied Corporations law, or a provision taken by force of section 29 (1) to apply to the matter that is the subject of the declaratory provision, were a territory law.
- (3) Without limiting subsection (2) (b), the territory law referred to in that subsection as applying in relation to an offence include laws with respect to the following:
- (a) the investigation and prosecution of offences;
 - (b) the arrest, custody, bail, trial, finding of guilt and conviction of persons charged with offences;
 - (c) proceedings relating to a matter referred to in paragraph (a) or (b);
 - (d) the classification of offences as indictable or summary;
 - (e) appeals and reviews relating to criminal proceedings and to proceedings of the kind referred to in paragraph (c);
 - (f) the sentencing, punishment and release of persons found guilty or convicted of offences;
 - (g) fines, penalties and forfeitures;
 - (h) confiscation of the proceeds of crime.

31 Application of Corporations legislation by other means

Nothing in this part prevents a territory law from applying any provision of the Corporations legislation, or of an Act, regulations or other instrument forming part of the Corporations legislation, as a territory law otherwise than by means of a declaratory provision.

Part 5 Miscellaneous

32 **Rules of co-operatives formed to carry on club may restrict voting rights**

- (1) This section applies to a co-operative that has as a primary activity the operation, maintenance or carrying on of a club.
- (2) The rules of the co-operative may provide for different classes of membership, and restrict the voting rights attaching to membership of those different classes, only if—
 - (a) the Registrar approves of the provision; and
 - (b) the membership of the class or classes entitled to full voting rights constitutes at least 40% of the total membership of the co-operative.
- (3) A rules provision mentioned in subsection (2) may be amended only with the prior approval of the Registrar.

33 **Proceeding for offences**

- (1) A proceeding for an offence is to be disposed of summarily in the Magistrates Court.
- (2) A proceeding for an offence under the local application provisions of this Act may be commenced—
 - (a) not later than 5 years after the alleged commission of the offence; and
 - (b) only by the Registrar or a person authorised, in writing, by the Registrar to commence proceedings.

Note The *Co-operatives National Regulation (ACT)*, s 551 and s 552 deal with commencing proceedings for an offence under that Law or the Co-operatives National Regulations.

(3) In this section:

offence means an offence under—

- (a) the local application provisions of this Act; or
- (b) the local regulations; or
- (c) the *Co-operatives National Law (ACT)*; or
- (d) the *Co-operatives National Regulation (ACT)*.

34 Proceeding for recovery of fines or penalties under co-operatives rules

A proceeding for the recovery of a fine or penalty imposed by the rules of a co-operative may be commenced—

- (a) in the Magistrates Court; and
- (b) only on application by the co-operative.

35 Regulation-making power—local regulations

(1) The Executive may make regulations (the *local regulations*) for—

- (a) the local application provisions of this Act; and
- (b) the *Co-operatives National Law (ACT)*.

Note 1 For the power to make regulations, see the [Legislation Act](#), s 44.

Note 2 A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

(2) A regulation may make provision in relation to—

- (a) the administration of the *Co-operatives National Law (ACT)*; and
- (b) procedural matters relating to any aspects of the *Co-operatives National Law (ACT)*; and

- (c) without limiting paragraph (a) or (b), administrative matters relating to the supervision and inspection of co-operatives.
- (3) A regulation may create offences and fix maximum penalties for the offences of not more than the amount mentioned in the *Co-operatives National Law (ACT)*, section 612 (5) (Power to make Co-operatives National Regulations).

Part 6 Repeals and consequential amendments

36 Legislation repealed

- (1) The following legislation is repealed:
 - *Cooperatives Act 2002* (A2002-45)
 - *Cooperatives Regulation 2003* (SL2003-22).
- (2) All other legislative instruments under the *Cooperatives Act 2002* are repealed.
- (3) The following legislative instrument under the *Legislation Act* is repealed:
 - *Legislation (Cooperatives) Delegation 2014 (No 1)* (NI2014-558).

37 Legislation amended—sch 2

This Act amends the legislation mentioned in schedule 2.

