



Australian Capital Territory

Government Contractual Debts (Interest) Act 1994 No 107

Republication No 3

Effective: 5 June 2003

Republication date: 5 June 2003

Last amendment made by A2002-45

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Government Contractual Debts (Interest) Act 1994* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 5 June 2003. It also includes any amendment, repeal or expiry affecting the republished law to 5 June 2003.

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):

- 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 does not include 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

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Government Contractual Debts (Interest) Act 1994

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05/06/03

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Australian Capital Territory

Government Contractual Debts (Interest) Act 1994

An Act relating to interest accruing on debts arising under certain contracts entered into by the Territory and Territory authorities

1 Short title

This Act may be cited as the *Government Contractual Debts (Interest) Act 1994*.

3 Definitions for Act

In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

agency means an administrative unit of the public service.

commercial account means an account rendered to the Territory or a Territory authority, after the commencement of this Act, that requests payment of money in respect of—

- (a) the provision of goods or services; or
- (b) the execution of works;

under a contract to which this Act applies, and includes such an account that requests payment of money by way of—

- (c) deposit; or
- (d) part payment; or
- (e) instalment payment; or
- (f) bond or other refundable money.

contract includes agreement, arrangement or understanding.

due date, in relation to a commercial account, means the 25th day of the month next following the month in which the account is to be taken to be payable in accordance with section 6.

month means a month of the year.

Territory authority means—

- (a) a body, whether incorporated or not, established by or under an Act, other than—
 - (i) a body registered under the *Cooperatives Act 2002*; or
 - (ii) an incorporated association; or
- (b) a company over which the Territory or another Territory authority is in a position to exercise control, other than a company specified in the *Territory Owned Corporations Act 1990*, schedule 1.

4 Exclusion of application of Act

- (1) This Act applies to a contract entered into by the Territory or a Territory authority, whether before or after the commencement of this Act, other than a specified contract that provides that this Act does not apply to it.

- (2) In this section:

specified contract means a contract under which the consideration payable by the Territory or a Territory authority equals or exceeds the amount of \$10 000.

5 Reporting of excluded contracts

- (1) An administrative head and a Territory authority shall state, in an annual report in respect of a period that ends after the commencement of this Act, the number of contracts to which this Act does not apply under section 4 that have been entered into by the agency under the control of the administrative head or the authority, as the case requires.

- (2) In this section:

administrative head means the Head of Administration or an Associate Head of Administration.

6 When a commercial account is payable

If a commercial account is payable by the Territory or a Territory authority, for the purpose of the ascertainment of the due date in relation to that account, the account shall be taken to be payable—

- (a) if the contract under which the account is rendered includes a provision for determining when the account is payable—on the day ascertained in accordance with that provision; or
- (b) in any other case—on the day on which the account is received by the agency by which it is payable on behalf of the Territory or the Territory authority, as the case requires.

7 Interest on unpaid accounts

- (1) If the Territory or a Territory authority fails to pay a commercial account in full by the due date, it is liable to pay to the creditor a further amount by way of interest ascertained in accordance with this section on so much of the account as remains from time to time unpaid.
- (2) Interest payable under this section in respect of a commercial account—
 - (a) accrues from the due date; and
 - (b) shall be calculated at the rate fixed under the *Supreme Court Rules* for the *Supreme Court Act 1933*, section 70 as if—
 - (i) the unpaid amount of the commercial account were payable under a judgment of the Supreme Court; and
 - (ii) the due date of the account were the date when the judgment had been given.
- (3) Subsection (2) does not operate so as to make the Territory or a Territory authority liable to pay interest on interest.

8 Exclusion of inconsistent contractual terms

A term in a contract to which this Act applies that—

- (a) excludes the application of this Act to the contract; or
- (b) provides for the payment of interest on an unpaid account that has been rendered under the contract;

is void.

9 Availability of funds to pay interest

- (1) Interest for which the Territory is liable under section 7 is payable whether or not there is an appropriation available for the purpose.
- (2) If a commercial account is payable out of trust money standing to the credit of a bank account maintained under the *Financial Management Act 1996*, section 51, any interest payable under section 7 in respect of that commercial account is also payable out of that money.

10 Payments by mail

For this Act, if the payment of an amount in respect of which a commercial account has been rendered is remitted by mail, the payment is to be taken to be made when it is posted.

11 Discounts for prompt payments

A contract for the provision of goods or services to, or the execution of works for, the Territory or a Territory authority shall not be entered into unless—

- (a) the person entering into it on behalf of the Territory; or
- (b) the Territory authority;

is satisfied on reasonable grounds that—

- (c) the best discount that can reasonably be obtained for the prompt payment of a commercial account rendered under that contract is available to the Territory or Territory authority; or

- (d) if no such discount is available—that reasonable commercial negotiations would not result in the availability of such a discount.

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.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	RI = reissue
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	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

3 Legislation history

Government Contractual Debts (Interest) Act 1994 No 107

notified 22 December 1994 (Gaz 1994 No S289)

commenced 22 December 1994 (s 2)

as amended by

Financial Management and Audit (Consequential and Transitional Provisions) Act 1996 No 26 sch pt 10

notified 1 July 1996 (Gaz 1996 No S130)

commenced 1 July 1996 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 169

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 169 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

Cooperatives Act 2002 A2002-45 amdt 6.7

notified LR 5 December 2002

s 1, s 2 commenced 5 December 2002 (LA s 75 (1))

amdt 6.7 commenced 5 June 2003 (s 2 and LA s 79)

as repealed by

Government Procurement Amendment Act 2003 A2003-22 s 10

notified LR 19 May 2003

s 1, s 2 commenced 19 May 2003

s 10 commences 1 July 2003 (s 2 and CN2003-4)

4 Amendment history

Commencement

s 2 om 2001 No 44 amdt 1.1983

Definitions for Act

s 3 def *Territory authority* am A2002-45 amdt 6.7

Availability of funds to pay interest

s 9 sub 1996 No 26 sch pt 10

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. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1996 No 26	31 March 1999
2	Act 2001 No 44	11 April 2002

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