

2006

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Chief Minister)

Administrative (Miscellaneous Amendments) Bill 2006

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(Chief Minister)

Administrative (Miscellaneous Amendments) Bill 2006

A Bill for

An Act to amend and repeal laws to implement part of the Strategic and Functional Review, and for other purposes

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

1 **1 Name of Act**

2 This Act is the *Administrative (Miscellaneous Amendments)*
3 *Act 2006*.

4 **2 Commencement**

5 (1) This Act commences on 1 July 2006.

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

8 (2) However, a date or time provided by a special commencement
9 provision for an amendment made by this Act has effect as the
10 commencement date or time of the amendment.

11 (3) Also, each of the following provisions commence on a day fixed by
12 the Minister by written notice:

13 (a) section 4 (1) (b) and (5) (which repeal the *Australian Capital*
14 *Tourism Act 1997* and registrable instruments under that Act);

15 (b) section 4 (1) (e) and (6) (which repeal the *Stadiums Authority*
16 *Act 2000* and registrable instruments under that Act).

17 *Note* If a provision has not commenced within 6 months beginning on the
18 notification day, it automatically commences on the first day after that
19 period (see Legislation Act, s 79).

- 1 (4) In this section:
2 *special commencement provision*, for an amendment made by this
3 Act, is a provision, in brackets beginning with the text
4 ‘commencement:’, at the end of the amendment.

5 **Example**

6 An amendment followed by ‘(commencement: on a day fixed by the Minister by
7 written notice)’ means that the amendment commences on the day fixed by the
8 Minister by written notice.

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

12 **3 Legislation amended—sch 1**

13 This Act amends the legislation mentioned in schedule 1.

14 **4 Legislation repealed**

- 15 (1) The following Acts are repealed:
16 (a) *ACTION Authority Act 2001* A2001-61;
17 (b) *Australian Capital Tourism Corporation Act 1997* A1997-5;
18 (c) *Health Promotion Act 1995* A1995-43;
19 (d) *Small Business Commissioner Act 2004* A2004-70;
20 (e) *Stadiums Authority Act 2000* A2000-6.
21 (2) The *Planning and Land Regulation 2003* SL2003-16 is repealed.
22 (3) The following instruments are repealed:
23 • *Independent Competition and Regulatory Commission (Terms*
24 *of Reference) Determination 2006 (No 1)* DI2006-2
25 • *Independent Pricing and Regulatory Commission (Reference for*
26 *Investigation) Declaration 1998* DI1998-265
27 • *Independent Pricing and Regulatory Commission (Specified*
28 *Requirements Relating to Investigations 1999* DI1999-276.

Section 4

- 1 (4) All other registrable instruments under the Acts mentioned in
2 subsection (1) (other than subsection (1) (b) and (e)) are repealed.
- 3 (5) All registrable instruments under the *Australian Capital Tourism*
4 *Corporation Act 1997* are repealed.
- 5 (6) All registrable instruments under the *Stadiums Authority Act 2000*
6 are repealed.

1 **Schedule 1** **Legislation amended**

2 (see s 3)

3 **Part 1.1** **ACTION Authority Act 2001**

4 **[1.1]** **Section 6 (4) and (5)**

5 *omit*

6 (commencement: 3 days after notification day)

7 **Part 1.2** **Emergencies Act 2004**

8 **[1.2]** **Section 3 (c)**

9 *substitute*

10 (c) to provide for the effective and cohesive management by the
11 commissioner of the state emergency service, the ambulance
12 service, the fire brigade and the rural fire service; and

13 **[1.3]** **Chapter 2**

14 *substitute*

15 **Chapter 2** **Emergency services**
16 **commissioner**

17 **7** **Emergency services commissioner**

18 The chief executive may appoint a public servant to be the ACT
19 Emergency Services Commissioner (the *commissioner*).

20 *Note* For the making of appointments (including acting appointments), see
21 the Legislation Act, pt 19.3.

- 1 **8 Commissioner’s functions**
- 2 (1) The commissioner is responsible for the overall strategic direction
3 and management of the emergency services.
- 4 *Note* A chief officer of an emergency service is responsible for the general
5 management and control of the service (see s 28 (3) (a), s 29 (3) (a),
6 s 30 (3) (a) and s 31 (3) (a)).
- 7 (2) The commissioner is also responsible for community education and
8 improving community preparedness for emergencies.
- 9 (3) The commissioner has the functions given to the commissioner
10 under this Act and any other territory law.
- 11 *Note* A provision of a law that gives an entity (including a person) a function
12 also gives the entity powers necessary and convenient to exercise the
13 function (see Legislation Act, s 196 and dict, pt 1, def *entity*).
- 14 (4) In the exercise of the commissioner’s functions, the commissioner
15 must—
- 16 (a) seek to give the emergency services a strong, cohesive,
17 strategic and operational direction; and
- 18 (b) seek to ensure delivery of high-quality and effective service to
19 the community by each of the emergency services; and
- 20 (c) seek to improve the operational effectiveness and flexibility of
21 the emergency services; and
- 22 (d) recognise the value of the individual emergency services; and
- 23 (e) recognise the importance of all emergency service members,
24 including volunteer members, to the services and the
25 community; and
- 26 (f) recognise the diverse needs of the community, including
27 people with special needs; and
- 28 **Examples of people with special needs**
- 29 1 the frail aged
- 30 2 people with a disability

- 1 3 people in hospital
- 2 (g) emphasise community education and preparedness for
- 3 emergencies; and
- 4 (h) ensure that members of the emergency services and volunteers
- 5 are properly equipped, trained and prepared; and
- 6 (i) participate in strategic and operational planning for
- 7 emergencies.

8 **Examples of strategic and operational planning for emergencies**

- 9 1 strategic planning for recovery from a natural disaster
- 10 2 operational planning for response to a fuel shortage emergency

11 *Note* An example is part of the Act, is not exhaustive and may extend, but

12 does not limit, the meaning of the provision in which it appears (see

13 Legislation Act, s 126 and s 132).

14 **9 Minister and emergency coordination**

15 The Minister must, in consultation with the commissioner, ensure

16 that—

- 17 (a) an emergency coordination centre is established and
- 18 maintained for the ACT; and
- 19 (b) common planning, administrative and logistic support is
- 20 provided for the emergency services (including common
- 21 communications and emergency coordination centres).

22 **Example**

23 common risk management planning

24 *Note* An example is part of the Act, is not exhaustive and may extend,

25 but does not limit, the meaning of the provision in which it

26 appears (see Legislation Act, s 126 and s 132).

- 1 **10 Asking bushfire council’s advice**
- 2 (1) The commissioner must ask for, and consider, the bushfire council’s
- 3 advice before exercising a function relating to bushfires prescribed
- 4 by regulation.
- 5 (2) The commissioner may ask for the bushfire council’s advice in
- 6 relation to the exercise of any other function relating to bushfires.
- 7 **11 Commissioner may make guidelines**
- 8 (1) The commissioner may, in writing, make guidelines for the strategic
- 9 operation of each of the emergency services (the *commissioner’s*
- 10 *guidelines*).
- 11 (2) The commissioner’s guidelines are a notifiable instrument except to
- 12 the extent that the commissioner considers it is in the public interest
- 13 that it not be notifiable.
- 14 *Note* A notifiable instrument must be notified under the Legislation Act.
- 15 (3) Any part of the commissioner’s guidelines that is not notified under
- 16 the Legislation Act must be given to the appropriate Legislative
- 17 Assembly committee.
- 18 (4) The commissioner’s guidelines may make provision in relation to—
- 19 (a) areas of the emergency services to be operated jointly; and
- 20 (b) operation of joint areas of the emergency services; and
- 21 (c) planning and conduct of joint operations of the emergency
- 22 services; and
- 23 (d) anything else in relation to the strategic organisation and
- 24 operation of each of the emergency services that the
- 25 commissioner considers appropriate.
- 26 **Examples**
- 27 1 guidelines for the operation of a joint communications area for the services
- 28 2 guidelines for joint operations
- 29 3 guidelines for joint response to a major building collapse

1 4 guidelines for ending appointments of volunteer members (including
2 application of the rules of natural justice)

3 *Note 1* An Act that authorises the making of a statutory instrument
4 (eg guidelines) authorises an instrument to be made in relation to any
5 matter required or permitted to be prescribed under the authorising law
6 or that is necessary or convenient to be prescribed for carrying out or
7 giving effect to the authorising law (see Legislation Act, s 44).

