#### 2017

# THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Regulatory Services)

## Red Tape Reduction Legislation Amendment Bill 2017

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#### 2017

# THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Regulatory Services)

## Red Tape Reduction Legislation Amendment Bill 2017

## A Bill for

An Act to amend legislation for red tape reduction, and for other purposes

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

Part 1

#### Name of Act 2 This Act is the Red Tape Reduction Legislation Amendment Act 3 2017. Commencement 5 The following provisions commence on 1 July 2017: 6 Part 3 (Associations Incorporation Act 1991) Part 4 (Charitable Collections Act 2003) 8 Part 10 (Utilities Act 2000). 9 The naming and commencement provisions automatically commence on Note 10 the notification day (see Legislation Act, s 75 (1)). 11 The following provisions commence on 31 August 2017: 12 Part 2 (Agents Act 2003) 13 Part 6 (Environment Protection Act 1997) 14 Part 7 (Environment Protection Regulation 2005) 15 Part 8 (Magistrates Court (Environment Protection Infringement 16 Notices) Regulation 2005) 17 Part 9 (Security Industry Regulation 2003) 18 Part 11 (Water Resources Act 2007). 19 (3) The remaining provisions commence on the day after this Act's 20 notification day. 21 Legislation amended 22 This Act amends the following legislation: 23 Agents Act 2003 24 Associations Incorporation Act 1991 25 Charitable Collections Act 2003 26 Domestic Animals Act 2000 27

**Preliminary** 

• Environment Protection Act 1997
• Environment Protection Regulation 2005
<ul> <li>Magistrates Court (Environment Protection Infringement Notices) Regulation 2005</li> </ul>
Security Industry Regulation 2003
• Utilities Act 2000
• Water Resources Act 2007.
Legislation repealed
The following legislation is repealed:
• Public Bathing Act 1956 (A1956-12)
• Environment Protection (ACT Firewood) Code of Practice 1999 (DI1999-114).

1	Part 2	Agents Act 2003
2	5	Requirement for audit Section 115 (1)
4		omit
5	6	Section 115 (2) (a)
6		substitute
7		(a) the person—
8		(i) is or was a licensed agent; or
9		(ii) is a personal representative of a licensed agent; and
10	7	Section 115 (3)
11		omit
12		subsection (2)
13		substitute
14		this section

1	Part 3	Associations Incorporation Act 1991
3 4	8	Copies of certificates of incorporation Section 10
5		omit
6 7	9	Inspection of documents Section 11 (2) (b) (i)
8		omit
9 10	10	Notice of changes in committee New section 62 (3)
11		insert
12 13	(3	Subsection (1) does not apply to an incorporated association that is an ACNC registered entity.
14 15	11	Register of members Section 67 (2)
16		substitute
17 18 19 20 21	(2	available for inspection by members at reasonable times, or at any times stated for the purpose in the rules of the association, at the address of the public officer of the association, at the registered office of the association (if any) or at another place in the ACT
22		nominated by the committee of the association.

1	12	New section 70A
2		in part 5, insert
3	70A	Application—pt 5
4 5		This part does not apply to an incorporated association that is an ACNC registered entity.
6 7	13	Certificates as evidence Section 115 (3) (b) (i)
8		omit
9	14	New section 119B
10		in part 11, insert
11	119B	Information sharing on ACNC registered entities
12 13 14 15	(1)	The registrar-general may enter into an arrangement with the Commissioner of the ACNC for the provision of information to the registrar-general about incorporated associations that are ACNC registered entities.
16	(2)	In this section:
17 18 19		Commissioner of the ACNC means the Commissioner of the ACNC established under the Australian Charities and Not-for-profits Commission Act 2012 (Cwlth), section 110-5.
20 21	15	Registered office of incorporated association New section 121 (4)
22		insert
23	(4)	This section does not apply to an ACNC registered entity.

1 2	16	Service of documents New section 122 (1) (d)
3		insert
4 5 6 7		(d) if the association is an ACNC registered entity—giving the document or process in accordance with the <i>Australian Charities and Not-for-profits Commission Act 2012</i> (Cwlth), section 195-10.
8	17	Dictionary, new definition of ACNC registered entity
9		insert
10		ACNC registered entity means a registered entity under the
11		Australian Charities and Not-for-profits Commission
12		Act 2012 (Cwlth).

