



Australian Capital Territory

Kingston Foreshore Development Authority Act 1999 No 89

Republication No 2

Republication date: 16 May 2002

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Kingston Foreshore Development Authority Act 1999* as in force on 16 May 2002. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

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 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

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

Kingston Foreshore Development Authority Act 1999

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Amendments incorporated to
12 September 2001



Australian Capital Territory

Kingston Foreshore Development Authority Act 1999

An Act to establish the Kingston Foreshore Development Authority, and
for related purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Kingston Foreshore Development Authority Act 1999*.

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).

appointed member means a member appointed under section 11 (1) (a).

authority means the Kingston Foreshore Development Authority established under section 5.

CEO means the person holding the office of chief executive officer mentioned in section 21.

chairperson means the chairperson of the authority.

deputy chairperson means the deputy chairperson of the authority.

development area—see section 4.

Financial Management Act means the *Financial Management Act 1996*.

meeting means a meeting of the authority.

member means a member of the authority.

national capital plan means the plan defined in the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth), section 4.

public servant member means the member nominated under section 14.

quarter means the period of 3 months beginning on 1 January, 1 April, 1 July or 1 October in a year.

Territory plan means the Territory plan in effect for the time being under the *Land (Planning and Environment) Act 1991*.

4 Development area

- (1) Subject to subsection (2), the Kingston Foreshore Development Area is the area consisting of—
 - (a) the area referred to as area 8L, and water feature Pg within the division of Kingston, in the Territory plan; and
 - (b) the area consisting of a strip of land 7m wide and extending along the south-eastern shore of Lake Burley Griffin from the eastern edge of Bowen Park to the western bank of Jerrabomberra Creek at its junction with that lake.
- (2) The Minister may, in writing, vary the area from time to time.
- (3) A variation under subsection (2) is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

Part 2 Corporate status

Division 2.1 Establishment, functions, powers and limitations

5 Establishment

- (1) The Kingston Foreshore Development Authority is established.
- (2) The authority—
 - (a) is a corporation; and
 - (b) has a common seal.
- (3) Every court, and every person acting judicially, must—
 - (a) take judicial notice of—
 - (i) the common seal; and
 - (ii) the signature of a member; and
 - (b) presume, in the absence of proof to the contrary, that the common seal was duly attached to any document produced or tendered to the court or person acting judicially.

6 Functions

- (1) The functions of the authority are—
 - (a) to promote, coordinate, develop and manage the development area on behalf of the Territory; and
 - (b) to carry out works for the development and enhancement of the development area; and
 - (c) to exercise any other functions given to the authority by or under this Act or another Territory law.

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- (2) The authority must exercise its functions—
- (a) in a way that is consistent with the social and economic needs of the Territory; and
 - (b) in accordance with prudent commercial principles; and
 - (c) in consultation with residents of the ACT and, in particular, of Kingston; and
 - (d) in a way that exhibits a sense of social responsibility by having regard to the interests of the community in which it operates; and
 - (e) if its activities affect the environment—in compliance with the principles of ecologically sustainable development.
- (3) For subsection (2) (e), ecologically sustainable development is taken to require the effective integration of economic and environmental considerations in decision-making processes and to be achievable through implementation of the following principles:
- (a) the precautionary principle, namely, that if there is a threat of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
 - (b) the inter-generational equity principle, namely, that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
 - (c) conservation of biological diversity and ecological integrity;
 - (d) improved valuation and pricing of environmental resources.
- (4) This section applies subject to the provisions (as far as material) of sections 8, 9 and 10, part 4 and sections 40 and 47.

