

2014

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

EXHIBITION PARK CORPORATION REPEAL BILL 2014

EXPLANATORY STATEMENT

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Overview

The Exhibition Park Corporation (EPC) is a statutory authority established by the *Exhibition Park Corporation Act 1976* (the EPC Act). The EPC administers the site known as “Exhibition Park in Canberra” (EPIC) located in North Canberra. The EPC has a governing board appointed under the *Financial Management Act 1996*. It has staff employed under the *Public Sector Management Act 1994*.

The Exhibition Park Corporation Repeal Bill 2014 (the Repeal Bill) will facilitate the integration of the functions, staff, assets and liabilities of EPC into the Chief Minister, Treasury and Economic Development Directorate (CMTEDD).

The Repeal Bill brings the management of EPIC in line with other venues that are currently being administered directly by the Territory. Integration will allow for the sharing of expertise, particularly in relation to management issues such as event planning, sales and marketing, venue management, contract management, asset management, security and insurance. There will also be efficiencies across the venues through streamlining supplies and services, contracts and shared utilisation of equipment and resources.

Community access to events and activities at EPIC will be unaffected by the Repeal Bill. EPIC will continue support in-kind for community events (which amounted to almost \$700,000 in 2013-14). Current EPC staff will remain public servants in CMTEDD. The Repeal Bill will result in the EPC Board being abolished, however, the Board is supportive of the repeal.

The Repeal Bill includes consequential amendments that support the transition from a corporation to integration within CMTEDD. The following laws will be amended by the Repeal Bill:

- *Exhibition Park Corporation Act 1976* (repeal);
- *Financial Management Act 1996*;
- *Financial Management Regulation 2005*; and
- *Taxation (Government Business Enterprises) Regulation 2003*.

In addition, the Repeal Bill disapplies section 84 of the *Legislation Act 2001* (‘Saving of operation of repealed and amended laws’) to the governing board of EPC to ensure that the appointment of board members ends upon repeal.

Human Rights Implications

The Repeal Bill is not considered to engage any rights under the *Human Rights Act 2004*.

Commencement

The repeal of the EPC Act is scheduled to take effect from 1 January 2015. Different sections of the Repeal Bill commence on different days to support this transition (further detail in the Clause Notes below).

CLAUSE NOTES

Clause 1 Name of Act

This clause is a formal provision setting out the name of the Act as the *Exhibition Park Corporation Repeal Act 2014* (the Act).

Clause 2 Commencement

This clause provides for the commencement of the Act. The commencement provisions support the repeal taking effect from 1 January 2015. As of 1 January 2015, the Exhibition Park Corporation and the EPC Board will no longer exist, and all assets, rights and liabilities will be transferred to the Territory.

Subclause 2(1) provides that section 4 of the Act and schedule 1, part 1.2 commence on the day after notification day. This is to enable the amendments to the *Financial Management Regulation 2005* which apply division 9.6 and 9.7 of the *Financial Management Act 1996* to commence immediately to support the integration into CMTEDD. Further detail on the operation of these provisions is provided below.

Subclause 2(2) provides that section 3, the repeal of the EPC Act, commences on 31 December 2014. In accordance with section 85 of the *Legislation Act 2001*, the repeal takes effect at the last moment of the day.

Subclause 2(3) provides that the remaining provisions commence on 1 January 2015. In accordance with section 74 of the *Legislation Act 2001*, these provisions commence at the beginning of the day.

Clause 3 Legislation repealed

Subclause 3(1) provides that the legislation to be repealed is the *Exhibition Park Corporation Act 1976* (A1976-1).

Subclause 3(2) also provides for the repeal of the disallowable instrument made under the EPC Act, the *Exhibition Park Corporation (Governing Board) Appointment 2014 (No 1)* (DI2014-227). This provision will have the effect that members of the EPC Board will no longer be appointed.

Clause 4 Legislation amended

This clause provides that the legislation mentioned in schedule 1 is amended – the *Financial Management Act 1996*, the *Financial Management Regulation 2005* and the *Taxation*

(*Government Business Enterprises*) Regulation 2003. These amendments are consequential to the repeal of the EPC Act.