## Part 4 Charitable Collections Act 2003

10		Section 14 (2)
		substitute
	(2)	This section does not apply if the person is authorised to conduct the collection by—
		(a) the licensee for the licence authorising the conduct of the collection; or
		(b) an ACNC registered entity.
19		Unlawfully taking part in collections Section 15 (1) (b)
		substitute
		(b) the person is not authorised to take part in the collection by either—
		(i) the relevant licensee; or
		(ii) an ACNC registered entity; and
20		Dictionary, new definition of ACNC registered entity
		insert
		ACNC registered entity means a registered entity under the Australian Charities and Not-for-profits Commission Act 2012 (Cwlth).

## Part 5 Domestic Animals Act 2000

omit

2	21	Greyhounds Section 48
4		omit
5 6	22	Seizure of dogs—general Section 56 (c)

Part 6 Fnv	vironment Protection	Act 100

2	23	Activities requiring environmental authorisation
3		Schedule 1, table 1.2, items 44 to 46

4 omit

# Part 7 Environment Protection Regulation 2005

24		Section 14
		substitute
14		Conditions for sale or supply of firewood
	(1)	This section applies to a person who—
		(a) sells or supplies firewood in the ACT unless—
		(i) the quantity of firewood sold or supplied is less than 100kg; or
		<ul><li>(ii) the firewood is sold under a scheme in which an annual fee is paid for the right to collect waste softwood in pine plantations; or</li></ul>
		(b) prepares firewood for sale or supply in the ACT.
	(2)	The following conditions apply to the preparation, sale or supply of firewood by the person:
		(a) if practicable, each buyer must be offered a choice of mixed wood loads;
		(b) wood must be offered and supplied by weight, not by volume;
		(c) each buyer must be given a written statement of the weight of the load supplied;
		(d) if the load is a mixed wood load—the buyer must be given a written statement of the approximate weight of hardwood and softwood in the load;
		(e) unseasoned wood must not be supplied;

1 2 3 4	(1)	each buyer must be given a pamphlet supplied by the environment protection authority that sets out recommended wood burning practices and encourages compliance with those practices;
5	(g)	each buyer must be given the following information:
6		(i) the common name and species (if known) of the wood;
7		(ii) the place from which the wood was originally taken;
8		(iii) the kind of wood;
9		Examples—par (g) (i) box, gum, pine
1		Examples—par (g) (ii)
2		ACT pine forests, Cowra
3		Example—par (g) (iii)
4		residue from forestry processing operations of native forest timber
5 6 7		Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).
8 9 20	(h)	an annual report for a reporting year must be given to the environment protection authority by 31 January in the year following the reporting year;
21 22		<i>Note</i> If a form is approved under the Act, s 165A for this provision, the form must be used.
23 24 25	(i)	wooden sleepers must only be obtained from a wholesaler who supplies sleepers in the ACT with the agreement of the chief health officer and the environment protection authority;
26 27 28 29	(j)	the sale or supply of wooden sleepers must be accompanied by an information sheet, agreed with the environment protection authority, about the risks of burning sleepers, including that sleepers should not be burnt in open fires or for cooking.

1	(	(3)	A person commits an offence if the person—
2			(a) prepares firewood for sale or supply; and
3			(b) fails to comply with a condition mentioned in subsection (2).
4			Maximum penalty: 10 penalty units
5	(	(4)	A person commits an offence if the person—
6			(a) sells or supplies firewood; and
7			(b) fails to comply with a condition mentioned in subsection (2).
8			Maximum penalty: 10 penalty units
9		(5)	An offence against this section is a strict liability offence.
10	(	(6)	In this section:
11 12			<i>prepare</i> , firewood for sale or supply, means cut, store or season the firewood.
13			reporting year means 1 January to 31 December.
14 15 16	25		Unapproved sale or supply of painted etc firewood— offence Section 14A (1) (b)
17			substitute
18 19 20			(b) does not have the written agreement of the environment protection authority and the chief health officer to sell or supply the firewood.

Part 8 Magistrates Court (Environment Protection Infringement Notices) Regulation

Section 26

4 5 6

1	Part 8	<b>Magistrates Court (Environment</b>
2		Protection Infringement Notices)
3		Regulation 2005

26	Environment protection legislation infringement notice
	offences and penalties
	Schedule 1, pt 1.2, new items 7A to 7C

	insert		
7A	14 (3)	10	300
7B	14 (4)	10	300
7C	144 (1)	10	300

1	Part 9	Security Industry Regulation 2003
3 4 5	27	Prescribed training courses for employee licences—Act, s 21 (1) (a) (iii) Table 8, items 8 and 9
6		omit

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## Part 10 Utilities Act 2000