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

11 (5) The commissioner's guidelines may apply, adopt or incorporate a
12 law or instrument as in force from time to time.

13 *Note* The text of an applied, adopted or incorporated law or instrument,
14 whether applied as in force from time to time or at a particular time, is
15 taken to be a notifiable instrument (see Legislation Act, s 47 (5) and
16 (6)).

17 (6) The chief officer of an emergency service may recommend
18 amendments of the commissioner's guidelines to the commissioner.

19 (7) For this section:

20 *appropriate Legislative Assembly committee* means the standing
21 committee of the Legislative Assembly nominated, in writing, by
22 the Speaker.

23 **12 Delegation by commissioner**

24 The commissioner may delegate the commissioner's functions under
25 this Act or another territory law to a public servant or a member of
26 an emergency service.

27 *Note* For the making of delegations and the exercise of delegated functions,
28 see the Legislation Act, pt 19.4.

1 **[1.4] Section 28 (1) and (2)**

2 *substitute*

- 3 (1) The chief executive may, after consulting the commissioner, appoint
4 a public servant to be the chief officer of the ambulance service (the
5 ***chief officer (ambulance service)***).

6 *Note 1* For the making of appointments (including acting appointments), see
7 the Legislation Act, pt 19.3.

8 *Note 2* In particular, an appointment may be made by naming a person or
9 nominating the occupant of a position (see s 207).

- 10 (2) However, the chief executive may appoint a person under
11 subsection (1) only if the person has the management, professional
12 and technical expertise to exercise the chief officer's functions.

13 **[1.5] Section 29 (1) and (2)**

14 *substitute*

- 15 (1) The chief executive may, after consulting the commissioner, appoint
16 a public servant to be the chief officer of the fire brigade (the ***chief***
17 ***officer (fire brigade)***).

18 *Note 1* For the making of appointments (including acting appointments), see
19 the Legislation Act, pt 19.3.

20 *Note 2* In particular, an appointment may be made by naming a person or
21 nominating the occupant of a position (see s 207).

- 22 (2) However, the chief executive may appoint a person under
23 subsection (1) only if the person has the management, professional
24 and technical expertise to exercise the chief officer's functions.

1 **[1.6] Section 30 (1) and (2)**

2 *substitute*

- 3 (1) The chief executive may, after consulting with the bushfire council
4 and the commissioner, appoint a public servant to be the chief
5 officer of the rural fire service (the *chief officer (rural fire*
6 *service)*).

7 *Note 1* For the making of appointments (including acting appointments), see
8 the Legislation Act, pt 19.3.

9 *Note 2* In particular, an appointment may be made by naming a person or
10 nominating the occupant of a position (see s 207).

- 11 (2) However, the chief executive may appoint a person under
12 subsection (1) only if the person has the management, professional
13 and technical expertise to exercise the chief officer's functions.

14 **[1.7] Section 31 (1) and (2)**

15 *substitute*

- 16 (1) The chief executive may, after consulting the commissioner, appoint
17 a public servant to be the chief officer of the SES (the *chief officer*
18 *(SES)*).

19 *Note 1* For the making of appointments (including acting appointments), see
20 the Legislation Act, pt 19.3.

21 *Note 2* In particular, an appointment may be made by naming a person or
22 nominating the occupant of a position (see s 207).

- 23 (2) However, the chief executive may appoint a person under
24 subsection (1) only if the person has the management, professional
25 and technical expertise to exercise the chief officer's functions.

26 **[1.8] Section 32 (1) and (2)**

27 *substitute*

- 28 (1) The chief executive may, after consulting the commissioner, appoint
29 a public servant to be the deputy chief officer of a service.

- 1 (2) However, the chief executive may appoint a person under
2 subsection (1) only if the person has the management, professional
3 and technical expertise to exercise the deputy chief officer's
4 functions.

5 **[1.9] Section 32 (4)**

6 *substitute*

- 7 (4) Before appointing a person as the deputy chief officer (rural fire
8 service), the chief executive must consult with the bushfire council.

9 **[1.10] Section 35 (3)**

10 *substitute*

- 11 (3) A direction by the chief officer of an emergency service (other than
12 a medical treatment direction) must, if practicable, be in accordance
13 with any direction of the commissioner and the commissioner's
14 guidelines.

15 **[1.11] Section 36**

16 *substitute*

17 **36 Chief officers to advise commissioner**

- 18 (1) The chief officer of an emergency service must advise the
19 commissioner on the capability of the service.
- 20 (2) The chief officer of an emergency service must report to the
21 commissioner on the capability of the service if the commissioner
22 asks.

1 **[1.12] New part 4.5**

2 *insert*

3 **Part 4.5 Volunteers**

4 **59B Appointment of volunteer members**

- 5 (1) The chief officer of a service may appoint a person as a volunteer
6 member of the service.
- 7 (2) The chief officer may end the appointment at any time in
8 accordance with the commissioner's guidelines for the service.

9 **59C Volunteer appointments in accordance with guidelines**

- 10 (1) The appointment of a person as a volunteer member of a service
11 must be in accordance with the commissioner's guidelines for the
12 service.
- 13 (2) Without limiting subsection (1), the appointment of a volunteer may
14 be made to—
- 15 (a) an operational unit in the service; and
16 (b) a rank in the service.
- 17 (3) Before appointing a volunteer member of the rural fire service to a
18 senior rank of the service, the chief officer (rural fire service) must
19 consult with the bushfire council.
- 20 (4) In this section:

21 *operational unit* includes a brigade.

22 *senior rank*, for the rural fire service, means a senior rank under the
23 commissioner's guidelines for the service.

1 **59D Casual volunteers**

2 (1) A person in charge of an activity that is part of an operation in
3 which an emergency service is taking part may—

4 (a) ask someone else to take part in the activity without
5 remuneration or reward; or

6 (b) agree to someone else taking part in the activity without
7 remuneration or reward.

8 **Example**

9 A member of the ambulance service may ask a volunteer to hold equipment.

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

13 (2) A person who takes part in an activity under this section is a *casual*
14 *volunteer* for this Act.

15 (3) Subsection (2) does not apply to a member of an emergency service
16 or a member of a support unit or a specialist acting under a
17 cooperative arrangement.

18 (4) The Legislation Act, part 19.3 does not apply in relation to a casual
19 volunteer.

20 *Note* The Legislation Act, pt 19.3 deals with appointments generally.

21 (5) In this section:

22 *specialist*—see section 175.

23 *support unit*—see section 175.

