



Australian Capital Territory

# **ACT Civil and Administrative Tribunal (Transitional Provisions) Regulation 2009**

## **Subordinate Law SL2009-2**

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The Australian Capital Territory Executive makes the following regulation under the *ACT Civil and Administrative Tribunal Act 2008*.

Dated 28 January 2009.

SIMON CORBELL  
Minister

ANDREW BARR  
Minister

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made under the

ACT Civil and Administrative Tribunal Act 2008

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## Part 1 Preliminary

### 1 Name of regulation

This regulation is the *ACT Civil and Administrative Tribunal (Transitional Provisions) Regulation 2009*.

### 2 Commencement

This regulation commences on the commencement of the *ACT Civil and Administrative Tribunal Act 2008*, section 6.

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

### 3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation.

For example, the signpost definition '*replaced entity*, for part 15 (Miscellaneous)—see section 57.' means that the term 'replaced entity' is defined in that section for part 15.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 4 Notes

A note included in this regulation is explanatory and is not part of this regulation.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

**5 Expiry**

This regulation expires on the day the *ACT Civil and Administrative Tribunal Act 2008*, section 301 expires.



## Part 2 Administrative appeals tribunal

### 6 Application to AAT for review of decision—no hearing

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the administrative appeals tribunal for review of a decision (however described) reviewable by the tribunal under a territory law; and
  - (b) the tribunal had not begun hearing the application.
- (2) The old law continues to apply in relation to the review of the decision until 13 February 2009.
- (3) The application is taken on and after 14 February 2009 to be an application to the ACAT for review of the decision under the territory law.
- (4) An order made by the administrative appeals tribunal in relation to the application is taken on and after 14 February 2009 to be an order of the ACAT.
- (5) In this section:  
*order* includes direction.

### 7 Application to AAT for review of decision—hearing

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the administrative appeals tribunal for review of a decision (however described) reviewable by the tribunal under a territory law; and
  - (b) the tribunal had begun hearing but not decided the application.
- (2) The old law continues to apply in relation to the review of the decision.

**8 Referral to AAT under Ombudsman Act**

- (1) This section applies if—
  - (a) before the commencement day, a referral was made to the administrative appeals tribunal for an advisory opinion under the *Ombudsman Act 1989*, section 13; and
  - (b) the tribunal had not given an advisory opinion in response to the referral before 14 February 2009.
- (2) The referral is taken to be a referral to the ACAT for an advisory opinion under the *Ombudsman Act 1989*, section 13.

## **Part 3 Consumer and trader tribunal**

### **9 Application to tribunal for review of decision—no hearing**

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the consumer and trader tribunal for review of a decision (however described) reviewable by the tribunal under a territory law; and
  - (b) the tribunal had not begun hearing the application.
- (2) The application is taken on and after the commencement day to be an application to the ACAT for review of the decision under the territory law.
- (3) An order made by the consumer and trader tribunal in relation to the application is taken on and after the commencement day to be an order of the ACAT.

### **10 Application to tribunal for review of decision—hearing**

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the consumer and trader tribunal for review of a decision (however described) reviewable by the tribunal under a territory law; and
  - (b) the tribunal had begun hearing but not decided the application.
- (2) The old law continues to apply in relation to the review of the decision.

### **11 Application to tribunal for disciplinary action—no hearing**

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the consumer and trader tribunal for disciplinary action under a territory law; and

- (b) the tribunal had not begun hearing the application.
- (2) The application is taken on and after the commencement day to be an application to the ACAT for an occupational discipline order under the territory law.
- (3) An order made by the consumer and trader tribunal in relation to the application is taken on and after the commencement day to be an order of the ACAT.

**12 Application to tribunal for disciplinary action—hearing**

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the consumer and trader tribunal for disciplinary action under a territory law; and
  - (b) the tribunal had begun hearing but not decided the application.
- (2) The old law continues to apply in relation to deciding the application.
- (3) Disciplinary action taken by the consumer and trader tribunal is taken to be an occupational disciplinary order by the ACAT.