2	28		Definitions—pt 3A Section 54A, new definition of <i>base amount</i>
4			insert
5			base amount—see section 54G (3).
6	29		Section 54A, definition of fixed net regulatory cost
7			omit
8 9	30		Energy industry levy—imposition Section 54C (2)
10			substitute
11		(2)	The levy for the levy year is worked out as follows:
			$B + EV + (AV - EV_{-1})$
12			where:
13 14			AV means the actual variable amount for the energy utility for the previous levy year worked out as follows:
			$(ANR - (B_{-1} \times NC_{-1})) \times M_{-1}$
15 16			${\it B}$ is the base amount for the levy year determined under section 54GA (2).
17 18			${\it EV}$ means the estimated variable amount for the energy utility for the levy year worked out as follows:
			$(ENR - (B \times NC)) \times M_{-1}$
19 20			<i>EV</i> <sub>-1</sub> means the estimated variable amount for the energy utility for the previous levy year worked out as follows:
			$(ENR_{-1} - (B_{-1} \times NC_{-1})) \times M_{-2}$

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1	31	Section 54C (3) (a) and (b)
2		substitute
3 4		(a) B is taken to be zero in relation to the utility for the levy year; and
5		(b) EV is taken to be zero in relation to the utility for the levy year.
6	32	Section 54C (4) (a) and (b)
7		substitute
8 9		(a) AV is taken to be zero in relation to the utility for the levy year; and
10 11		(b) $EV_{-1}$ is taken to be zero in relation to the utility for the levy year.
12	33	Section 54C (5)
13		substitute
14	(:	() In this section:
15 16 17		<b>ANR</b> means the actual net regulatory cost for the energy industry sector for the previous levy year determined under section 54GA (1) (b).
18 19		$B_{-1}$ means the base amount for the previous levy year determined under section 54GA (2).
20		market share, for an energy utility for a levy year means—
21 22 23 24		(a) for an electricity distributor—the total number of megawatt hours of electricity distributed in the ACT by the distributor in that year, divided by the total number of megawatt hours of electricity distributed in the ACT in that year; and

1 2 3 4	(b) for an NERL retailer that supplies electricity—the total number of megawatt hours of electricity sold in the ACT by the retailer in that year, divided by the total number of megawatt hours of electricity sold in the ACT in that year; and
5 6 7 8	(c) for a gas distributor—the total number of megajoules of gas distributed in the ACT by the distributor in that year, divided by the total number of megajoules of gas distributed in the ACT in that year; and
9 10 11 12	(d) for an NERL retailer that supplies gas—the total number of megajoules of gas sold in the ACT by the retailer in that year, divided by the total number of megajoules of gas sold in the ACT in that year.
13 14	$M_{-1}$ means the market share of the energy utility for the previous levy year.
15 16 17 18	Note Before 1 October in a levy year, the administrator must determine, for the year before the levy year, the total number of megawatt hours of electricity or megajoules of gas distributed or sold in the ACT by all energy utilities in each energy sector in the year (see s 54H (1) (b) (ii)).
19 20	$M_{-2}$ means the market share of the energy utility for the levy year before the previous levy year.
21 22 23 24	<i>NC</i> , for an energy industry sector for a levy year, means the number of energy utilities that provided an energy utility service in the sector before 30 August in the levy year as determined under section 54H (1) (a) (i).
25 26 27 28	<i>NC</i> <sub>-1</sub> , for an energy industry sector for a levy year, means the number of energy utilities that provided an energy utility service in the sector at any time during the previous levy year as determined under section 54H (1) (b) (i).
29 30	<b>ENR</b> means the estimated net regulatory cost for the energy industry sector for the levy year determined under section 54GA (1) (a).

1		<b>ENR.</b> I means the estimated net regulatory cost for the energy industry sector for the previous levy year determined under
3		section 54GA (1) (a).
4 5	34	Energy industry sectors etc Section 54D (2)
6		after
7		provides
8		insert
9		, or has provided,
10 11	35	National regulatory obligations and costs Section 54E (1) (b)
12		omit
13		Ministerial Council on Energy's
14		substitute
15		COAG EC's
16	36	Section 54E (3) (a)
17		omit
18		each levy year
19		substitute
20		the levy year

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1	37	Section 54E (3) (b)
2		before
3		national regulatory cost
4		insert
5		actual
6	38	Section 54E (3) (b)
7		omit
8		each levy year
9		insert
10		the levy year
11	39	Section 54E (4) (a) (ii)
12		omit
40		
13		MCE's
13		MCE's substitute
14	40	substitute COAG EC's
14 15	40	substitute
14 15 16	40	substitute COAG EC's Section 54E (4) (a) (iii), (iv) and (v)
14 15 16 17	40	substitute COAG EC's  Section 54E (4) (a) (iii), (iv) and (v)  omit