7 Powers

- (1) The authority has power to do all things necessary and convenient to be done in connection with the exercise of its functions.
- (2) Without limiting subsection (1), the authority may—
 - (a) in accordance with any authorisation of the Executive, grant leases of land (including leases to the authority) on behalf of the Executive; and
 - (b) hold leases of, or any other estate or interest in, land; and
 - (c) construct roads, lanes, footpaths and passageways; and
 - (d) construct buildings, structures and facilities (including community facilities) and manage and maintain them, or participate in their construction, management or maintenance; and
 - (e) carry out any works and operations considered necessary for the purpose of rendering land suitable for professional, commercial, industrial, residential or community purposes; and
 - (f) occupy and use any land or building; and
 - (g) erect, alter, repair, renovate or demolish buildings or structures; and
 - (h) maintain and manage land, buildings, structures, works or other property; and
 - (i) make charges for work done or services rendered; and
 - (j) form, or participate in the formation of, companies; and
 - (k) enter into partnerships or participate in joint ventures; and
 - (l) enter into any other contract or arrangement with any person for the doing of anything that the authority is authorised to do under this or any other Act; and
 - (m) subscribe for or purchase shares in, or debentures or other securities of, companies; and

- (n) act as agent for other persons; and
 - (o) appoint agents or attorneys.
- (3) For subsections (1) and (2), the authority may exercise its functions on or in relation to land (including buildings, structures, roads, lanes, footpaths and passageways) within or outside the development area.
- (4) This section applies subject to the provisions (as far as material) of sections 8, 9 and 10, part 4 and sections 40 and 47.

8 Limitations on formation of companies etc

- (1) The authority must not, without the written approval of the Minister—
- (a) subscribe for or purchase shares in, or debentures or other securities of, a company; or
 - (b) form, or participate in the formation of, a company.
- (2) Any approval under subsection (1)—
- (a) must relate only to a particular company or proposed company; and
 - (b) may be given subject to specified conditions and restrictions.
- (3) If the authority (with the written approval of the Minister) does an act mentioned in subsection (1) (a) or (b)—
- (a) the authority must promptly notify the Minister of the act; and
 - (b) the Minister must—
 - (i) prepare a statement setting out particulars of, and the reasons for, the act; and
 - (ii) present a copy of the statement to the Legislative Assembly within 6 sitting days after being notified of the act.

- (4) Before presenting a copy of a statement to the Legislative Assembly, the Minister may delete from it any material that is commercially sensitive, but in that case the Minister must, at the same time, present to the Legislative Assembly a further statement setting out the general nature of the material deleted and the reason for the deletion.

9 Controlling interests

- (1) If the authority holds a controlling interest in a company, it must endeavour to ensure that—
- (a) the auditor-general is appointed auditor for the company; and
 - (b) that the company does not do anything that the authority itself is not empowered to do.
- (2) Without limiting subsection (1) (b), the authority must endeavour to ensure that a company in which it holds a controlling interest does not—
- (a) borrow money otherwise than from the Territory or Commonwealth; or
 - (b) raise money otherwise than by borrowing;
- except—
- (c) with the written approval of the Minister for the time being administering the Financial Management Act; and
 - (d) on terms and conditions that are specified in, or consistent with, the approval.
- (3) Subsection (2) applies to a borrowing or raising of money whether the money is borrowed or raised by dealing in securities or otherwise, and whether or not the money is borrowed or raised, in whole or in part, in a currency other than Australian currency.

- (4) For subsection (2)—
- (a) the issue by a company of an instrument acknowledging a debt in consideration of the payment or deposit of money or of the provision of credit; or
 - (b) the obtaining of credit by the company;
- must, to the extent of the amount of that money or of that credit be taken to be a borrowing by that company.
- (5) Subsection (2) (b) does not apply to a raising of money if that money is for payment, in good faith, for the provision of services or the sale, rental or hiring out of property (including an estate or interest in land).
- (6) An approval under subsection (2) (c) may be given in relation to a particular transaction or class of transactions.

