

2002

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Administrative Appeals Tribunal Amendment Bill 2002

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(Attorney-General)

Administrative Appeals Tribunal Amendment Bill 2002

A Bill for

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

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

1 **1 Name of Act**

2 This Act is the *Administrative Appeals Tribunal Amendment Act*
3 *2002*.

4 **2 Commencement**

5 This Act commences on 1 July 2003.

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

8 **3 Act amended**

9 This Act amends the *Administrative Appeals Tribunal Act 1989*.

10 **4 Interpretation for Act**
11 **Section 3 (1), new definitions**

12 *insert*

13 *application*, for division 4.5 (Land, planning and environment
14 applications)—see section 49B.

15 *registered mediator*—see the *Mediation Act 1997*, dictionary.

16 **5 New part 1A**

17 *insert*

18 **Part 1A** **Objects and important**
19 **concepts**

20 **3A Main objects of Act**

21 The main objects of this Act are—

22 (a) to establish an independent administrative appeals tribunal; and

23 (b) to review decisions made by decision-makers under
24 enactments if authorised by enactments; and

- 1 (c) to ensure that the AAT is accessible; and
2 (d) to ensure that proceedings in the AAT are efficient, effective
3 and as informal as possible; and
4 (e) to ensure decisions of the AAT are fair; and
5 (f) to foster an atmosphere in which administrative review is
6 viewed positively as a way of enhancing the delivery of
7 services and programs; and
8 (g) to encourage, and bring about, compliance by administrators
9 with Territory laws.

10 **3B Role and main object of land and planning division**

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

18 **6 Divisions**
19 **Section 17 (4)**

20 *substitute*

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

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

1 **7 New division 4.1 heading**

2 *insert*

3 **Division 4.1 Review, applications and parties**

4 **8 New division 4.2 heading**

5 *after section 30, insert*

6 **Division 4.2 Mediation and hearings before**
7 **tribunal**

8 **9 Section 33A heading**

9 *substitute*

10 **33A Mediation generally**

11 **10 Section 33A (1)**

12 *omit*

13 mediator

14 *substitute*

15 registered mediator

16 **11 Section 33A (3)**

17 *omit*

18 subsection (1)

19 *substitute*

20 this Act

12 New division 4.3 heading

before section 40, insert

Division 4.3 Powers of tribunal**13 Section 41**

renumber as section 39A and relocate after section 39

14 New division 4.4 heading

after section 44A, insert

Division 4.4 After end of tribunal proceeding**15 New division 4.5**

insert

Division 4.5 Land, planning and environment applications**49A Application of div 4.5**

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

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

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

49B Meaning of *application* for div 4.5

In this division:

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

- *Land (Planning and Environment) Act 1991*

- 1 • *Tree Protection (Interim Scheme) Act 2001.*

2 **49C Time for deciding land, planning and environment**
3 **applications**

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

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

22 **49D Mediation for land, planning and environment**
23 **applications**

- 24 (1) Before hearing an application, the tribunal—
- 25 (a) must consider whether the application is suitable for mediation;
26 and
- 27 (b) if the tribunal considers the application is suitable for
28 mediation and that it is reasonably likely that the application
29 may be resolved by mediation—may, on its own initiative,

1 refer the application to a registered mediator and direct the
2 parties to the application to attend the mediation.

3 (2) Also, the tribunal may refer the application to a registered mediator
4 and direct the parties to attend the mediation on application by a
5 party.

6 **49E Costs in land, planning and environment proceedings**

7 (1) The tribunal may award costs of an application or part of an
8 application against a party to the application that contravenes a
9 tribunal direction.

10 (2) However, the tribunal may award costs under subsection (1) only if
11 satisfied that it is in the interests of justice to do so.

12 (3) Costs are payable at the prescribed scale of costs set out in the
13 *Supreme Court Rules*, schedule 3 (Costs).

Endnote

Republications of amended laws

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