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1	41	Section 54E (5)
2		before
3		national regulatory cost
4		insert
5		actual
6	42	Section 54E (7), new definition of COAG EC
7		insert
8 9		COAG EC means the Council of Australian Governments Energy Council.
10	43	Section 54E (7), definition of <i>MCE</i>
11		omit
12 13	44	Local regulatory costs Section 54F (2)
14		substitute
15 16	(	2) The administrator must, before 1 October in the levy year, in accordance with this section, determine—
17 18		(a) the estimated local regulatory cost to be applied to each energy industry sector for the levy year; and
19 20		(b) the actual local regulatory cost to be applied to each energy industry sector for the year before the levy year.

1	45	Section 54F (4)
2		before
3		local regulatory cost
4		insert
5		actual
6 7	46	Annual regulatory costs etc Section 54G (3)
8		substitute
9 10 11	(3)	For this part, the <i>base amount</i> for an energy industry sector is the minimum additional cost of regulating 1 more energy utility in the energy industry sector for a period of 1 year.
12	47	New section 54GA
12 13	47	New section 54GA insert
	47 54GA	
13		insert
13 14 15	54GA	insert  Regulatory cost—determinations  The administrator must, before 1 October in a levy year,
13 14 15 16	54GA	insert Regulatory cost—determinations The administrator must, before 1 October in a levy year, determine— (a) the estimated net regulatory cost to be applied to each energy

	(3)	in extraordinary circumstances.
		Example—extraordinary circumstances  A large number of energy utilities unexpectedly enter the energy industry sector.
		Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).
	(4)	A determination under this section is a notifiable instrument.
		<i>Note</i> A notifiable instrument must be notified under the Legislation Act.
48		Further energy sector determinations Section 54H (1) (a)
		substitute
		(a) for the levy year—the number of energy utilities that provided an energy utility service in each energy utility sector at any time before 30 August in the year;
49		Section 54H (1) (b) (iii)
		omit
50		Production of distribution and sales information Section 54I (1)
		after
		at any time
		insert
		before 30 August in the levy year or
	49	(4) <b>48</b>

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misleading information or produce a false or misleading document Criminal Code, pt 3.4).  Registration of energy utilities Section 54K  omit  commissioner must register  substitute  commissioner for revenue must register  New section 54K (2)  insert	1	51		Section 54I (2) (b)
substitute  30 August  52 Section 541 (2), new note  insert  Note It is an offence to make a false or misleading statement, give fal misleading information or produce a false or misleading document Criminal Code, pt 3.4).  53 Registration of energy utilities Section 54K  omit commissioner must register substitute commissioner for revenue must register  54 New section 54K (2)  insert  (2) The commissioner for revenue must tell the administrator about	2			omit
52 Section 54I (2), new note  7	3			15 September
52 Section 54I (2), new note  insert  Note It is an offence to make a false or misleading statement, give fal misleading information or produce a false or misleading document Criminal Code, pt 3.4).  53 Registration of energy utilities Section 54K  omit commissioner must register substitute commissioner for revenue must register  54 New section 54K (2)  insert  (2) The commissioner for revenue must tell the administrator about	4			substitute
7 insert  Note It is an offence to make a false or misleading statement, give fal misleading information or produce a false or misleading document Criminal Code, pt 3.4).  53 Registration of energy utilities Section 54K  13 omit 14 commissioner must register 15 substitute 16 commissioner for revenue must register 17 New section 54K (2) 18 insert 19 (2) The commissioner for revenue must tell the administrator about	5			30 August
Note  It is an offence to make a false or misleading statement, give fal misleading information or produce a false or misleading document Criminal Code, pt 3.4).  Registration of energy utilities Section 54K  commissioner must register  substitute commissioner for revenue must register  New section 54K (2)  insert  (2) The commissioner for revenue must tell the administrator about	6	52		Section 54I (2), new note
misleading information or produce a false or misleading document Criminal Code, pt 3.4).  Registration of energy utilities Section 54K  omit commissioner must register substitute commissioner for revenue must register  New section 54K (2)  insert  (2) The commissioner for revenue must tell the administrator about	7			insert
Section 54K  omit  commissioner must register  substitute  commissioner for revenue must register  New section 54K (2)  insert  (2) The commissioner for revenue must tell the administrator about	9			misleading information or produce a false or misleading document (see
commissioner must register  substitute  commissioner for revenue must register  New section 54K (2)  insert  (2) The commissioner for revenue must tell the administrator about		53		<u> </u>
substitute commissioner for revenue must register  New section 54K (2) insert  (2) The commissioner for revenue must tell the administrator about	13			omit
commissioner for revenue must register  New section 54K (2)  insert  (2) The commissioner for revenue must tell the administrator about	14			commissioner must register
New section 54K (2)  insert  (2) The commissioner for revenue must tell the administrator about	15			substitute
insert  (2) The commissioner for revenue must tell the administrator about	16			commissioner for revenue must register
(2) The commissioner for revenue must tell the administrator about	17	54		New section 54K (2)
	18			insert
			(2)	The commissioner for revenue must tell the administrator about the registration of an energy utility under subsection (1).