10 Limitations on participation in joint ventures

- (1) The authority must not, without the written approval of the Minister, participate in a joint venture.
- (2) An approval under subsection (1)—
- (a) may be of general application or may relate to a particular proposed joint venture; and
 - (b) may be given subject to specified conditions and restrictions.
- (3) If the authority enters into an agreement for a joint venture, the Minister must—
- (a) prepare a statement setting out particulars of, and the reasons for, the joint venture; and
 - (b) present a copy of the statement to the Legislative Assembly—
 - (i) at the end of the period (if any) during which the disclosure of the joint venture would, in the Minister's opinion, adversely affect the commercial interests of the authority; or

- (ii) if there is no such period—when the agreement is entered into.
- (4) Before presenting a copy of a statement to the Legislative Assembly, the Minister may delete from it any material that is commercially sensitive, but in that case the Minister must, at the same time, present to the Legislative Assembly a further statement setting out the general nature of the material deleted and the reason for the deletion.
- (5) If the authority is able to control the things done by a joint venture in which it is a participant, it must endeavour to ensure that—
 - (a) the auditor-general is appointed auditor for the joint venture; and
 - (b) the joint venture does not do anything that the authority itself is not empowered to do.

Division 2.2 Membership

11 Constitution

- (1) The authority consists of 8 members, as follows:
 - (a) 6 persons appointed by the Minister in accordance with schedule 1, clause 1;
 - (b) the CEO;
 - (c) the public servant member.
- (2) The authority may exercise its functions despite any vacancy in its membership.
- (3) A person acting under section 16 or 24 is, while so acting, a member of the authority.

12 Chairperson and deputy chairperson

- (1) The authority is to have a chairperson and a deputy chairperson.
- (2) The Minister must, from time to time, in writing, appoint an appointed member as chairperson.
- (3) A person so appointed ceases to be the chairperson if—
 - (a) the person ceases to be an appointed member; or
 - (b) the Minister, by signed writing, removes the person as chairperson.
- (4) The members must, from time to time, at a meeting elect a member (other than the chairperson) as deputy chairperson.
- (5) A person so elected ceases to be the deputy chairperson if—
 - (a) the person ceases to be a member; or
 - (b) the person becomes the chairperson; or
 - (c) the members at a meeting pass a motion, of which at least 7 days notice has been given, to remove the person as deputy chairperson.

13 Appointed members

Schedule 1 has effect in relation to the appointed members.

14 Public servant member

The Minister must, by signed writing, nominate a person who holds an office under the *Public Sector Management Act 1994* as the public servant member of the authority.

15 Leave of absence

The Minister may, in writing, grant leave of absence to an appointed member or the public servant member on the terms and conditions as to remuneration and otherwise that the Minister determines.

16 Acting appointments or nominations

- (1) The Minister may, by signed writing, appoint a suitable person to act as an appointed member, or nominate a suitable person to act as the public servant member—
 - (a) during a vacancy in the office of the member, whether or not an appointment or a nomination has previously been made to that office; or
 - (b) during any period, or during all periods, when the member is for any reason unable to exercise the functions of the office.
- (2) Before appointing or nominating a person, the Minister must consider the suitability of the person for appointment or nomination, having regard to the person's expertise and knowledge.
- (3) A person must not act as a member continuously for more than 12 months.
- (4) Anything done by or in relation to a person acting, or purporting to act, under an appointment or a nomination under subsection (1) is not invalid on the ground that—
 - (a) the occasion for the appointment had not arisen; or
 - (b) there is a defect or irregularity in connection with the appointment; or
 - (c) the person had acted as a member continuously for more than 12 months; or
 - (d) the appointment had ceased to have effect; or
 - (e) the occasion to act had not arisen or had ceased.

Division 2.3 Meetings

17 Calling meetings

- (1) The chairperson or, if the chairperson cannot do so, the deputy chairperson must call the meetings—

- (a) that the chairperson or the deputy chairperson, as the case requires, considers necessary for the efficient exercise of the functions of the authority; or
 - (b) that the Minister directs by written notice given to the chairperson or the deputy chairperson.
- (2) The CEO must call a meeting at the request of 3 members (1 of whom may be the CEO).

