



Australian Capital Territory

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

**SL2009-2**

made under the

**ACT Civil and Administrative Tribunal Act 2008**

**Republication No 3**

**Effective: 17 December 2009 – 21 December 2009**

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Last amendment made by A2009-49

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *ACT Civil and Administrative Tribunal (Transitional Provisions) Regulation 2009*, made under the *ACT Civil and Administrative Tribunal Act 2008* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 17 December 2009. It also includes any amendment, repeal or expiry affecting the republished law to 17 December 2009.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

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

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**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*.

### 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.

**52A Reference to Small Claims Court in document**

- (1) This section applies to a document that—
  - (a) was written before the commencement day in relation to an application in the Small Claims Court; and
  - (b) refers to the Small Claims Court.
- (2) A reference in the document to the Small Claims Court is taken on and after the commencement day to be a reference to—
  - (a) the ACAT; and
  - (b) if the document is filed in the Magistrates Court in relation to the enforcement of an order of the ACAT or Small Claims Court—the Magistrates Court.

**Example—document**

a power of attorney authorising someone to represent a party to an application in the Small Claims Court

*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).

## 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.

**U 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*.

### **301AA Territory entities to pay amounts to ACAT trust account**

(1) This section applies if—

(a) a territory entity makes an application to the ACAT in a quarter; and

(b) no filing fee is paid for the application because of the operation of the Legislation Act, section 121 (Binding effect of Acts).

(2) The entity must, at the end of the quarter, pay to the ACAT trust account an amount equal to the filing fee for the application.

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

(4) In this section:

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

*territory entity* includes—

(a) the Territory; or

(b) a Minister; or

(c) an administrative unit; or

(d) a territory instrumentality; or

(e) any other Territory authority.

### **301D Modification—Legal Profession Act 2006**

(1) The *Legal Profession Act 2006* is modified as set out in the ACAT (TP) Regulation, schedule 3.

(2) This section and the ACAT (TP) Regulation, schedule 3 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*.

**301E        Modification—Magistrates Court Act 1930**

(1) The *Magistrates Court Act 1930* is modified as set out in the ACAT (TP) Regulation, schedule 4.

(2) This section and the ACAT (TP) Regulation, schedule 4 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*.

**301F        Modification—Utilities Act 2000**

(1) The *Utilities Act 2000* is modified as set out in the ACAT (TP) Regulation, schedule 5.

(2) This section and the ACAT (TP) Regulation, schedule 5 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 3      Modification—Legal Profession Act 2006

(see s 67)

### [3.1]      New section 423A

*insert*

#### 423A      Restriction on publication of certain identifying material from application

- (1) A person must not publish an account or report of an application under this part if the account or report—
  - (a) discloses the identity of the person who is the subject of the complaint to which the application relates (the *person concerned*); or
  - (b) allows the identity of the person concerned to be worked out.
- (2) However, the identity of the person concerned may be disclosed in an account or report of the application if—
  - (a) a final decision has been made that the person concerned is guilty of the conduct complained of; and
  - (b) either—
    - (i) the appeal period has ended and no appeal has been made; or
    - (ii) any appeal has been decided against the person concerned.
- (3) In this section:

*appeal* means an appeal under the *ACT Civil and Administrative Tribunal Act 2008*, section 79 against a decision by the tribunal.

*appeal period* means the period within which an appeal may be made.

*Note*     See the *Court Procedures Rules 2006*, r 5052 (Appeals to Supreme Court—general powers) and r 5103 (Appeals to Supreme Court—time for filing notice of appeal).

## Schedule 4      Modification—Magistrates Court Act 1930

(see s 67)

### [4.1]      New section 266B

*insert*

#### **266B      Enforcement of ACT Civil and Administrative Tribunal order—representation**

- (1) This section applies if a person (the *first person*)—
  - (a) was represented in an application in the ACAT by someone else (the *second person*) under the *ACT Civil and Administrative Tribunal Act 2008*, section 30; and
  - (b) the ACAT made a money order or non-money order in favour of the first person; and
  - (c) the first person enforces the order in the Magistrates Court under the *Court Procedures Rules 2006*, part 2.18 (Enforcement).
- (2) The second person may represent the first person in the enforcement proceeding in the Magistrates Court.

## Schedule 5 Modification—Utilities Act 2000

(see s 67)

### [5.1] New section 45 (2)

*substitute*

- (2) The annual licence fee for a particular utility is the amount considered by ICRC to be a reasonable contribution towards the costs incurred, or expected to be incurred—
- (a) by the following in the exercise of functions, in the ACT or elsewhere, in relation to utility services:
    - (i) ICRC;
    - (ii) the chief executive under part 5 (Technical regulation) on behalf of the Territory; and
  - (b) by the ACAT in hearing and deciding matters to which a utility is a party.



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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.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **ACT Civil and Administrative Tribunal (Transitional Provisions) Regulation 2009 SL2009-2**

notified LR 29 January 2009

s 1, s 2 commenced 29 January 2009 (LA s 75 (1))

remainder commenced 2 February 2009 (s 2 and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

*Note*            This regulation exp 2 February 2010 (see s 5)

as amended by

#### **ACT Civil and Administrative Tribunal (Transitional Provisions) Amendment Regulation 2009 (No 1) SL2009-51**

notified LR 30 October 2009

s 1, s 2 commenced 30 October 2009 (LA s 75 (1))

remainder commenced 31 October 2009 (s 2)

#### **Justice and Community Safety Legislation Amendment Act 2009 (No 3) A2009-44 sch 1 pt 1.2**

notified LR 24 November 2009

s 1, s 2 commenced 24 November 2009 (LA s 75 (1))

sch 1 pt 1.2 commences 22 December 2009 (s 2 (3))

#### **Statute Law Amendment Act 2009 (No 2) A2009-49 sch 1 pt 1.1**

notified LR 26 November 2009

s 1, s 2 commenced 26 November 2009 (LA s 75 (1))

sch 1 pt 1.1 commenced 17 December 2009 (s 2)

### 4 Amendment history

#### **Commencement**

s 2                            om LA s 89 (4)

#### **Reference to Small Claims Court in document**

s 52A                        ins SL2009-51 s 4

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

s 67                        am SL2009-51 s 5, s 6; A2009-49 amdt 1.1, amdt 1.2;  
A2009-44 amdt 1.12

#### **Modification—Construction Occupations (Licensing) Act 2004**

sch 1                        om A2009-49 amdt 1.3

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

sch 2 om A2009-49 amdt 1.3

**Modification—Legal Profession Act 2006**

sch 3 ins SL2009-51 s 7

**Modification—Magistrates Court Act 1930**

sch 4 ins SL2009-51 s 8

**Modification—Utilities Act 2000**

sch 5 ins SL2009-51 s 9

**5 Earlier republications**

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R1 2 Feb 2009	2 Feb 2009– 30 Oct 2009	not amended	new regulation
R2 31 Oct 2009	31 Oct 2009– 16 Dec 2009	SL2009-51	amendments by SL2009-51

## Endnotes

6 Uncommenced amendments

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### 6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

<p><b>Justice and Community Safety Legislation Amendment Act 2009 (No 3) A2009-44 sch 1 pt 1.2</b></p>
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## Part 1.2 ACT Civil and Administrative Tribunal (Transitional Provisions) Regulation 2009

[1.12] Section 67 (1), inserted section 301A

*omit*

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