24 **[1.13] Parts 4.5 and 4.6**

25 *renumber as parts 4.6 and 4.7*

1 **[1.14] Section 60 heading**

2 *substitute*

3 **60 Definitions—pt 4.6**

4 **[1.15] Section 71**

5 *substitute*

6 **71 Commissioner may declare bushfire abatement zone**

7 (1) The commissioner may, after consulting with the conservator and
8 the planning and land authority, declare an area to be a bushfire
9 abatement zone.

10 (2) A declaration is a notifiable instrument.

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

12 **[1.16] Section 82**

13 *substitute*

14 **82 Directions by commissioner to owner of land**

15 (1) The commissioner may, in writing, direct an owner of land to
16 comply with a bushfire management requirement, or bushfire
17 operational plan, applying to the area.

18 (2) Unless the commissioner is satisfied that there are urgent
19 circumstances, the commissioner must consult with the conservator
20 before giving the direction.

21 (3) The commissioner may, in consultation with the conservator, make
22 guidelines for giving directions under this section in urgent
23 circumstances.

1 **[1.17] Section 123 (4)**

2 *substitute*

- 3 (4) The owner of land may also burn material on any day (whether in or
4 outside the bushfire season) in accordance with the commissioner's
5 oral approval.

6 **[1.18] Sections 130 and 131**

7 *substitute*

8 **130 Functions of bushfire council**

- 9 (1) The bushfire council has the function of advising the Minister about
10 matters relating to bushfires.

- 11 (2) If the commissioner asks for the bushfire council's advice before
12 exercising a function relating to bushfires, the council also has the
13 function of advising the commissioner about the exercise of the
14 function.

15 *Note* The commissioner must ask for the bushfire council's advice before
16 exercising certain functions (see s 10).

- 17 (3) The bushfire council may exercise any other function given to it
18 under this Act or another territory law.

19 *Note* A provision of a law that gives an entity a function also gives the entity
20 powers necessary and convenient to exercise the function (see
21 Legislation Act, s 196 and dict, pt 1, def *entity*).

22 **131 Chief executive to give support to bushfire council**

23 The chief executive must provide administrative support and
24 facilities for the bushfire council.

1 **[1.19] Section 162 (1)**

2 *substitute*

- 3 (1) For the management of a declared state of emergency, the territory
4 controller may direct the commissioner or the head of an entity to
5 undertake response or recovery operations.

6 **[1.20] Section 174**

7 *substitute*

8 **174 Commissioner must assist recovery for other**
9 **emergencies**

- 10 (1) The commissioner must assist in recovery from the effects of an
11 emergency by supporting the activities of any entity working in the
12 area of recovery and welfare in the role of assisting the community
13 to recover.

- 14 (2) Without limiting subsection (1), the commissioner must give
15 support by—

16 (a) identifying people in the community to act as contacts in
17 relation to the activities; and

18 (b) together with relevant entities—

19 (i) establishing priorities for the short-term recovery of
20 infrastructure; and

21 (ii) assisting in the re-establishment of infrastructure.

22 **[1.21] Section 176 (1)**

23 *omit everything before paragraph (a), substitute*

- 24 (1) The Minister may enter into a written arrangement with a
25 Commonwealth or State agency, or an agency of a foreign country,
26 (a *cooperative arrangement*) to facilitate cooperation—

1 **[1.22] Section 182 (2) and (3)**

2 *substitute*

3 (2) If the gift is expressed to be subject to a condition, the chief
4 executive may agree to comply with the condition, as far as
5 practicable, in the administration of the gift.

6 (3) However, if the chief executive is satisfied that the condition is
7 inappropriate, impracticable or impossible to carry out, the chief
8 executive may, in writing, amend the terms of the condition to the
9 extent necessary to make it appropriate and practicable to carry out.

10 **[1.23] Section 197 (1)**

11 *substitute*

12 (1) The commissioner must give an identity card to—

13 (a) each member of an emergency service; and

14 (b) each inspector or investigator who is not a member of an
15 emergency service.

16 **[1.24] Section 197 (3) (b)**

17 *substitute*

18 (b) the person does not return the person's identity card to the
19 commissioner as soon as practicable (but within 7 days) after
20 the day the person ceases to be a member, inspector or
21 investigator.

22 **[1.25] Section 198 (1), definition of *official*, paragraphs (d) and**
23 **(e)**

24 *substitute*

25 (d) anyone else exercising a function under this Act.

-
- 1 **[1.26] Section 198 (4)**
- 2 *omit*
- 3 For subsection (1) (e),
- 4 *substitute*
- 5 For subsection (1) (d),
- 6 **[1.27] Section 198 (4) (c)**
- 7 *substitute*
- 8 (c) a casual volunteer taking part in an activity under section 59D
- 9 (Casual volunteers); or
- 10 **[1.28] Dictionary, definition of *ambulance services***
- 11 *omit*
- 12 part 4.5
- 13 *substitute*
- 14 part 4.6
- 15 **[1.29] Dictionary, definitions of *authority* and *authority***
- 16 ***guidelines***
- 17 *omit*
- 18 **[1.30] Dictionary, definition of *casual volunteer***
- 19 *substitute*
- 20 *casual volunteer*—see section 59D (2).

1 **[1.31] Dictionary, definitions of *emergency services* and**
2 ***firefighting services***

3 *omit*

4 part 4.5

5 *substitute*

6 part 4.6

7 **[1.32] Dictionary, definition of *member*, paragraph (d)**

8 *substitute*

9 (c) includes a volunteer or casual volunteer in relation to the
10 service.

11 **[1.33] Dictionary, definitions of *rescue services* and *response***
12 ***operation***

13 *omit*

14 part 4.5

15 *substitute*

16 part 4.6

17 **[1.34] Dictionary, definition of *volunteer member***

18 *substitute*

19 ***volunteer member*** means a person appointed as a volunteer member
20 of an emergency service under section 59B.

1 **[1.35] Further amendments, mentions of *authority***

2 *omit*

3 authority

4 *substitute*

5 commissioner

6 *in*

- 7 • section 62 (2)
- 8 • section 65 (1) and (2)
- 9 • section 72 (1), (2), (5) and (6)
- 10 • section 73
- 11 • section 75 (1) (b)
- 12 • section 76
- 13 • section 78 (2), (3), (4) and (5)
- 14 • section 114 (1) and (2)
- 15 • section 115 (1)
- 16 • section 116 (3) (b)
- 17 • section 117 (1)
- 18 • section 118 (1), (3) and (4)
- 19 • section 119 (2) and (3)
- 20 • section 121 (1) (a)
- 21 • section 122 (4) (a)
- 22 • section 123 (3) and (5)
- 23 • section 124 (1)
- 24 • section 143 (3) (b)
- 25 • section 149 (3)
- 26 • section 177 (1) and (2)
- 27 • section 178
- 28 • section 179 (1)
- 29 • section 184

- 1 • section 200 (1) and (2)

2 **[1.36] Further amendments, mentions of *authority guidelines***

3 *omit*

4 authority guidelines

5 *substitute*

6 commissioner's guidelines

7 *in*

- 8 • section 34 (2)
9 • section 38 (1)
10 • section 48 (2)
11 • section 67 (5) (a)
12 • section 68 (7) (a)

13 **Part 1.3 Financial Management Act 1996**

14 **[1.37] Section 54 (1)**

15 *omit*

- 16 • ACT Health Promotion Authority

17 **[1.38] Section 54 (1)**

18 *omit*

- 19 • ACTION Authority

20 **[1.39] Section 54 (1)**

21 *omit*

- 22 • Australian Capital Tourism Corporation
23 (commencement: on a day fixed by the Minister by written notice)

-
- 1 **[1.40] Section 54 (1)**
- 2 *omit*
- 3 • Stadiums Authority
- 4 (commencement: on a day fixed by the Minister by written notice)
- 5 **[1.41] Section 76 (2)**
- 6 *omit*
- 7 • ACT Health Promotion Authority
- 8 **[1.42] Section 76 (2)**
- 9 *omit*
- 10 • ACTION Authority
- 11 **[1.43] Section 76 (2)**
- 12 *omit*
- 13 • Australian Capital Tourism Corporation
- 14 (commencement: on a day fixed by the Minister by written notice)
- 15 **[1.44] Section 76 (2)**
- 16 *omit*
- 17 • Stadiums Authority
- 18 (commencement: on a day fixed by the Minister by written notice)

1 **[1.45] New divisions 9.6 and 9.7**

2 *insert*

3 **Division 9.6 Restructuring of territory authorities**

4 **104 Purpose of div 9.6**

5 The purpose of this division is to facilitate the transfer of assets,
6 rights and liabilities of, or held by, territory authorities to which this
7 division applies.