18 Procedure

- (1) The chairperson must preside at all meetings at which the chairperson is present.
- (2) If the chairperson is not present at a meeting, the deputy chairperson must preside if the deputy chairperson is present.
- (3) If the chairperson and the deputy chairperson are both absent from a meeting, the members present must elect 1 of their number to preside.
- (4) The member presiding at a meeting may give directions regarding the procedure to be followed in connection with the meeting.
- (5) Questions arising at a meeting must be decided by a majority of the votes of the members present and voting.
- (6) The member presiding at a meeting has a deliberative vote and, in the event of an equality of votes, a casting vote.
- (7) The authority must keep minutes of its proceedings.
- (8) The authority may hold a meeting by way of telephone, television or any other device that permits instantaneous audio communication (with or without visual communication).
- (9) A resolution in writing, if it is signed by every member, takes effect as a resolution passed at a meeting.

19 Quorum

At a meeting, 4 members constitute a quorum.

20 Disclosure of interest

- (1) A member who has a direct or indirect pecuniary or personal interest in a matter that has been submitted for consideration by the authority must disclose the nature of the interest at a meeting as soon as practicable after the relevant facts have come to the member's knowledge.
- (2) The member presiding at a meeting at which an interest is disclosed must cause that disclosure to be recorded in the minutes of the meeting.
- (3) A member disclosing an interest must not, unless the authority determines otherwise—
 - (a) be present during any deliberation of the authority in relation to the relevant matter; or
 - (b) take part in any decision of the authority in relation to that matter.
- (4) A member disclosing an interest must not—
 - (a) be present during any deliberation of the authority in relation to a determination referred to in subsection (3); or
 - (b) take part in any decision of the authority in relation to the determination.
- (5) The chairperson must give a written report to the Minister about any determination of the authority under subsection (3) specifying the nature of the interest disclosed and the reasons for the determination.

- (6) The chairperson must, from time to time, give the Minister a statement of all disclosures of interest made under subsections (1) and (2), and the Minister must give a copy of the statement to the relevant committee of the Legislative Assembly within 14 days after receiving it.
- (7) A statement under subsection (1) or (2) is confidential to the relevant committee and must not be published in any way.
- (8) In subsection (6):

relevant committee means—

- (a) a standing committee of the Legislative Assembly nominated by the Speaker for subsection (6); or
- (b) if no nomination under paragraph (a) is in effect—the standing committee of the Legislative Assembly responsible for the scrutiny of public accounts.

Part 3 Chief executive officer, staff and consultants

Division 3.1 Chief executive officer

21 Office of CEO

- (1) The chief executive must create and maintain in the public service an executive office of chief executive officer (*CEO*) of the authority.
- (2) The CEO is the person for the time being holding, or performing the duties of, that office.
- (3) The CEO is appointed by the authority after consultation with the Minister.
- (4) Subject to this Act, the CEO holds office on the terms and conditions (in relation to matters not determined under the *Remuneration Tribunal Act 1995*) determined in writing by the authority.
- (5) A retiring CEO is eligible for reappointment.
- (6) A person appointed to be the CEO must, as soon as practicable after being appointed and on each subsequent 30 June, give written notice to the Minister of all his or her direct or indirect pecuniary interests.
- (7) If the CEO has or acquires a direct or indirect pecuniary interest in a matter that, to his or her knowledge, is being considered or about to be considered by the authority, the CEO must give written notice to the Minister of that interest.

22 Leave of absence

The authority may, in writing, grant leave of absence to the CEO.

23 CEO's main function

The CEO must, subject to and in accordance with the general directions of the authority, manage the affairs of the authority.