1 2	55	Section 54L (1) (b)
3		after
4		commissioner
5		insert
6		for revenue
7	56	Returns under Taxation Administration Act Section 54M (2), new note
9		insert
10 11 12		Note 2 It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see Criminal Code, pt 3.4).
13	57	New section 540
14		in part 3A, insert
4-		
15	540	Administrator to publish information
15 16	540	Administrator to publish information  The administrator must publish the following information:
	540	•
16	540	The administrator must publish the following information:
16 17	540	The administrator must publish the following information:  (a) an explanation of the purpose of the energy industry levy;
16 17 18	540	The administrator must publish the following information:  (a) an explanation of the purpose of the energy industry levy;  (b) an explanation of how the energy industry levy is calculated;
16 17 18	540	The administrator must publish the following information:  (a) an explanation of the purpose of the energy industry levy;  (b) an explanation of how the energy industry levy is calculated;  (c) an annual statement about the data relied on by the
16 17 18 19 20	540	The administrator must publish the following information:  (a) an explanation of the purpose of the energy industry levy;  (b) an explanation of how the energy industry levy is calculated;  (c) an annual statement about the data relied on by the administrator to determine—
16 17 18 19 20 21	540	The administrator must publish the following information:  (a) an explanation of the purpose of the energy industry levy;  (b) an explanation of how the energy industry levy is calculated;  (c) an annual statement about the data relied on by the administrator to determine—  (i) national regulatory costs under section 54E; and
16 17 18 19 20 21	540	The administrator must publish the following information:  (a) an explanation of the purpose of the energy industry levy;  (b) an explanation of how the energy industry levy is calculated;  (c) an annual statement about the data relied on by the administrator to determine—  (i) national regulatory costs under section 54E; and  (ii) local regulatory costs under section 54F; and

1 2		(d) an outline of the administrative practices adopted by the administrator in administering the energy industry levy;
3 4		(e) an explanation of the obligations of energy utilities in relation to the energy industry levy under the Act.
5	58	New part 20
6		insert
7 8 9	Part 20	Transitional—Red Tape Reduction Legislation Amendment Act 2017
10	411	Calculation of energy industry levy in transitional year
11	(1)	This section applies to an energy utility in the transitional year.
12 13	(2)	Despite section 54C (2), the levy for the energy utility in the transitional year is worked out as follows:
		B + EV + A
14		where:
15 16 17		A is the adjustment for the previous year worked out in accordance with section 54C (5) as in force immediately before the commencement of this section.
18		<b>B</b> —see section 54C (2).
19		EV—see section 54C (2).
20	(3)	In this section:

21

transitional year means the levy year commencing on 1 July 2017.

1	412	Expiry—pt 20
2		This part expires 1 year after the day it commences.
3 4 5		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).
6	59	Dictionary, new definition of base amount
7		insert
8 9		<b>base amount</b> , for part 3A (Energy industry levy)—see section 54G (3).
0	60	Dictionary, definition of fixed net regulatory cost
1		omit

## Part 11 Water Resources Act 2007

2	61		Waterway work licence—requirement Section 42 (1) (b)
4			substitute
5			(b) the person does not have—
6			(i) a waterway work licence for the waterway work; or
7 8			(ii) authority for an activity that includes the waterway work under the <i>Environment Protection Act 1997</i> .
9	62		Section 42 (2)
10			substitute
11 12		(2)	However, a waterway work licence is not required if the work to be undertaken is—
13			(a) the construction or alteration of—
14 15			(i) a water structure that has a capacity of less than 2ML and is not in a waterway; or
16			(ii) a structure prescribed by regulation; or
17 18			(b) undertaken as part of an authorised activity under the <i>Environment Protection Act 1997</i> ; or
19 20			(c) undertaken under an environmental protection agreement under the <i>Environment Protection Act 1997</i> .

### **Endnotes**

## 1 Presentation speech

Presentation speech made in the Legislative Assembly on 30 March 2017.

### 2 Notification

Notified under the Legislation Act on

2017.

### 3 Republications of amended laws

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

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