8 *Note 1* A *liability* includes an obligation (see Legislation Act, dict, pt 1).

9 *Note 2* See also the Legislation Act, dict, def *asset*.

10 **105 What territory authorities does div 9.6 apply to?**

11 (1) This division applies to a territory authority if the authority is
12 prescribed by regulation for this division.

13 (2) A reference in this division to a *division 9.6 authority* is a reference
14 to a territory authority to which this division applies.

15 (3) To remove any doubt—

16 (a) nothing in this Act prevents a division 9.6 authority also being
17 a division 9.7 authority; and

18 (b) a regulation may prescribe a territory authority for this division
19 whether or not this part would otherwise apply to the authority.

20 **106 Responsible Minister may direct div 9.6 authority to sell
21 or transfer assets**

22 (1) The responsible Minister for a division 9.6 authority may direct the
23 authority to sell or transfer a stated asset of, or held by, the
24 authority.

1 (2) The direction may also impose on the division 9.6 authority
2 requirements to assist or regulate, or otherwise in relation to, the
3 sale or transfer.

4 **Examples of other requirements**

- 5 1 that a sale or transfer must be to a stated entity
6 2 that a sale or transfer must be finished before a stated time
7 3 that a sale or transfer must be undertaken in a stated way
8 4 that an asset must be sold for a price within a stated price-range
9 5 that an asset must be marketed, and the sale undertaken, through a stated
10 agent

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

14 (3) The division 9.6 authority must comply with the direction.

15 (4) A direction under subsection (1) is a notifiable instrument.

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

17 (5) To remove any doubt, this section is additional to, and does not
18 limit, any other provision of this division.

19 **107 Transfer of assets by declaration—div 9.6 authorities**

20 (1) The responsible Minister for a division 9.6 authority may make 1 or
21 more of the following declarations (a *transfer declaration*) in
22 relation to an asset of, or held by, the authority:

- 23 (a) a declaration that the stated asset vests in a stated entity at a
24 stated time without a conveyance, transfer or assignment;
- 25 (b) a declaration that a stated instrument relating to the asset
26 continues to have effect after the asset vests in a stated entity as
27 if a reference in the instrument to the authority were a
28 reference to the entity;

- 1 (4) The responsible Minister for a division 9.6 authority may declare
2 that a stated person becomes the authority's successor in law, in
3 relation to the authority's rights and liabilities under a stated
4 contract, immediately after the authority's rights and liabilities
5 under the contract become rights and liabilities of the entity.
- 6 (5) A declaration under this section has effect according to its terms.
- 7 (6) A declaration under this section is a notifiable instrument
- 8 *Note* A notifiable instrument must be notified under the Legislation Act.
- 9 (7) To remove any doubt, this section is additional to, and does not
10 limit, any other provision of this division.

11 **109 Transfer of liabilities by declaration—div 9.6 authorities**

- 12 (1) The responsible Minister for a division 9.6 authority may make 1 or
13 more of the following declarations in relation to a liability of the
14 authority:
- 15 (a) a declaration that a stated liability stops being a liability of the
16 authority and becomes a liability of a stated entity at a stated
17 time;
- 18 (b) a declaration that a stated instrument relating to a stated
19 liability continues to have effect after the liability becomes a
20 liability of a stated entity as if a reference in the instrument to
21 the authority were a reference to the entity;
- 22 (c) a declaration that a stated entity becomes the authority's
23 successor in law in relation to a stated liability immediately
24 after the liability becomes a liability of the entity.
- 25 (2) A declaration under subsection (1) has effect in accordance with its
26 terms.
- 27 (3) A declaration under subsection (1) is a notifiable instrument.
- 28 *Note* A notifiable instrument must be notified under the Legislation Act.

1 (4) To remove any doubt, this section is additional to, and does not limit
2 any other provision of this division.

3 **110 Assistance given by authorities for div 9.6**

4 (1) A division 9.6 authority may, on the authority's own initiative, give
5 the Territory assistance in relation to the transfer of the authority's
6 assets.

7 **Examples of forms of assistance**

8 1 giving information

9 2 giving financial assistance

10 3 giving a financial benefit to an entity

11 4 giving facilities, information and other assistance in relation to the conduct
12 of a due diligence procedure or market briefing

13 5 entering into an agreement with the Territory

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

17 (2) A division 9.6 authority must, if asked in writing by the responsible
18 Minister for the authority, assist the Territory in relation to the
19 transfer of the authority's assets.

20 (3) If a division 9.6 authority must give assistance under subsection (2),
21 the assistance must be given within the period, and in the way,
22 stated in the request.

23 (4) To remove any doubt, a division 9.6 authority that gives assistance
24 under this section does not incur civil liability only because of the
25 giving of assistance.

26 (5) Any liability that would, apart from this section, attach to the
27 division 9.6 authority attaches instead to the Territory.

-
- 1 **111 Assistance given by governing board members for div 9.6**
- 2 (1) The governing board, or a member of the governing board, of a
- 3 division 9.6 authority may, on the board's or member's own
- 4 initiative, give the Territory assistance in relation to the transfer of
- 5 the authority's assets.
- 6 **Examples of forms of assistance**
- 7 1 giving information
- 8 2 giving financial assistance
- 9 3 giving a financial benefit to an entity
- 10 4 giving facilities, information and other assistance in relation to the conduct
- 11 of a due diligence procedure or market briefing
- 12 5 entering into an agreement with the Territory
- 13 *Note* An example is part of the Act, is not exhaustive and may extend, but
- 14 does not limit, the meaning of the provision in which it appears (see
- 15 Legislation Act, s 126 and s 132).
- 16 (2) The governing board, or a member of the governing board, of a
- 17 division 9.6 authority must, if asked in writing by the responsible
- 18 Minister for the authority, assist the Territory in relation to the
- 19 transfer of the authority's assets.
- 20 (3) If the governing board, or a member of the governing board, of a
- 21 division 9.6 authority must give assistance under subsection (2), the
- 22 assistance must be given within the period, and in the way, stated in
- 23 the request.
- 24 (4) To remove any doubt, a governing board or a member of a
- 25 governing board who gives assistance under this section does not
- 26 incur civil liability only because of the giving of assistance.
- 27 (5) Any liability that would, apart from this section, attach to the
- 28 members or member of the governing board attaches instead to the
- 29 Territory.