24 Acting CEO

- (1) The Minister may, by signed writing, appoint a suitably qualified and experienced person to act as CEO—
 - (a) during a vacancy in the office of CEO, whether or not an appointment has previously been made to that office; or
 - (b) during any period, or during all periods, when the CEO is absent from duty or from the ACT or is, for any other reason, unable to exercise the functions of that office.
- (2) A person must not act as CEO continuously for more than 12 months.
- (3) Section 21 (6) and (7) apply (as far as practicable) to a person acting as CEO as if references in those subsections to the CEO were references to a person acting as CEO.
- (4) Anything done by or in relation to a person acting, or purporting to act, under an appointment under subsection (1) is not invalid because—
 - (a) the occasion for the appointment had not arisen; or
 - (b) there is a defect or irregularity in connection with the appointment; or
 - (c) the person had acted as CEO continuously for more than 12 months; or
 - (d) the appointment had ceased to have effect; or
 - (e) the occasion to act had not arisen or had ceased.

Division 3.2 Staff and consultants

25 Staff

- (1) The staff of the authority are employed under the *Public Sector Management Act 1994*.
- (2) That Act applies in relation to the management of the staff of the authority.

26 Consultants

- (1) The authority may engage consultants.
- (2) Subsection (1) does not give the authority power to enter into a contract of employment.

Part 4 Management

Division 4.1 Preliminary

27 Definitions for pt 4

In this part:

business plan, in relation to a financial year, means the business plan of the authority as in force in relation to that year, and includes any modification of that plan.

commissioner means the commissioner for revenue.

equivalent law means a law of the Commonwealth that—

- (a) deals with taxation or imposes a tax; and
- (b) does not apply to the authority only because the authority is an instrumentality of the Territory; and
- (c) is not the subject of a declaration under section 27A.

tax includes a duty, fee or charge.

27A Declaration that Commonwealth law not equivalent law

- (1) The Treasurer may, in writing, declare that a provision of a Commonwealth law is not an equivalent law for the authority.
- (2) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Division 4.2 General

28 Management focus

The functions of the authority must be exercised—

- (a) in accordance with sound business practice; and

- (b) so as to achieve the business plan of the authority.

29 Development of business plans

- (1) The object of this section is to provide for the development by the authority, in consultation with the Minister, of an annual business plan for the authority within, as far as practicable, the first 2 months of each financial year beginning on or after 1 July 2000.
- (2) The authority must, as far as practicable, submit to the Minister within 1 month after the beginning of each financial year a draft business plan for that financial year.
- (3) The draft must contain the material mentioned in sections 30 (1) and (2) (as far as it is then available).
- (4) The Minister must, as soon as practicable after receipt of the draft, or a revised draft under subsection (5) (c)—
 - (a) provide comments in writing to the authority on the draft or revised draft; or
 - (b) notify the authority in writing that the Minister proposes to make no comments on the draft or revised draft.
- (5) As soon as practicable after receipt of any comments by the Minister the authority must—
 - (a) consider the comments; and
 - (b) consult with the Minister on any of the comments with which the authority does not agree with a view, as far as practicable, of reaching agreement; and
 - (c) give the Minister a revised version of the draft business plan that, as far as practicable, gives effect to the Minister's comments and any matters agreed between the Minister and the authority.

- (6) A draft or revised draft becomes the business plan of the authority in relation to the relevant financial year when the authority receives a notification under subsection (4) (b) in relation to the draft or revised draft.

30 Business plans

- (1) The business plan of the authority in relation to a financial year, must contain—
- (a) a copy of the latest available statement of intent provided in accordance with the Financial Management Act, section 58 in relation to that financial year; and
 - (b) a description of the main undertakings of the authority in relation to that financial year and each of the next 2 financial years; and
 - (c) a description of the business and corporate strategies of the authority in relation to that financial year and each of the next 2 financial years.
- (2) The business plan of the authority must also contain any other information that the Minister, in writing, may have required the authority to include in it.
- (3) The Minister must, within 6 sitting days after notifying the authority under section 29 (4) (b) in relation to the draft or revised draft of the business plan, present a copy of the plan to the Legislative Assembly.
- (4) Before presenting the business plan to the Legislative Assembly, the Minister may delete from it any material that is commercially sensitive, but in that case the Minister must, at the same time, present to the Assembly a further statement setting out the general nature of the material deleted and the reason for the deletion.

