



Australian Capital Territory

# Co-operatives National Law (ACT) Act 2017

A2017-8

**Republication No 3**

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Last amendment made by [A2019-18](#)  
(republication for amendments by [A2018-52](#)  
as amended by [A2019-18](#))

## About this republication

### The republished law

This is a republication of the *Co-operatives National Law (ACT) Act 2017* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 December 2019. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 December 2019.

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](http://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 includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### 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 the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Co-operatives National Law (ACT) Act 2017

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Australian Capital Territory

# **Co-operatives National Law (ACT) Act 2017**

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

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## Part 1 Preliminary

### 1 Name of Act

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

### 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) Also, the [Legislation Act](#), part 6.3 (Making of certain statutory instruments about fees) and chapter 7 (Presentation, amendment and disallowance of subordinate laws and disallowable instruments) apply to the provisions of the *Co-operatives National Law (ACT)* modified by the following:
- (a) schedule 1, modifications 1.1A to 1.1E;
  - (b) schedule 1, modification 1.5A;
  - (c) schedule 1, modifications 1.5C and 1.5D;
  - (d) schedule 1, modification 1.12A;
  - (e) schedule 1, modifications 1.15 and 1.16.
- (4) 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

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

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

Section 12

<b>column 1 item</b>	<b>column 2 section</b>	<b>column 3 description</b>	<b>column 4 case</b>	<b>column 5 designated instrument</b>
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



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) the integrity commission;
  - (f) 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 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)

### [1.1AA] Section 4, new definition of *disallowable instrument*

*insert*

*disallowable instrument*—see the [Legislation Act 2001](#) (ACT), section 9.

### [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](#);

### [1.1A] Section 26 (1) (b) (ii)

*substitute*

- (ii) determined by the Minister by disallowable instrument; and

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

### [1.1B] Section 31 (b) (ii)

*substitute*

- (ii) determined by the Minister by disallowable instrument; and

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

**[1.1C] Section 37 (b) (ii)**

*substitute*

- (ii) determined by the Minister by disallowable instrument;  
and

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

**[1.1D] Section 57 (2) (b)**

*omit*

- (b) prescribed by the local regulations;  
for obtaining a copy of the rules from the Registrar.

*substitute*

- (b) determined by the Minister by disallowable instrument;  
for obtaining a copy of the rules from the Registrar.

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

**[1.1E] Section 57 (3) (b)**

*substitute*

- (b) determined by the Minister by disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, 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

**[1.5A] Section 92 (8) (b)**

*substitute*

(b) determined by the Minister by disallowable instrument.

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

**[1.5B] New section 214 (1) (a) (v)**

*insert*

(v) any disallowable instrument made under this Law;

**[1.5C] Section 214 (5) (b)**

*substitute*

(b) determined by the Minister by disallowable instrument.

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

**[1.5D] Section 243 (2) (c) and note**

*substitute*

- (c) be accompanied by the filing fee:
- (i) prescribed by the National Regulations, unless subparagraph (ii) applies; or
  - (ii) determined by the Minister by disallowable instrument.

*Note 1* See section 444 (4) (a) regarding the period within which a special resolution must be filed with the Registrar in connection with the voluntary winding up of a co-operative.

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

**[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))

**[1.12A] Section 522 (4) (b)**

*substitute*

(b) determined by the Minister by disallowable instrument.

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

**[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).

**[1.15] Section 601 (5), definition of *prescribed fee*, paragraph (b)**

*substitute*

(b) determined by the Minister by disallowable instrument.

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



**[1.16] Section 604 (b)**

*omit*

- (ii) prescribed by the local regulations;

has been paid.

*substitute*

- (ii) determined by the Minister by disallowable instrument;

has been paid.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation 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)
- integrity commission
- 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 About the endnotes

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## 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 are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

#### **Co-operatives National Law (ACT) Act 2017 A2017-8**

notified LR 4 April 2017

s 1, s 2 commenced 4 April 2017 (LA s 75 (1))

remainder commenced 1 May 2017 (s 2)

as amended by

#### **Justice and Community Safety Legislation Amendment Act 2017 (No 3) A2017-38 pt 4**

notified LR 9 November 2017

s 1, s 2 commenced 9 November 2017 (LA s 75 (1))

pt 4 commenced 16 November 2017 (s 2 (1))

#### **Integrity Commission Act 2018 A2018-52 sch 1 pt 1.3 (as am by A2019-18 s 4)**

notified LR 11 December 2018

s 1, s 2 commenced 11 December 2018 (LA s 75 (1))

sch 1 pt 1.3 commenced 1 December 2019 (s 2 (2) (a) as am by [A2019-18 s 4](#))

#### **Integrity Commission Amendment Act 2019 A2019-18**

notified LR 14 June 2019

s 1, s 2 commenced 14 June 2019 (LA s 75 (1))

s 3, s 4 commenced 15 June 2019 (s 2 (1))

*Note* This Act only amends the [Integrity Commission Act 2018 A2018-52](#).

## Endnotes

4 Amendment history

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### 4 Amendment history

#### Commencement

s 2 om LA s 89 (4)

#### Exclusion of Legislation Act

s 8 am [A2017-38](#) s 10; ss renum R2 LA

#### Secrecy—the Law, s 537

s 17 am [A2018-52](#) amdt 1.12; pars renum R3 LA

#### Repeals and consequential amendments

pt 6 hdg om LA s 89 (3)

#### Legislation repealed

s 36 om LA s 89 (3)

#### Legislation amended—sch 2

s 37 om LA s 89 (3)

#### Transitional

pt 10 hdg [exp 1 May 2022 \(s 58\)](#)

#### Meaning of commencement day—pt 10

s 50 [exp 1 May 2022 \(s 58\)](#)

#### Exclusion of Legislation Act—Co-operatives National Regulations

s 51 [exp 1 May 2022 \(s 58\)](#)

#### Saving of operation of Cooperatives Act 2002

s 52 [exp 1 May 2022 \(s 58\)](#)

#### Registration of co-operatives

s 53 [exp 1 May 2022 \(s 58\)](#)

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

s 54 [exp 1 May 2022 \(s 58\)](#)

#### Entitlements of former members of trading co-operatives—the Law, sch 3,

s 1

s 55 [exp 1 May 2022 \(s 58\)](#)

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

s 56 [exp 1 May 2022 \(s 58\)](#)

#### Transitional regulations

s 57 [exp 1 May 2022 \(s 58\)](#)

#### Expiry—pt 10

s 58 [exp 1 May 2022 \(s 58\)](#)

#### Modifications—Co-operatives National Law

sch 1 am [A2017-38](#) ss 11-15

**Consequential amendments**

sch 2 hdg om LA s 89 (3)

**Dictionary**dict am [A2018-52](#) amdt 1.13**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.

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R1 1 May 2017	1 May 2017– 15 Nov 2017	not amended	new Act
R2 16 Nov 2017	16 Nov 2017– 30 Nov 2019	<a href="#">A2017-8</a>	amendments by <a href="#">A2017-8</a>

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