- 1 **112 Use of information by Territory and div 9.6 authorities**
- 2 (1) This section applies to information provided under section 110
- 3 (Assistance given by authorities for div 9.6) or section 111
- 4 (Assistance given by governing board members for div 9.6) in
- 5 relation to a division 9.6 authority.
- 6 (2) The Territory, the division 9.6 authority or an associated person may
- 7 use the information for a purpose related to, or consequent on, the
- 8 transfer of the authority's assets.
- 9 (3) The Territory, the territory authority or an associated person may
- 10 give the information to someone else for a purpose related to, or
- 11 consequent on, the transfer of the authority's assets.
- 12 (4) If a person gives information or uses information under this
- 13 section—
- 14 (a) the giving of the information is not—
- 15 (i) a breach of confidence; or
- 16 (ii) a breach of professional etiquette or ethics; or
- 17 (iii) a breach of a rule of professional conduct; and
- 18 (b) the person does not incur civil liability only because of the
- 19 giving or using of the information.
- 20 (5) In this section:
- 21 ***associated person***—each of the following is an ***associated person*** in
- 22 relation to a division 9.6 authority:
- 23 (a) the responsible Minister for the authority;
- 24 (b) a public employee;
- 25 (c) a person who exercises a function for the Territory in relation
- 26 to the transfer of the authority's assets;
- 27 (d) a member of the governing board of the territory authority;

- 1 (e) an officer or employee of the authority;
- 2 (f) a person who exercises a function for the authority in relation
- 3 to the authority's assets.

4 **113 Contracts relating to the protection of information—**

5 **responsible Minister for div 9.6 authority**

- 6 (1) The responsible Minister for a division 9.6 authority may, on behalf
- 7 of the Territory, enter into a contract with an entity relating to the
- 8 protection of information if—
- 9 (a) the information is provided under section 110 (Assistance
- 10 given by authorities for div 9.6) or section 111 (Assistance
- 11 given by governing board members for div 9.6); and
- 12 (b) publication of the information might be expected to
- 13 substantially prejudice the entity's commercial interests.
- 14 (2) To remove any doubt, subsection (1) does not limit the power of the
- 15 Territory to enter into contracts.

16 **114 Contracts relating to the protection of information—**

17 **div 9.6 authority**

- 18 (1) A division 9.6 authority may enter into a contract with an entity
- 19 relating to the protection of information if—
- 20 (a) the information is provided under section 110 (Assistance
- 21 given by authorities for div 9.6) or section 111 (Assistance
- 22 given by governing board members for div 9.6); and
- 23 (b) publication of the information might be expected to
- 24 substantially prejudice the entity's commercial interests.
- 25 (2) To remove any doubt, subsection (1) does not limit the power of the
- 26 division 9.6 authority to enter into contracts.

- 1 **115 Transfer of pending proceedings—div 9.6 authorities**
- 2 (1) This section applies if—
- 3 (a) an entity (the *successor*) becomes the successor in law of
- 4 someone else (the *original entity*) at a particular time (the
- 5 *handover time*) in relation to a particular asset, right or liability
- 6 because of a declaration made by a Minister under this
- 7 division; and
- 8 (b) a proceeding to which the original entity was a party was
- 9 pending in a court or other entity immediately before the
- 10 handover time; and
- 11 (c) the proceeding related, completely or partly, to the asset, right
- 12 or liability.
- 13 (2) The successor is, by force of this subsection, substituted for the
- 14 original entity as a party to the proceeding to the extent to which the
- 15 proceeding relates to the asset, right or liability.
- 16 (3) The court or other entity in which, or before which, a proceeding
- 17 has been continued under this section may give directions about the
- 18 proceeding.
- 19 (4) However, subsection (2) does not apply if the responsible Minister
- 20 for the original entity determines otherwise.
- 21 (5) A determination under subsection (3) is a notifiable instrument.
- 22 *Note* A notifiable instrument must be notified under the Legislation Act.

- 23 **116 Proceedings and evidence—div 9.6 authorities**
- 24 (1) This section applies if an entity (the *successor*) becomes the
- 25 successor in law of someone else (the *original entity*) at a particular
- 26 time (the *handover time*) in relation to a particular asset, right or
- 27 liability because of a declaration made by a Minister under this
- 28 division.

- 1 (2) A proceeding for a cause of action may be brought against the
2 successor in relation to the asset, right or liability if, before
3 handover time—
- 4 (a) the cause of action had accrued against the original entity in
5 relation to the asset, right or liability; and
- 6 (b) a proceeding had not started in relation to the cause of action;
7 and
- 8 (c) the limitation period for the cause of action had not ended.
- 9 (3) The *Limitation Act 1985*, part 3 (Postponement of bar) applies to the
10 starting of a proceeding that may be brought by or against the
11 successor under this section as if the cause of action had been
12 accrued by, or had accrued against, the successor.
- 13 (4) The court or other entity in which, or before which, a proceeding
14 has been or may be started under this section may give directions
15 about the proceeding.
- 16 (5) Any evidence that, before handover time, would have been
17 admissible for or against the original entity in relation to the asset,
18 right or liability is admissible for or against the successor.
- 19 (6) An order made in a proceeding by or against the original entity in
20 relation to the asset, right or liability before handover time may be
21 enforced by or against the successor.
- 22 (7) In this section:
- 23 *proceeding* includes a proceeding by way of appeal or review
24 (including review under the *Ombudsman Act 1989*).

25 **117 Operation of div 9.6 not breach of contract etc**

26 To remove any doubt, the operation of this division must not be
27 taken to—

- 28 (a) place a person in breach of contract or confidence; or

- 1 (b) otherwise make a person guilty of a civil wrong; or
2 (c) place a person in breach of, or create a default under, any
3 territory law or provision in an agreement, arrangement or
4 understanding, including, for example, a contractual provision
5 prohibiting, restricting or regulating the following:
6 (i) the assignment or transfer of an asset, right or liability;
7 (ii) the disclosure of information; or
8 (d) release a surety from any of surety's liabilities in relation to a
9 liability that is transferred under a declaration made by a
10 Minister under this division; or
11 (e) fulfil a condition that—
12 (i) allows an entity to terminate an agreement or liability; or
13 (ii) alters the operation or effect of an agreement; or
14 (iii) requires an amount to be paid before its stated maturity.
15 *Note* An example is part of the Act, is not exhaustive and may extend, but
16 does not limit, the meaning of the provision in which it appears (see
17 Legislation Act, s 126 and s 132).

18 **118 Transfer of assets etc not otherwise disposed of—div 9.6**
19 **authorities**

- 20 (1) This section applies in relation to an asset, right or liability of a
21 division 9.6 authority if—
22 (a) the authority ceases to exist; and
23 (b) apart from this section, division 9.7 would not apply in relation
24 to the authority; and
25 (c) the asset, right or liability has not been disposed of after the
26 authority ceases to exist.

- 1 (2) Division 9.7 applies in relation to the division 9.6 authority as if it
2 were a division 9.7 authority, but only in relation to the asset, right
3 or liability that has not been disposed of.

4 **119 Annual reports etc for div 9.6 authorities**

- 5 (1) In this section:

6 *division 9.6 authority* means a division 9.6 authority that has ceased
7 to exist and is not also a division 9.7 authority.

8 *financial year*—see the *Annual Reports (Government Agencies)*
9 *Act 2004*, section 6 (3).

10 *handover day*, in relation to a division 9.6 authority, means the day
11 the authority ceases to exist.

12 *relevant financial year*, for a division 9.6 authority, means a
13 financial year—

- 14 (a) beginning before the handover day for the authority; and
15 (b) for which a report had not been presented by the authority
16 under the *Annual Reports (Government Agencies) Act 2004*,
17 section 6 (Annual report of public authority) before the
18 handover day.

19 *responsible Minister*, for a division 9.6 authority, means the
20 Minister who was the responsible Minister for the authority
21 immediately before it ceased to exist.