## Part 4                      Credit tribunal

### 13                      Application to credit tribunal—no hearing

- (1) This section applies if, before the commencement day—
  - (a) an application was—
    - (i) made, referred or transferred, to the credit tribunal (other than an application for disciplinary action) under a territory law; or
    - (ii) made to the credit tribunal to transfer a matter to a court under a territory law; and
  - (b) the tribunal had not begun hearing the application.
- (2) The application is taken on and after the commencement day to be an application to the ACAT under the territory law.
- (3) An order made by the credit tribunal in relation to the application is taken on and after the commencement day to be an order of the ACAT.

### 14                      Application to credit tribunal—hearing

- (1) This section applies if, before the commencement day—
  - (a) an application was—
    - (i) made, referred or transferred, to the credit tribunal (other than an application for disciplinary action) under a territory law; or
    - (ii) made to the credit tribunal to transfer a matter to a court under a territory law; and
  - (b) the tribunal had begun hearing but not decided the application.

- (2) The old law continues to apply in relation to deciding the application.

**15 Application to credit tribunal for disciplinary action—no hearing**

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the credit tribunal for disciplinary action under a territory law; and
  - (b) the tribunal had not begun hearing the application for disciplinary action.
- (2) The application is taken on and after the commencement day to be an application to the ACAT for an occupational discipline order under the territory law.
- (3) An order made by the credit tribunal in relation to the application is taken on and after the commencement day to be an order of the ACAT.

**16 Application to credit tribunal for disciplinary action—hearing**

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the credit tribunal for disciplinary action under a territory law; and
  - (b) the tribunal had begun hearing but not decided the application.
- (2) The old law continues to apply in relation to deciding the application.
- (3) Disciplinary action taken by the credit tribunal is taken on and after the commencement day to be an occupational disciplinary order by the ACAT.

## **Part 5                      Discrimination tribunal**

### **17                      Application to discrimination tribunal—no hearing**

- (1) This section applies if, before the commencement day—
  - (a) a complaint was referred, or an application made, to the discrimination tribunal under a territory law; and
  - (b) the tribunal had not begun hearing the application or complaint.
- (2) The complaint or application is taken on and after the commencement day to be a complaint or application to the ACAT under the territory law.
- (3) An order made by the discrimination tribunal in relation to the application is taken on and after the commencement day to be an order of the ACAT.

### **18                      Application to discrimination tribunal—hearing**

- (1) This section applies if, before the commencement day—
  - (a) a complaint was referred, or an application made, to the discrimination tribunal under a territory law; and
  - (b) the tribunal had begun hearing but not decided the complaint or application.
- (2) The old law continues to apply in relation to deciding the complaint or application.

## **Part 6 Energy and water consumer council**

### **19 Complaint to council—no consideration**

- (1) This section applies if, before the commencement day—
  - (a) a complaint was made to the energy and water consumer council under a territory law; and
  - (b) the council had not begun considering the complaint.
- (2) The complaint is taken on and after the commencement day to be an application to the ACAT in relation to the complaint under the territory law.
- (3) An interim direction given by the energy and water consumer council in relation to the complaint is taken on or after the commencement day to be an order of the ACAT.

### **20 Complaint to council—consideration**

- (1) This section applies if, before the commencement day—
  - (a) a complaint was made to the energy and water consumer council under a territory law; and
  - (b) the council had begun considering but not determined the complaint.
- (2) The old law continues to apply in relation to deciding the complaint or application.



## Part 7 Guardianship tribunal

### 21 Appointment of guardian—no appointment

- (1) This section applies if, before the commencement day—
  - (a) the court gives a direction under the *Crimes Act 1900*, section 316 (Special hearing) to the guardianship tribunal to appoint a guardian; and
  - (b) the tribunal had not made the appointment.
- (2) The direction is taken on and after the commencement day to be a direction to the ACAT under the *Crimes Act 1900*, section 316.