Part 10 Transitional

50 Meaning of *commencement day*—pt 10

In this part:

commencement day means the day section 3 commences.

51 Exclusion of Legislation Act—Co-operatives National Regulations

- (1) This section applies if Co-operatives National Regulations are published before the commencement day.
- (2) Section 8 (2) applies as if the Co-operatives National Regulations were published on the commencement day.

52 Saving of operation of Cooperatives Act 2002

- (1) The repeal of the *Cooperatives Act 2002* does not affect an existing right, privilege or liability acquired, accrued or incurred under that Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (2) An investigation, proceeding or remedy in relation to an existing right, privilege or liability under the *Cooperatives Act 2002* may be started, exercised, continued or completed, and the right, privilege or liability may be enforced and any penalty imposed, as if the repeal had not happened.

- (3) 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.

53 Registration of co-operatives

- (1) This section applies if, immediately before the commencement day, a co-operative was registered under the *Cooperatives Act 2002*.
- (2) The co-operative is, on the commencement day—
 - (a) taken to be registered under the *Co-operatives National Law (ACT)*; and
 - (b) if the co-operative was—
 - (i) a trading co-operative under the *Cooperatives Act 2002*—taken to be a distributing co-operative under the *Co-operatives National Law (ACT)*; or
 - (ii) a non-trading co-operative under the *Cooperatives Act 2002*—taken to be a non-distributing co-operative under the *Co-operatives National Law (ACT)*.

54 Minimum paid up amount of shares—the Law, s 78 (4)

The *Co-operatives National Law (ACT)*, section 78 (Minimum paid up amount) does not affect shares issued before the commencement day.

55 Entitlements of former members of trading co-operatives—the Law, sch 3, s 1

- (1) This section applies if a person's membership of a trading co-operative was cancelled before the commencement day.
- (2) A reference in the *Co-operatives National Law (ACT)*, part 2.6, division 5 (Entitlements of former members of distributing co-operatives) to a period of 2 years after the person's shares were forfeited is taken to be a reference to a period of 5 years after the person's shares were forfeited.

56 Entitlement to distribution from business or reserves of co-operative

Any entitlement that a member or former member of a co-operative had immediately before the commencement of this section, in relation to a surplus arising from the business of the co-operative or a part of the reserves of the co-operative, continues in force until satisfied.

57 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

58 Expiry—pt 10

This part expires 5 years after the commencement day.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

Schedule 1 Modifications—Co-operatives National Law

(see s 7)

[1.1] Section 15 (2) (f)

substitute

- (f) a reference in the applied provisions to notification (however described) in the Gazette is to be read as a reference to notification under the [Legislation Act](#);

[1.2] Section 88 (1), penalty

omit

or imprisonment for 6 months, or both

[1.3] Section 88 (2), penalty

omit

or imprisonment for 6 months, or both

[1.4] Section 90 (1), penalty

omit

or imprisonment for 6 months, or both

[1.5] Section 92 (1), penalty

omit

or imprisonment for 3 months, or both

[1.6] Section 252 (1), penalty

omit

or imprisonment for 3 months, or both

[1.7] Section 252 (2), penalty

omit

or imprisonment for 3 months, or both

[1.8] Section 286 (4), penalty

omit

penalty units or imprisonment for 3 months, or both

[1.9] Section 287 (1), penalty

omit

or imprisonment for 3 months, or both

[1.10] Section 340 (1), penalty

omit

or imprisonment for 6 months, or both

[1.11] Section 340 (2), penalty

omit

or imprisonment for 6 months, or both

[1.12] Section 453 (e)

omit

(within the meaning of the *Financial Management and Accountability Act 1997* of the Commonwealth)

substitute

(within the meaning of the *Public Governance, Performance and Accountability Act 2013* (Cwlth))

[1.13] Section 570

substitute

570 Operation of Part—appeal means review

A reference in this part to an appeal against a decision of the Registrar means a review of the decision.

Note Decisions are reviewed under the [ACT Civil and Administrative Tribunal Act 2008](#), pt 4A.