31 Modification of business plans

- (1) Subject to section 30 (1) and (2) and this section, the authority may modify the business plan of the authority in relation to a financial year.
- (2) The authority may submit to the Minister a proposal to modify its business plan.
- (3) The Minister must, as soon as practicable after receipt of the proposal, or a revised proposal under subsection (4) (c)—
 - (a) provide comments in writing to the authority on the proposal or revised proposal; or
 - (b) notify the authority in writing that the Minister proposes to make no comments on the proposal or revised proposal.
- (4) As soon as practicable after receipt of any comments by the Minister the authority must—
 - (a) consider the comments; and
 - (b) consult with the Minister on any of the comments with which the authority does not agree with a view, as far as practicable, of reaching agreement; and
 - (c) give the Minister a revised version of the proposal that, as far as practicable, gives effect to the Minister's comments and any matters agreed between the Minister and the authority.
- (5) When the authority receives a notification under subsection (3) (b) in relation to the proposal, the business plan must be modified in accordance with the proposal.
- (6) If a business plan is modified in accordance with a proposal or a revised proposal, the Minister must present a copy of the proposal or revised proposal to the Legislative Assembly within 6 sitting days after being notified of the modification.

- (7) Before presenting the modified business plan to the Legislative Assembly, the Minister may delete from it any material that is commercially sensitive, but in that case the Minister must, at the same time, present to the Assembly a further statement setting out the general nature of the material deleted and the reason for the deletion.

Division 4.3 Financial provisions

32 Proceeds of grant of leases

- (1) Subject to generally accepted accounting principles, any consideration received by the authority for the grant of a lease of land is taken to be, for this Act, income of the authority.
- (2) In subsection (1), the reference to the grant of a lease of land includes the grant, under authorisation of the Executive, of a lease (including a lease to the authority itself) of land that, immediately before the grant, was unleased.

33 Payment of funds to Territory

- (1) The Treasurer may, from time to time, by signed writing, direct the authority to pay to the Territory—
- (a) a specified amount; or
 - (b) an amount calculated in a specified way;
- in the way, at the time or times and on the terms and conditions that the Treasurer specifies by that or another instrument.
- (2) In giving a direction under subsection (1), the Treasurer must have regard to—
- (a) the assets and liabilities of the authority; and
 - (b) its income and expenditure; and
 - (c) the ability of the authority to discharge its functions; and

- (d) the requirement that the Territory obtain a reasonable return from the development and disposal of unleased land.
- (3) For calculations under this section, land within the development area is taken to be an asset of the authority.
- (4) Subject to subsection (5), the authority must, as soon as practicable after the end of each financial year, pay to the Territory an amount equal to the amount of funds that it holds that are not expected to be required for the discharge of its functions.
- (5) The Treasurer may, by signed writing, direct that the authority pay a lesser amount than the amount referred to in subsection (4).
- (6) The authority must comply with a direction under this section.

34 Commonwealth tax equivalents

- (1) Subject to this section, the authority must pay to the Territory an amount (a ***Commonwealth tax equivalent***) equivalent to the tax that it would be liable to pay under an equivalent law if the authority were not an instrumentality of the Territory.
- (2) The commissioner may, at any time, make an assessment of the Commonwealth tax equivalent payable by the authority.
- (3) The commissioner may, at any time, amend an assessment as the commissioner considers necessary, even if the Commonwealth tax equivalent has been paid in relation to the assessment.
- (4) An amended assessment is an assessment for any law of the Territory (including this Act).
- (5) The commissioner must, within 14 days after making an assessment, give a copy of the assessment to the authority.
- (6) A document that appears to be a copy of an assessment may be tendered in evidence, without being proved, as evidence (in the absence of proof to the contrary), that—
 - (a) the assessment was duly made; and

- (b) except in proceedings by way of review of the assessment or the process of making it—that the Commonwealth tax equivalent is payable by the authority.
- (7) Subject to section 35, payment of a Commonwealth tax equivalent must be made on terms determined by the commissioner.