### 22 Decision to review appointment of guardian—no inquiry

- (1) This section applies if, before the commencement day—
  - (a) the guardianship tribunal decided on its own initiative to hold an inquiry under the *Guardianship and Management of Property Act 1991*, section 19; and
  - (b) the tribunal had not begun the inquiry.
- (2) The decision to hold the inquiry is taken on and after the commencement day to be a decision by the ACAT to hold a hearing under the *Guardianship and Management of Property Act 1991*, section 19.
- (3) An order made by the guardianship tribunal in relation to the inquiry is taken on and after the commencement day to be an order of the ACAT.

**23 Decision to review appointment of guardian—inquiry**

- (1) This section applies if, before the commencement day—
  - (a) the guardianship tribunal decided on its own initiative to hold an inquiry in a matter under the *Guardianship and Management of Property Act 1991*, section 19; and
  - (b) the tribunal had begun, but not ended, the inquiry.
- (2) The old law continues to apply in relation to holding the inquiry.

**24 Application to guardianship tribunal—no inquiry**

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the guardianship tribunal under a territory law; and
  - (b) the tribunal had not begun an inquiry into the application.
- (2) The application is taken on and after the commencement day to be an application to the ACAT under the territory law.
- (3) An order made by the guardianship tribunal in relation to the application is taken on and after the commencement day to be an order of the ACAT.

**25 Application to guardianship tribunal—inquiry**

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the guardianship tribunal under a territory law; and
  - (b) the tribunal had begun an inquiry into but not decided the application.
- (2) The old law continues to apply in relation to deciding the application.

**26 Guardianship tribunal orders**

- (1) This section applies if—
  - (a) the guardianship tribunal makes an order determining an application or inquiry in a matter; and
  - (b) the tribunal makes a further order—
    - (i) adjourning the matter; or
    - (ii) that the matter be reviewed at a later time; and
  - (c) the further order is in force immediately before the commencement day.
- (2) An order adjourning the matter is taken on and after the commencement day to be an order of the ACAT adjourning the matter to the ACAT.
- (3) An order that a matter be reviewed at a later time is taken on and after the commencement day to be an order of the ACAT that the matter be reviewed by the ACAT at a later time.

## Part 8 Health professions tribunal

### 27 Application to health professions tribunal—no hearing

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the health professions tribunal under the *Health Professionals Act 2004*, section 46 or section 46A; and
  - (b) the tribunal had not begun hearing the application.
- (2) The application is taken on and after the commencement day to be an application to the ACAT for an occupational discipline order under the *Health Professionals Act 2004*, section 42.
- (3) An interim order made by the health professions tribunal in relation to the application is taken on and after the commencement day to be an emergency order made by the ACAT under the *Health Professionals Act 2004*, section 45.
- (4) Any other order made by the health professions tribunal in relation to the application is taken on and after the commencement day to be an order made by the ACAT.

### 28 Application to health professions tribunal—hearing

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the health professions tribunal under the *Health Professionals Act 2004*, section 46 or section 46A; and
  - (b) the tribunal had begun hearing but not decided the application.
- (2) The old law continues to apply in relation to deciding the application.

- (3) An order made by the health professions tribunal under the *Health Professionals Act 2004*, section 64 is taken to be an occupational disciplinary order made by the ACAT under the *Health Professionals Act 2004*, section 44.

## **29 Referral of application to health professions board**

- (1) This section applies if, before the commencement day—
- (a) the health professions tribunal referred an application, or part of an application, to a health professions board under the *Health Professionals Act 2004*, section 49; and
  - (b) the board had not given the tribunal a referral report.
- (2) The referral of the application is taken to be a referral by the ACAT to the health professions board under the *Health Professionals Act 2004*, section 46.

## **Part 9 Legal practitioners disciplinary tribunal**

### **30 Application to legal practitioners disciplinary tribunal—no hearing**

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the legal practitioners disciplinary tribunal under the *Legal Profession Act 2006*; and
  - (b) the tribunal had not begun hearing the application.
- (2) The application is taken on and after the commencement day to be an application to the ACAT under the *Legal Profession Act 2006*.
- (3) An order made by the legal practitioners disciplinary tribunal in relation to the application is taken on and after the commencement day to be an order of the ACAT.