[1.14] New section 578 (4)

insert

(4) In this section:

rules of the designated tribunal means the [ACT Civil and Administrative Tribunal Act 2008](#).

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

Schedule 2 **Consequential amendments**

(see s 37)

Part 2.1 **Confiscation of Criminal Assets Act 2003**

[2.1] **Dictionary, definition of *financial institution*,
paragraph (c)**

omit

cooperative

substitute

co-operative

Part 2.2 **Electricity Feed-in (Renewable Energy Premium) Act 2008**

[2.2] **Section 5F (1), definition of *eligible entity*,
paragraph (a) (ii)**

omit

cooperative

substitute

co-operative

[2.3] **Section 5F (3), definition of *cooperative***

substitute

co-operative—see the *Co-operatives National Law (ACT)*, section 4.

Part 2.3 Land Tax Act 2004

[2.4] Section 11 (3), definition of *not-for-profit housing corporation*

omit

Cooperatives Act 2002

substitute

Co-operatives National Law (ACT)

Part 2.4 Legislation Act 2001

[2.5] Dictionary, part 1, new definitions

insert

Co-operatives National Law (ACT) means the provisions applying in the ACT because of the *Co-operatives National Law (ACT) Act 2017*, section 7 (1) (Application of Co-operatives National Law and Co-operatives National Regulations).

Co-operatives National Regulation (ACT) means the provisions applying in the ACT because of the *Co-operatives National Law (ACT) Act 2017*, section 7 (5) (Application of Co-operatives National Law and Co-operatives National Regulations).

Part 2.5 **Perpetuities and Accumulations Act 1985**

[2.6] Section 14 (3), definition of *fund*

omit

cooperative

substitute

co-operative

Part 2.6 **Unclaimed Money Act 1950**

[2.7] Section 26, definition of *unclaimed money*, new paragraph (ca)

insert

(ca) the *Co-operatives National Law (ACT)*, section 436 (3) (b) (ii) (Disposal of consideration for shares compulsorily acquired);

Note The *Co-operatives National Law (ACT)*, s 436 (3) (b) (ii) is affected by the *Co-operatives National Law (ACT) Act 2017*, s 14.

[2.8] Dictionary, definition of *company*, paragraph (a) (ii)

omit

[*Cooperatives Act 2002*](#)

substitute

Co-operatives National Law (ACT)

Dictionary

(see s 3)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- ACT
- auditor-general
- commissioner for fair trading
- commissioner for revenue
- Corporations Act
- director-general (see s 163)
- disallowable instrument (see s 9)
- instrument (see s 14)
- magistrate
- Minister (see s 162)
- notifiable instrument (see s 10)
- ombudsman
- police officer
- public employee
- public servant
- public trustee and guardian
- Supreme Court
- territory law
- Treasurer.

applied Corporations law, for part 4 (Application of Corporations Act)—see section 23.

Co-operatives National Law means the Co-operatives National Law set out in the appendix to the [Co-operatives \(Adoption of National Law\) Act 2012](#) (NSW).

Co-operatives National Law (ACT) means the provisions applying because of section 7 (1).

Co-operatives National Regulation (ACT) means the provisions applying because of section 7 (2).

Co-operatives National Regulations means the Co-operatives National Regulations made under the Co-operatives National Law.

Corporations legislation, for part 4 (Application of Corporations Act)—see section 23.

declaratory provision, for part 4 (Application of Corporations Act)—see section 23.

local application provisions of this Act means the provisions of this Act other than—

- (a) the *Co-operatives National Law (ACT)*; and
- (b) the modified text of the Co-operatives National Law (ACT) in schedule 1.

local regulations—see section 35.

matter, for part 4 (Application of Corporations Act)—see section 23.

modification, for part 4 (Application of Corporations Act)—see section 23.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 16 February 2017.

2 Notification

Notified under the [Legislation Act](#) on 4 April 2017.

3 Republications of amended laws

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

I certify that the above is a true copy of the Co-operatives National Law (ACT) Bill 2017, which was passed by the Legislative Assembly on 21 March 2017.

Clerk of the Legislative Assembly

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