- 22 (2) The responsible Minister for a division 9.6 authority must present an
23 annual report for the authority for each relevant financial year.
24 (3) An annual report under subsection (2) must include anything that
25 the annual report would have been required to include before
26 handover day for the division 9.6 authority.

- 1 (4) The applied provisions of part 8 (Financial provisions for territory
2 authorities) apply in relation to a division 9.6 authority in relation to
3 any period before the handover day as if—
- 4 (a) the authority had not ceased to exist; and
- 5 (b) a reference in section 63 and section 68 to the authority
6 included a reference to the responsible Minister for the
7 authority; and
- 8 (c) a reference in section 64 and section 69 to the relevant person
9 for the authority included a reference to the responsible
10 Minister for the authority; and
- 11 (d) a reference in section 65 and section 70 to the chief executive
12 officer of the authority included a reference to the responsible
13 Minister for the authority; and
- 14 (e) all other necessary changes were made; and
- 15 (f) any changes prescribed by regulation were made.
- 16 (5) For subsection (4), the *applied provisions of part 8* are the
17 following:
- 18 • section 63 (Annual financial statements of territory authorities)
- 19 • section 64 (Responsibility for annual financial statements of
20 territory authorities)
- 21 • section 65 (Audit of annual financial statements of territory
22 authorities)
- 23 • section 66 (Annual financial statements of territory authorities
24 to be included in annual reports etc)
- 25 • section 68 (Statements of performance of territory authorities)
- 26 • section 69 (Responsibility for territory authority statements of
27 performance)
- 28 • section 70 (Scrutiny of territory authority statements of
29 performance)
- 30 • section 71 (Territory authority statements of performance to be
31 included in annual reports).

1 **Division 9.7** **Additional provisions for**
2 **restructuring of certain territory**
3 **authorities**

4 **120** **What territory authorities does div 9.7 apply to?**

- 5 (1) This division applies to a territory authority if the authority is
6 prescribed by regulation for this division.

7 *Note* This division also applies in relation to territory authorities in relation to
8 certain assets, rights and liabilities (see s 118).

- 9 (2) A reference in this division to a **division 9.7 authority** is a reference
10 to a territory authority to which this division applies.

- 11 (3) To remove any doubt, a regulation may prescribe a territory
12 authority for this division whether or not this part would otherwise
13 apply to the authority.

14 **121** **Definitions—div 9.7**

15 In this division:

16 **handover day**, in relation to a division 9.7 authority, means the day
17 the authority ceases to exist.

18 **territory authority** includes a territory authority that has ceased to
19 exist.

20 **122** **Vesting of assets, rights and liabilities—div 9.7**
21 **authorities**

- 22 (1) All assets, rights and liabilities of a division 9.7 authority
23 immediately before handover day vest in the Territory on handover
24 day.

- 25 (2) To remove any doubt, all records of the territory authority, including
26 applications made to the authority, become the records of the
27 Territory on handover day.

- 1 **123 Proceedings and evidence—div 9.7 authorities**
- 2 (1) For a proceeding started before handover day and to which a
- 3 division 9.7 authority is a party, the Territory is substituted as a
- 4 party on the handover day.
- 5 (2) A proceeding for a cause of action in relation to a division 9.7
- 6 authority may be brought against the Territory if, before handover
- 7 day—
- 8 (a) the cause of action had accrued against the authority; and
- 9 (b) a proceeding had not started in relation to the cause of action;
- 10 and
- 11 (c) the limitation period for the cause of action had not ended.
- 12 (3) The *Limitation Act 1985*, part 3 (Postponement of bar) applies to the
- 13 starting of a proceeding that may be brought by or against the
- 14 Territory under this section as if the cause of action had been
- 15 accrued by, or had accrued against, the Territory.
- 16 (4) The court or other entity in which, or before which, a proceeding
- 17 may be or has been started or continued under this section may give
- 18 directions about the proceeding.
- 19 (5) Any evidence that would, before a division 9.7 authority ceased to
- 20 exist, have been admissible for or against the authority is admissible
- 21 for or against the Territory.
- 22 (6) An order made in a proceeding by or against a division 9.7 authority
- 23 before the handover day may, after the handover day, be enforced
- 24 by or against the Territory.
- 25 (7) In this section:
- 26 ***proceeding*** includes a proceeding by way of appeal or review
- 27 (including review under the *Ombudsman Act 1989*).

-
- 1 **124** **Annual reports and financial statements for div 9.7**
2 **authorities**
- 3 (1) In this section:
- 4 *division 9.7 authority* means a division 9.7 authority that has ceased
5 to exist.
- 6 *financial year*—see the *Annual Reports (Government Agencies)*
7 *Act 2004*, section 6 (3).
- 8 *relevant financial year*, for a division 9.7 authority, means a
9 financial year—
- 10 (a) beginning before the handover day for the authority; and
- 11 (b) for which a report had not been presented by the authority
12 under the *Annual Reports (Government Agencies) Act 2004*,
13 section 6 (Annual report of public authority) before the
14 handover day.
- 15 *responsible Minister*, for a division 9.7 authority, means the
16 Minister who was the responsible Minister for the authority
17 immediately before it ceased to exist.
- 18 (2) The responsible Minister for a division 9.7 authority must present an
19 annual report for the authority for each relevant financial year.
- 20 (3) An annual report under subsection (2) must include anything that
21 the annual report would have been required to include before
22 handover day for the division 9.7 authority.
- 23 (4) The applied provisions of part 8 (Financial provisions for territory
24 authorities) apply in relation to a division 9.7 authority in relation to
25 any period before the handover day as if—
- 26 (a) the authority had not ceased to exist; and
- 27 (b) a reference in section 63 and section 68 to the authority
28 included a reference to the responsible Minister for the
29 authority; and

- 1 (c) a reference in section 64 and section 69 to the relevant person
2 for the authority included a reference to the responsible
3 Minister for the authority; and
- 4 (d) a reference in section 65 and section 70 to the chief executive
5 officer of the authority included a reference to the responsible
6 Minister for the authority; and
- 7 (e) all other necessary changes were made; and
- 8 (f) any changes prescribed by regulation were made.
- 9 (5) For subsection (4), the *applied provisions of part 8* are the
10 following:
- 11 • section 63 (Annual financial statements of territory authorities)
 - 12 • section 64 (Responsibility for annual financial statements of
13 territory authorities)
 - 14 • section 65 (Audit of annual financial statements of territory
15 authorities)
 - 16 • section 66 (Annual financial statements of territory authorities
17 to be included in annual reports etc)
 - 18 • section 68 (Statements of performance of territory authorities)
 - 19 • section 69 (Responsibility for territory authority statements of
20 performance)
 - 21 • section 70 (Scrutiny of territory authority statements of
22 performance)
 - 23 • section 71 (Territory authority statements of performance to be
24 included in annual reports).

1 **125** **References to div 9.7 authority**

2 In any contract, agreement or arrangement, a reference to a
3 division 9.7 authority is, for the application of the contract,
4 agreement or arrangement on or after the handover day, a reference
5 to the Territory.

6 (commencement: 3 days after notification day)

7 **[1.46] Sections 104 to 108**

8 *renumber as sections 130 to 134*

9 **[1.47] Part 11 heading**

10 *substitute*

11 **Part 19 Transitional—Financial**
12 **Management Legislation**
13 **Amendment Act 2005**

14 **[1.48] Section 109**

15 *renumber as section 150*

16 **[1.49] Section 110 (4)**

17 *omit*

18 section 109

19 *substitute*

20 section 150

21 **[1.50] Section 110**

22 *renumber as section 151*

23 **[1.51] Section 111**

24 *renumber as section 155*

1 **[1.52] New part 20**

2 *insert*

3 **Part 20 Transitional—Administrative**
4 **(Miscellaneous Amendments)**
5 **Act 2006**

6 **220 Transitional—definition of *territory authority***

7 (1) For this Act, the definition of *territory authority* as amended by the
8 *Administrative (Miscellaneous Amendments) Act 2006* is taken to
9 have had effect from 1 January 2006.