### **31 Application to legal practitioners disciplinary tribunal—hearing**

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the legal practitioners disciplinary tribunal under the *Legal Profession Act 2006*; and
  - (b) the tribunal had begun hearing but not decided the application.
- (2) The old law continues to apply in relation to deciding the application.

**32 Appeal to legal practitioners disciplinary tribunal—no hearing**

- (1) This section applies if, before the commencement day—
  - (a) an appeal was made to the legal practitioners disciplinary tribunal under the *Legal Profession Act 2006*; and
  - (b) the tribunal had not begun hearing the appeal.
- (2) The appeal is taken to be an appeal to the ACAT under the *Legal Profession Act 2006*.
- (3) An order made by the legal practitioners disciplinary tribunal in relation to the appeal is taken on and after the commencement day to be an order of the ACAT.

**33 Appeal to legal practitioners disciplinary tribunal—hearing**

- (1) This section applies if, before the commencement day—
  - (a) an appeal is made to the legal practitioners disciplinary tribunal under the *Legal Profession Act 2006*; and
  - (b) the tribunal has begun hearing but not decided the appeal.
- (2) The old law continues to apply in relation to deciding the appeal.

**34 Legal practitioners disciplinary tribunal decision**

- (1) This section applies if, before the commencement day—
  - (a) the legal practitioners disciplinary tribunal made an order under the *Legal Profession Act 2006*, section 430 (Decisions of disciplinary tribunal—unsatisfactory professional conduct or professional misconduct) in relation to an Australian legal practitioner; and
  - (b) the relevant council had not given the practitioner a written notice under the *Legal Profession Act 2006*, section 71 (2).

- (2) The order is taken on and after the commencement day to be an order of the ACAT under the *Legal Profession Act 2006*, section 425.

**35 Application for registration as foreign lawyer**

- (1) This section applies if, before the commencement day—
- (a) a person applied to the licensing body for registration as a foreign lawyer under the *Legal Profession Act 2006*; and
  - (b) the applicant contravened an order of the legal practitioners disciplinary tribunal made under *Legal Profession Act 2006*; and
  - (c) the licensing body had not decided the application.
- (2) The contravention of the legal practitioners disciplinary tribunal's order is taken to be a contravention of an order of the ACAT under the *Legal Profession Act 2006*.

**36 Failure to comply with disciplinary order**

- (1) This section applies if—
- (a) before the commencement day, the legal practitioners disciplinary tribunal made an order against an Australian legal practitioner under the *Legal Profession Act 2006*; and
  - (b) the practitioner fails to comply with the order.
- (2) For the *Legal Profession Act 2006*, section 464 (Failure to comply with disciplinary orders), the Australian legal practitioner is taken on and after the commencement day to fail to comply with an order of the ACAT.



## Part 10                      Liquor licensing board

### 37                      Application in relation to licence

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the registrar of liquor licences under the *Liquor Act 1975* section 50 (Application for licence) or section 63 (Transfer); and
  - (b) the registrar had not decided the application.
- (2) The application is taken on and after the commencement day to be an application to the commissioner for fair trading.

### 38                      Complaint to registrar—no decision about action

- (1) This section applies if, before the commencement day—
  - (a) a complaint was made to the registrar of liquor licences under the *Liquor Act 1975*, section 77 or section 117; and
  - (b) the registrar had not decided what action to take in relation to the complaint.
- (2) The complaint is taken on and after the commencement day to be a complaint to the commissioner for fair trading.

### 39                      Application in relation to licensed premises

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the registrar of liquor licences under the *Liquor Act 1975* section 94 (Application for alteration) or section 99 (Application for closure); and
  - (b) the registrar had not decided the application.

- (2) The application is taken on and after the commencement day to be an application to the commissioner for fair trading.