SCHEDULE 1 CONSEQUENTIAL AMENDMENTS

PART 1.1 FINANCIAL MANAGMENT ACT 1996

Part 30 Transitional—Exhibition Park Corporation Repeal Act 2014

Clause 1.1 New part 30

Clause 300 Disapplication of Legislation Act, s 84

This clause provides that section 84 of the *Legislation Act 2001* ('Saving of operation of repealed and amended laws') does not apply to the governing board of EPC, to ensure that the appointment of board members ends upon repeal.

Clause 301 Third-party rights and interests in corporation land

This clause provides for the preservation of existing rights and interests in land granted by EPC in the exercise of functions under the *Exhibition Park Corporation Act 1976*, section 6(2). Any right that exists immediately before the repeal continues for the term of the grant as if the interest had been granted by the Territory.

Clause 302 Registration of changes in ownership of certain assets

This clause addresses the transfer of the existing Crown leases held by EPC and the updating of registers to reflect the transfer to the Territory. Provisions with a similar effect were enacted in section 41 of the *Health and Community Care Services (Repeal and Consequential Amendments) Act 2002*.

Clause 303 Operation of pt 30 not breach of contract etc

This clause provides that repeal of the *Exhibition Park Corporation Act 1976* does not have the effect of breaching any contract or law or causing any person (including the EPC Board) to be guilty of a civil wrong. This clause will operate in a similar manner to section 117 of the *Financial Management Act 1996*.

Clause 304 Transitional regulations

Clause 304 provides that transitional regulations may be developed to ensure that any other matters arising from the enactment of the Repeal Bill may be addressed. Subclause 304(2) specifically provides that Part 30 of the *Financial Management Act 1996* may be modified by regulation for transitional matters that have not been adequately or appropriately dealt with.

The capacity to modify an Act through subordinate legislation is referred to as a 'Henry VIII' clause. It is acknowledged that these clauses are generally not preferable. In developing the Bill, every attempt has been made to foresee issues arising in the transition. However, it is considered that this provision is necessary in this Bill as there is no practical alternative available to ensure that any unforeseen matters which might arise during the repeal and integration can be addressed expediently. The provision is not modifying the primary legislation, but allowing for the principles of the provision to be enhanced where a transitional matter is necessary because of the enactment of the Repeal Bill, and therefore narrowly confined to this purpose only.

As a further limitation on this power to make transitional regulations, clause 304 (along with all of Part 30), expires two years after commencement (note clause 305).

Clause 305 Expiry – pt 30

Clause 305 provides that Part 30 expires two years after it commences. This will allow sufficient time for any transitional matters following the repeal to be addressed.

Part 1.2 FINANCIAL MANAGEMENT REGULATION 2005

Clause 1.2 Section 4

This clause adds EPC to the list of Territory authorities prescribed in section 4 of the *Financial Management Regulation 2005*. This amendment applies Division 9.6 of the *Financial Management Act 1996* to the EPC.

Clause 1.3 Section 5

This clause adds EPC to the list of Territory authorities prescribed in section 5 of the *Financial Management Regulation 2005*. This amendment applies Division 9.7 of the *Financial Management Act 1996* to the EPC.

The effect of clauses 1.2 and 1.3 is to enable assets and liabilities of EPC to be moved to the Territory, using either division 9.6 or 9.7 of the *Financial Management Act 1996*. These divisions also address transitional reporting requirements, transfer of litigation and the provision of assistance in the transfer process by EPIC, its staff and governing board to the Territory. Division 9.6 of the *Financial Management Act 1996* will operate to enable the transfer of assets and liabilities from the EPC to the Territory prior to the repeal taking effect on 1 January 2015, should that be necessary. Division 9.7 will operate to transfer to the Territory any residual assets or liabilities or other matters of the EPC from 1 January 2015.

Clause 1.4 Section 4

This clause removes EPC from the list of entities in section 4 of the *Taxation (Government Business Enterprises) Regulation 2003* (the Regulation). In accordance with section 9 of the *Taxation (Government Business Enterprises) Act 2003*, the entities prescribed in section 4 of the Regulation are not exempt from liability for any tax (however described), or any fee or charge, under Territory law. EPC is to be removed from the list of entities as the corporation will no longer exist on repeal.