10 (2) This section expires 1 month after the day it commences.

11 (3) This section is a law to which the Legislation Act, section 88
12 (Repeal does not end effect of transitional laws etc) applies.

13 (commencement: 3 days after notification day)

14 **221 Transitional—Legislation Act, s 84 inapplicable**

15 (1) To remove any doubt, the Legislation Act, section 84 (Saving of
16 operation of repealed and amended laws) does not apply in relation
17 to an appointment made under—

18 (a) an Act repealed by the *Administrative (Miscellaneous*
19 *Amendments) Act 2006*; or

20 (b) a provision of an Act omitted by the *Administrative*
21 *(Miscellaneous Amendments) Act 2006*.

22 (2) This section expires 1 month after the day it commences.

23 (3) This section is a law to which the Legislation Act, section 88
24 (Repeal does not end effect of transitional laws etc) applies.

- 1 **222** **Transitional regulations—Administrative (Miscellaneous**
2 **Amendments) Act 2006**
- 3 (1) A regulation may prescribe transitional matters necessary or
4 convenient to be prescribed because of the enactment of the
5 *Administrative (Miscellaneous Amendments) Act 2006*.
- 6 (2) A regulation may modify this part (including its operation in
7 relation to another territory law) to make provision in relation to
8 anything that, in the Executive’s opinion, is not, or not adequately or
9 appropriately, dealt with in this part.
- 10 (3) A regulation under subsection (2) has effect despite anything
11 elsewhere in this Act or another territory law.

12 **223** **Expiry—pt 20**

13 This part expires 2 years after the day this section commences.

14 **[1.53] Dictionary, new definition of *contract***

15 *insert*

16 *contract* includes an agreement or arrangement.

17 **[1.54] Dictionary, new definitions of *division 9.6 authority* and**
18 ***division 9.7 authority***

19 *insert*

20 *division 9.6 authority* means a territory authority to which
21 division 9.6 applies (see s 105).

22 *division 9.7 authority* means a territory authority to which
23 division 9.7 applies (see s 120).

24 **[1.55] Dictionary, new definition of *handover day***

25 *insert*

26 *handover day*, for division 9.7 (Additional provisions for
27 restructuring of certain territory authorities)—see section 121.

- 1 **[1.56] Dictionary, definition of *territory authority***
2 *substitute*
3 ***territory authority***—
4 (a) means a body corporate established by an Act; and
5 (b) to remove any doubt, includes an entity to which part 8 applies;
6 and
7 (c) for division 9.7 (Additional provisions for restructuring of
8 certain territory authorities)—includes a territory authority that
9 has ceased to exist; but
10 (d) does not include a body declared under section 3B not to be a
11 territory authority.
12 (commencement: 3 days after notification day)

13 **Part 1.4 Financial Management**
14 **Regulation 2005**

- 15 **[1.57] Section 3**
16 *substitute*
17 **3 Modification of Act, pt 19—Act, s 155**
18 (1) The Act, part 19 is modified by schedule 1.
19 (2) This section, and schedule 1, expire on 27 October 2007.

- 20 **[1.58] Section 4**
21 *substitute*
22 **4 Territory authorities to which div 9.6 applies—Act, s 105**
23 Division 9.6 applies to the following territory authorities:
24 • ACT Health Promotion Authority

- 1 • ACTION Authority
2 • Australian Capital Tourism Corporation
3 • Emergency Services Authority
4 • Stadiums Authority.
5 (commencement: 3 days after notification day)

6 **[1.59] New section 5**

7 *insert*

8 **5 Territory authorities to which div 9.7 applies—Act, s 120**

9 Division 9.7 applies to the following territory authorities:

- 10 • ACT Health Promotion Authority
11 • ACTION Authority
12 • Australian Capital Tourism Corporation
13 • Emergency Services Authority
14 • Stadiums Authority.

15 (commencement: 3 days after notification day)

1 **Part 1.5** **Fuels Control Act 1979**

2 **[1.63] Sections 12 and 12A**

3 *substitute*

4 **12 Powers of emergency services commissioner during** 5 **emergency**

6 (1) If a declaration under section 11 (1) is in force, the emergency
7 services commissioner may, by written notice given to a person who
8 is carrying on a prescribed business either completely or partly in
9 the ACT, make any 1 or more of the following requirements:

10 (a) that the person must not sell a stated declared fuel unless the
11 quantity of that fuel that would remain in storage at the
12 premises, or each of the premises, where the person carries on
13 the business in the ACT exceeds a stated quantity;

14 (b) that the person must not sell a stated declared fuel by retail to
15 people other than people approved by the emergency services
16 commissioner;

17 (c) that the person must not sell a stated declared fuel by retail to
18 anyone, except on stated days and at stated times;

19 (d) that the person must not sell a stated declared fuel by retail to
20 the owner or driver of a motor vehicle on a day unless—

21 (i) if the last number on the numberplates attached to the
22 motor vehicle is an even number—the day is an even
23 numbered day of the month; and

24 (ii) if the last number on the numberplates attached to the
25 motor vehicle is an odd number—the day is an odd
26 numbered day of the month;

- 1 (e) that the person (the *seller*) must not refuse to sell a stated
2 declared fuel by retail to anyone who does not operate an
3 account with, or is not a regular customer of, the prescribed
4 business carried on by the seller;
- 5 (f) that the person must not display or exhibit on or near the
6 premises where the person carries on the prescribed business a
7 notice or sign containing the words ‘account customers only’
8 or ‘regular customers only’, either alone or in combination
9 with any other words, or any other words indicating or
10 implying that the person will sell fuel only to people who
11 operate an account with, or who are regular customers of, the
12 business;
- 13 (g) that the person must not sell a stated declared fuel by
14 wholesale except to the people, and at the times and in the
15 quantities, approved by the emergency services commissioner;
- 16 (h) that the person must not sell, to anyone at one time, a quantity
17 of a stated declared fuel exceeding a stated quantity;
- 18 (i) that the total quantity of a stated declared fuel sold by the
19 person during a stated period must not exceed a stated quantity;
- 20 (j) that the person must not remove a stated declared fuel from the
21 ACT unless the quantity of a stated declared fuel that would
22 remain in storage at the premises, or each of the premises,
23 where the person carries on the business in the ACT exceeds a
24 stated quantity.
- 25 (2) A person commits an offence if the person fails to comply with a
26 requirement made of the person under subsection (1).
- 27 Maximum penalty: 50 penalty units, imprisonment for 6 months or
28 both.
- 29 (3) An offence against this section is a strict liability offence.

1 **12A** **Controller to give information to emergency services**
2 **commissioner**

- 3 (1) This section applies if a declaration under section 11 (1) is in force.
4 (2) The controller must give the emergency services commissioner any
5 information required by the commissioner about the storage, supply
6 or use of declared fuel.

7 **[1.64] Section 17 (c)**

8 *substitute*

- 9 (c) does not affect the exercise by the controller, the emergency
10 services commissioner or an inspector of a function given
11 under any other provision of this Act.