**40 Application for permit**

- (1) This section applies if, before the commencement day—
  - (a) an application for a permit was made to the registrar of liquor licences under the *Liquor Act 1975*, section 107; and
  - (b) the registrar had not decided the application.
- (2) The application is taken on and after the commencement day to be an application to the commissioner for fair trading.

**41 Referral to liquor licensing board—no consideration**

- (1) This section applies if, before the commencement day—
  - (a) the registrar of liquor licences under the *Liquor Act 1975* referred a matter (other than an application) to the liquor licensing board for consideration; and
  - (b) the liquor licensing board had not begun considering the matter.
- (2) The referral is taken on and after the commencement day to be an application by the commissioner for fair trading to the ACAT for an occupational discipline order under the *Liquor Act 1975*.

**42 Referral to liquor licensing board—consideration**

- (1) This section applies if, before the commencement day—
  - (a) the registrar of liquor licences under the *Liquor Act 1975* referred a matter (other than an application) to the liquor licensing board for consideration; and
  - (b) the liquor licensing board had begun considering but not decided the matter.

- (2) The old law continues to apply in relation to deciding the matter.

## Part 11 Mental health tribunal

### 43 Application or referral to mental health tribunal—no inquiry

- (1) This section applies if, before the commencement day—
  - (a) an application or referral for a mental health order was made to the mental health tribunal under a territory law; and
  - (b) the tribunal had not started an inquiry into the application or referral.
- (2) The application or referral is taken on and after the commencement day to be an application or referral to the ACAT for a mental health order under the territory law.
- (3) An assessment ordered by the mental health tribunal under the *Mental Health (Treatment and Care) Act 1994*, division 4.2 is taken on and after the commencement day to be an assessment ordered by the ACAT under the *Mental Health (Treatment and Care) Act 1994*, division 4.2.
- (4) Another order made by the mental health tribunal in relation to the application or referral is taken on and after the commencement day to be an order of the ACAT.

### 44 Application or referral to mental health tribunal—inquiry

- (1) This section applies if, before the commencement day—
  - (a) an application or referral for a mental health order was made to the mental health tribunal under a territory law; and
  - (b) the mental health tribunal had begun an inquiry into but not decided the application or referral.

- (2) The old law continues to apply in relation to deciding the application or referral.

**45 Application to mental health tribunal for review—no hearing**

- (1) This section applies if, before the commencement day—
- (a) an application was made to the mental health tribunal to review a decision of a doctor or mental health officer under the *Mental Health (Treatment and Care) Act 1994*, section 37 (Apprehension); and
  - (b) the mental health tribunal had not begun hearing the application.
- (2) The application is taken on and after the commencement day to be an application to the ACAT to review the decision under the *Mental Health (Treatment and Care) Act 1994*, section 37.
- (3) An order made by the mental health tribunal in relation to an application is taken on and after the commencement day to be an order of the ACAT.

**46 Application to mental health tribunal for review—hearing**

- (1) This section applies if, before the commencement day—
- (a) an application was made to the mental health tribunal to review a decision of a doctor or mental health officer under the *Mental Health (Treatment and Care) Act 1994*, section 37 (Apprehension); and
  - (b) the mental health tribunal had begun hearing but not decided the application.
- (2) The old law continues to apply in relation to deciding the application.

## **Part 12 Residential tenancies tribunal**

### **47 Application to residential tenancies tribunal—no hearing**

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the residential tenancies tribunal for resolution of a tenancy dispute or an occupancy dispute under a territory law; and
  - (b) the residential tenancies tribunal had not begun hearing the application.
- (2) The application is taken on and after the commencement day to be an application to the ACAT for resolution of a tenancy dispute or occupancy dispute under the territory law.
- (3) An order made by the residential tenancies tribunal in relation to an application is taken on and after the commencement day to be an order of the ACAT.

### **48 Application to residential tenancies tribunal—hearing**

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the residential tenancies tribunal for resolution of a tenancy dispute or an occupancy dispute under a territory law; and
  - (b) the residential tenancies tribunal had begun hearing but not decided the application.
- (2) The old law continues to apply in relation to deciding the application.

**49 Residential tenancy tribunal orders**

- (1) This section applies if—
  - (a) before the commencement day, the residential tenancies tribunal had made—
    - (i) a termination and possession order; or
    - (ii) an order stating an amount of money is to be paid from an amount of bond; and
  - (b) the order is contravened.
- (2) The order is taken on and after the commencement day to be an order of the ACAT.

## Part 13 Small Claims Court

### 50 Application to court—no hearing

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the Small Claims Court; and
  - (b) the Small Claims Court had not begun hearing the application.
- (2) The application is taken on and after the commencement day to be an application to the ACAT.
- (3) An order made by the Small Claims Court in relation to the application is taken on and after the commencement day to be an order of the ACAT.

### 51 Application to court—hearing

- (1) This section applies if, before the commencement day—
  - (a) an application was made to the Small Claims Court; and
  - (b) the Small Claims Court had begun hearing but not decided the application.
- (2) The old law continues to apply in relation to deciding the application.

### 52 Appeals from Small Claims Court—no hearing

- (1) This section applies if, before the commencement day—
  - (a) an appeal was made from a judgment of the Small Claims Court to the Supreme Court under the *Magistrates Court Act 1930*, part 4.5 (Civil appeals); and
  - (b) the Supreme Court had not decided the appeal.
- (2) The old law continues to apply in relation to deciding the appeal.



## Part 14                      Disciplinary matters—other tribunals

### 53                      Definitions—pt 14

In this part:

*disciplinary notice* means any of the following:

- (a) a disciplinary notice given under the *Architects Act 2004*, section 43;
- (b) a notice given under the *Consumer Credit (Administration) Act 1996*, section 23 or section 54;
- (c) a disciplinary notice given under the *Construction Occupations (Licensing) Act 2004*, section 55;
- (d) a notice given under the *Sale of Motor Vehicles Act 1977*, section 48A;
- (e) a disciplinary notice given under the *Surveyors Act 2007*, section 27;
- (f) a notice given under the *Tobacco Act 1927*, section 55.

*previous tribunal* means any of the following:

- (a) the architects board established under the *Architects Act 2004*;
- (b) the chief surveyor established under the *Surveyors Act 2007*;
- (c) the commissioner for fair trading;
- (d) the construction occupations registrar;
- (e) the registrar of motor vehicle dealers established under the *Sale of Motor Vehicles Act 1977*;

- (f) the registrar of tobacco established under the *Tobacco Act 1927*.

**54 Disciplinary notice—no action**

- (1) This section applies if, before the commencement day—
  - (a) a disciplinary notice had been given to a person by a previous tribunal; and
  - (b) the tribunal had not started to consider, or hold an inquiry into, the matter to which the notice relates.
- (2) The disciplinary notice is taken on and after the commencement day to be an application to the ACAT for an occupational discipline order.

**55 Disciplinary notice—consideration or inquiry started**

- (1) This section applies if, before the commencement day—
  - (a) a disciplinary notice had been given to a person by a previous tribunal; and
  - (b) the tribunal had started to consider, or hold an inquiry into, the matter to which the notice relates but had not decided whether to take disciplinary action.
- (2) The old law continues to apply in relation to deciding whether to take disciplinary action.

**56 Disciplinary notice—decision to take disciplinary action**

- (1) This section applies if, before the commencement day—
  - (a) a disciplinary notice had been given to a person by a previous tribunal; and
  - (b) the tribunal had decided to take disciplinary action.

- (2) The decision to take disciplinary action is taken on and after the commencement day to be an occupational discipline order by the ACAT.

## Part 15 Miscellaneous

### 57 Meaning of *replaced entity*—pt 15

In this part:

*replaced entity* means an entity—

- (a) that immediately before the commencement day, could consider an application made to the entity; and
- (b) that has ceased to exist; and
- (c) 1 or more functions of which have been taken over by the ACAT.