12 **Part 1.6** **Land (Planning and**
13 **Environment) Act 1991**

14 **[1.65] Section 227 (1) (k)**

15 *substitute*

- 16 (k) any comments of the planning and land authority for the
17 Minister's consideration of an application under section 229B
18 (Minister may decide some applications); and

19 **[1.66] Section 229B (6) (d)**

20 *substitute*

- 21 (d) ensure that the Minister has the comments of the planning and
22 land authority on the application; and

23 **[1.67] Section 229B (8)**

24 *omit*

1 **[1.68] Section 231 (1) (g)**

2 *substitute*

3 (g) if the relevant authority is the Minister—the comments of the
4 planning and land authority.

5 **[1.69] New sections 300 and 301**

6 *insert*

7 **300 Transitional—Administrative (Miscellaneous**
8 **Amendments) Act 2006 and ministerial decisions**

9 (1) This section applies if—

10 (a) before 1 July 2006, the planning and land council had given
11 comments on a development application for the Minister’s
12 consideration of the application; and

13 (b) the Minister would have been required to ensure the Minister
14 had the comments, and to consider them in deciding the
15 application, if the Minister had decided the application before
16 1 July 2006; and

17 (c) the Minister decides the application on or after 1 July 2006.

18 (2) The Minister must—

19 (a) ensure the Minister has the comments; and

20 (b) to consider them in making the decision on the development
21 application.

22 (3) In this section:

23 *planning and land council* means the planning and land council
24 under this Act as in force on 30 June 2006.

25 (4) This section expires 6 months after the day it commences.

26 (5) This section is a law to which the Legislation Act, section 88
27 (Repeal does not end effect of transitional laws etc) applies.

- 1 **301** **Transitional—Administrative (Miscellaneous**
2 **Amendments) Act 2006 and authority functions**
- 3 (1) This section applies if—
- 4 (a) before 1 July 2006, the planning and land authority had asked
5 for the planning and land council’s advice in relation to the
6 exercise of a function; and
- 7 (b) the council had given the authority advice in relation to the
8 exercise of the function; and
- 9 (c) before 1 July 2006 the authority would have been required to
10 consider the council’s advice before exercising the function;
11 and
- 12 (d) the authority had not exercised the function before 1 July 2006.
- 13 (2) The planning and land authority must consider the planning and
14 land council’s advice before exercising the function.
- 15 (3) In this section:
- 16 *planning and land council* means the planning and land council
17 under this Act as in force on 30 June 2006.
- 18 (4) This section expires 6 months after the day it commences.
- 19 (5) This section is a law to which the Legislation Act, section 88
20 (Repeal does not end effect of transitional laws etc) applies.

21 **Part 1.7** **Legislation Act 2001**

22 **[1.70] Dictionary, part 1, definition of *planning and land council***
23 *omit*

1 **Part 1.8** **Occupational Health and Safety**
2 **Act 1989**

3 **[1.71] Section 32 (4) and (5)**

4 *omit*

5 **[1.72] Section 36**

6 *omit*

7 **Part 1.9** **Planning and Land Act 2002**

8 **[1.73] Section 9 (1) (n)**

9 *omit*

10 **[1.74] Section 11**

11 *omit*

12 **[1.75] Section 19 (1)**

13 *substitute*

14 (1) The Executive must appoint a person to be the Chief Planning
15 Executive.

16 *Note 1* For the making of appointments generally, see the Legislation Act,
17 div 19.3.

18 *Note 2* A power to appoint a person to a position includes power to appoint a
19 person to act in the position (see Legislation Act, s 209).

20 **[1.76] Chapter 3**

21 *omit*

22 **[1.77] Dictionary, definitions of *council*, *council chairperson*,
23 *council deputy chairperson* and *council member***

24 *omit*

1 **Part 1.10** **Road Transport (Public**
2 **Passenger Services) Act 2001**

3 **[1.78] New section 18 (2) and (3)**

4 *insert*

- 5 (2) However, the Territory is entitled to operate a regular route service
6 whether or not the Territory—
7 (a) is accredited under the regulations to operate regular route
8 services; or
9 (b) holds a service contract for the service.
- 10 (3) If the Territory operates a regular route service, part 2 (Bus services)
11 applies in relation to the Territory's operation of the service as if—
12 (a) the Territory were accredited to operate the service; and
13 (b) the Territory held a service contract for the service; and
14 (c) all necessary changes, and any changes prescribed by
15 regulation, were made.

16 **[1.79] New section 19 (2) and (3)**

17 *insert*

- 18 (2) However, the Territory is entitled to operate a tour and charter
19 service, whether or not the Territory is accredited under the
20 regulations to operate tour and charter services.
- 21 (3) If the Territory operates a tour and charter service, part 2 (Bus
22 services) applies in relation to the Territory's operation of the
23 service as if—
24 (a) the Territory were accredited to operate the service; and
25 (b) the Territory held a service contract for the service; and

1 (c) all necessary changes, and any changes prescribed by
2 regulation, were made.

3 **[1.80] New section 19A**

4 *insert*

5 **19A Territory's entitlement to operate bus service**

6 If the Territory operates a bus service, the territory may operate the
7 service under a name prescribed by regulation.

8 **[1.81] New section 20 (3)**

9 *insert*

10 (3) This section does not apply to the operation of a bus service by the
11 Territory.

12 **[1.82] New section 22 (3)**

13 *insert*

14 (3) This section does not apply to the operation of a regular route
15 service by the Territory.

16 **[1.83] New section 82A**

17 *insert*

18 **82A Territory's entitlement to operate demand responsive
19 service**

20 If the Territory operates a demand responsive service, the Territory
21 may operate the service under a name prescribed by regulation.

1 **[1.84] New section 90 (2) and (3)**

2 *insert*

3 (2) However, the Territory is entitled to operate a demand responsive
4 service, whether or not the Territory—

5 (a) holds an authorisation to operate the service; or

6 (b) holds a service contract for the service; or

7 (c) is an accredited demand responsive service operator.

8 (3) If the Territory operates a demand responsive service, part 8
9 (Demand responsive services) applies in relation to the Territory's
10 operation of the service as if—

11 (a) the Territory held an authorisation to operate the service; and

12 (b) the Territory held a service contract for the service; and

13 (c) the Territory were accredited to operate the service; and

14 (d) all necessary changes, and any changes prescribed by
15 regulation, were made.

16 (commencement: the later of 3 July 2006 or the commencement of
17 the *Road Transport (Public Passenger Services) Amendment*
18 *Regulation 2006 (No 1)*)

19 **[1.85] New section 91 (4)**

20 *insert*

21 (4) Also, this section does not apply to the operation of a demand
22 responsive service by the Territory.

1 **Part 1.11** **Road Transport (Public**
2 **Passenger Services) Regulation**
3 **2002**

4 **[1.86] New section 67A**

5 *in part 3.4, insert*

6 **67A Name Territory may operate bus service under—Act,**
7 **s 19A**

8 The Territory may operate a bus service under the name ACTION.

9 **[1.87] New section 301A**

10 *in division 6.2.7, insert*

11 **301A Name Territory may operate demand responsive service**
12 **under—Act, s 82A**

13 The Territory may operate a demand responsive service under the
14 name ACTION.

15 (commencement: the later of 3 July 2006 or the commencement of
16 the *Road Transport (Public Passenger Services) Amendment*
17 *Regulation 2006 (No 1)*)

18 **Part 1.12** **Stadiums Authority Act 2000**

19 **[1.88] Section 6 (4) and (5)**

20 *omit*

21 (commencement: on a day fixed by the Minister by written notice)

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2006.

2 Notification

Notified under the Legislation Act on 2006.

3 Republications of amended laws

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

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