### 58 Continued application of old law

- (1) This section applies to a provision of this part that provides for the continued application of an old law to a matter started in a replaced entity before the commencement day.
- (2) To remove any doubt, the provision is additional to, and does not limit, the Legislation Act, section 84 (Saving of operation of repealed and amended laws).

### 59 Continued existence of replaced entity

- (1) If, under this regulation, an old law continues to apply to a matter started in a replaced entity before the commencement day, the replaced entity continues to exist for that purpose.
- (2) However, if the matter is not decided by the replaced entity within 6 months after the commencement day—
  - (a) on the day after the end of the 6-month period—
    - (i) the replaced entity ceases to exist for the purpose of deciding the matter; and

- (ii) the matter is transferred to the ACAT; and
  - (b) the general president may make orders about the conduct of the matter.
- (3) Despite the repeal of the *Administrative Appeals Tribunal Act 1989*, that Act continues to apply in relation to the appointment and functions of the president of the AAT until 13 February 2009.

## **60 Replaced entity—orders about conduct of matter**

- (1) This section applies if—
  - (a) under this regulation, an old law continues to apply to a matter started in a replaced entity before the commencement day; and
  - (b) a member of the replaced entity may make orders under the old law about the conduct of the matter; and
  - (c) the member is not available to make the orders.
- (2) The general president may instead make the orders about the conduct of the matter.

## **61 Orders to resolve difficulties**

- (1) If a difficulty arises in the application of this regulation to a particular matter, the ACAT may make any order it considers appropriate to resolve the difficulty.
- (2) The ACAT may make an order under this section on application by a party or on its own initiative.

## **62 Rules to resolve difficulties**

If a difficulty arises in the application of this regulation to a particular matter, and the ACAT considers the difficulty is likely to arise in the application of this regulation to other matters, the ACAT may make any rule it considers appropriate to resolve the difficulty.

**63 Order made by replaced entity**

- (1) This section applies if a replaced entity made an order in relation to a matter before the commencement day.
- (2) The order may be enforced as if the order were an order of the ACAT.
- (3) If a territory law requires that the order be reviewed, the order may be reviewed as if the order were an order of the ACAT.

**64 Construction of outdated references to replaced entities**

In any Act, instrument made under an Act or a document, a reference to a replaced entity is, in relation to anything that has been taken over by the ACAT, a reference to the ACAT.

**65 Members of ACAT—remuneration**

- (1) This section applies to a person if—
  - (a) the person—
    - (i) was a member of a replaced entity immediately before the commencement day; and
    - (ii) is appointed as a member of the ACAT; and
  - (b) the remuneration tribunal has not determined the remuneration, allowances and other entitlements of the person as a member of the ACAT.
- (2) The person's daily hearing rate as a member of the ACAT are taken to be—
  - (a) if the person was not entitled to a daily hearing rate as a member of the replaced entity—the daily hearing rate of a member of the energy and water consumer council immediately before the commencement day; or

- (b) if the person was a member of more than 1 replaced entity immediately before the commencement day—the highest daily hearing rate that the person was entitled to as a member of a replaced entity immediately before the commencement day; or
- (c) in any other case—the daily hearing rate of the person as a member of the replaced entity immediately before the commencement day.

## **66 Agents Act—trust money**

- (1) Trust money held under the *Agents Act 2003* immediately before the commencement day—
  - (a) is, for the Act, an amount received under the *Agents Act 2003*; and
  - (b) must, as soon as practicable, be paid into the ACAT trust account.

*Note* The *Financial Management Act 1996*, s 51B deals with transfers of amounts between trust banking accounts.

- (2) In this section:

*trust money*—see the *Agents Act 2003*, section 162 as in force immediately before the commencement day.

## **67 Modification of Act, pt 30—Act, s 301 (2)**

- (1) The Act, part 30 applies as if the following sections were inserted:

### **‘301A Number of registrars**

- (1) This Act applies as if—
  - (a) the chief executive could appoint 1 or more public servants as tribunal registrar under section 110; and
  - (b) any necessary changes to the Act were made.

(2) This section expires on the day the ACAT (TP) Regulation expires.

(3) In this section:

*ACAT (TP) Regulation* means the *ACT Civil and Administrative Tribunal (Transitional Provisions) Regulation 2009*.

**301B Modification—Construction Occupations (Licensing) Act 2004**

(1) The *Construction Occupations (Licensing) Act 2004* is modified as set out in the ACAT (TP) Regulation, schedule 1.

(2) This section and the ACAT (TP) Regulation, schedule 1 expire on the day the ACAT (TP) Regulation expires.

(3) In this section:

*ACAT (TP) Regulation* means the *ACT Civil and Administrative Tribunal (Transitional Provisions) Regulation 2009*.

**301C Modification—Construction Occupations (Licensing) Regulation 2004**

(1) The *Construction Occupations (Licensing) Regulation 2004* is modified as set out in the ACAT (TP) Regulation, schedule 2.

(2) This section and the ACAT (TP) Regulation, schedule 2 expire on the day the ACAT (TP) Regulation expires.

(3) In this section:

*ACAT (TP) Regulation* means the *ACT Civil and Administrative Tribunal (Transitional Provisions) Regulation 2009*.

(2) The Act, part 30 applies as if divisions 30.2 to 30.7 were omitted.



## Schedule 1      Modifications—Construction Occupations (Licensing) Act 2004

(see s 67)

### **[1.1]      Section 56 (1)**

*substitute*

- (1) If the registrar believes on reasonable grounds that a ground for occupational discipline exists in relation to a licensee, the registrar may—
  - (a) apply to the ACAT for an occupational discipline order in relation to the licensee; or
  - (b) take the following disciplinary action:
    - (i) reprimand the licensee;
    - (ii) require the licensee, or, if the licensee is a corporation or partnership, a nominee of the licensee, to complete a stated course of training to the satisfaction of the registrar or another stated person;
    - (iii) impose a condition on the licence, or amend an existing condition.

**[1.2] Section 123 (1) (a)***substitute*

- (a) if satisfied that a ground for occupational discipline exists in relation to the complaint—
- (i) do both of the following:
    - (A) apply to the ACAT for an occupational discipline order in relation to the licensee; and
    - (B) tell the complainant in writing that the application has been made; or
  - (ii) take the following disciplinary action:
    - (A) reprimand the licensee or former licensee;
    - (B) require the licensee, or, if the licensee is a corporation or partnership, a nominee of the licensee, to complete a stated course of training to the satisfaction of the registrar or another stated person;
    - (C) impose a condition on the licence, or amend an existing condition.

## Schedule 2      Modification—Construction Occupations (Licensing) Regulation 2004

(see s 67)

### **[2.1]      Schedule 4, new item 13A**

*insert*

13A	Act, 56 (1) (b)	take disciplinary action	licensee
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## Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this regulation.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- commissioner for fair trading
- construction occupations registrar
- contravene
- remuneration tribunal
- Small Claims Court.

*Note 3* Terms used in this regulation have the same meaning that they have in the *ACT Civil and Administrative Tribunal Act 2008* (see Legislation Act, s 148). For example, the following terms are defined in the *ACT Civil and Administrative Tribunal Act 2008*, dict:

- general president
- occupational discipline
- party.

***commencement day*** means the day the *ACT Civil and Administrative Tribunal Act 2008*, section 6 commences.

***disciplinary notice***, for part 14 (Disciplinary matters—other tribunals)—see section 53.

***energy and water consumer council*** means the energy and water consumer council established under the *Utilities Act 2000*, section 169.

***old law***, in relation to a matter before the commencement day, means the law in force in relation to the matter immediately before the commencement day.

***previous tribunal***, for part 14 (Disciplinary matters—other tribunals)—see section 53.

*replaced entity*, for part 15 (Miscellaneous)—see section 57.

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## Endnotes

**1 Notification**

Notified under the Legislation Act on 29 January 2009.

**2 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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