35 Variation of assessment or determination

- (1) The authority, if dissatisfied with an assessment or determination of the commissioner, may request the commissioner to refer it to the Treasurer.
- (2) The Treasurer may, in writing, vary an assessment or determination so referred.
- (3) An assessment or determination varied by the Treasurer has effect as varied.
- (4) For this section, the commissioner has all the powers, and may exercise any discretions, that by any law of the Commonwealth are vested in the authority or officer administering the equivalent law.

36 Information etc to be given to commissioner

- (1) The authority must give to the commissioner all the information, returns or documents that, if it were not an instrumentality of the Territory, it would be obliged under a law of the Commonwealth to give to the authority or officer administering the equivalent law.
- (2) The information, returns and documents must be given in the way, and within the times, that would apply under the law of the Commonwealth.

37 Liability for Territory taxes

The authority is not exempt under this Act from liability under a Territory law for any tax.

38 Application of Financial Management Act, pt 8

- (1) Funds must not be invested, or money borrowed, for the purposes of the authority except in accordance with the Financial Management Act, part 8.
- (2) Subsection (1) does not limit the application of the Financial Management Act, part 8 in relation to the authority.

Part 5 Miscellaneous

39 Provision of information

The authority must give the Minister the information relating to its operations that the Minister requires.

40 Ministerial directions

- (1) The Minister may give written directions, not inconsistent with this Act, to the authority in relation to the exercise of its functions, either generally or in relation to a particular matter.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

- (2) The authority must give effect to any direction under subsection (1).
- (3) The Minister must present a copy of any direction to the Legislative Assembly within 6 sitting days after it is given to the authority.
- (4) The Territory must pay to the authority the reasonable costs of complying with a direction.
- (5) The amount payable under subsection (4) is the amount agreed between the authority and the Treasurer or, failing agreement, the amount determined by the Chief Minister.

41 Annual report

The report presented, or information provided, by the authority under the *Annual Reports (Government Agencies) Act 1995*, section 8 must include, in relation to the reporting period to which the report or information relates—

- (a) a copy of any direction given under section 40 during the period; and

- (b) a statement by the authority about action taken during the period to give effect to any direction given (whether before or during the period) under that section.

42 Validation of acts if appointment irregular etc

Anything done by or in relation to a person who is, or purports to be, as a member or as the chairperson, deputy chairperson or CEO is not invalid because—

- (a) the occasion for the appointment had not arisen; or
- (b) there is a defect or irregularity in connection with the appointment; or
- (c) the appointment had ceased to have effect.

43 Delegations and authorisations

- (1) The authority may, either generally or as provided by the instrument of delegation, by instrument under its common seal, delegate to the CEO any of its powers under this Act, other than a power under this section.
- (2) The authority may, by instrument under its common seal, authorise a person to act on its behalf in the exercise of a power under this Act or any other Act, other than a power under this section.

44 Review of Act

- (1) The Minister must cause a review of the operation and effectiveness of this Act to be carried out as soon as practicable after 17 February 2005 and must ensure that, in the course of that review, regard is had to—
 - (a) the effectiveness of the operations of the authority; and
 - (b) the need for the continuation of the existence of the authority; and
 - (c) the need for the continuation of this Act; and

- (d) any other matter that appears to the Minister to be relevant to the operation and effectiveness of this Act.
- (2) The Minister must prepare a report based on the review made under subsection (1) and must, as soon as practicable, present a copy to the Legislative Assembly.

45 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

46 Vesting of assets

- (1) Subject to this section, the Minister may, by signed writing, divest an asset from the Territory and transfer the asset to the authority.
- (2) Before making an instrument in relation to an asset, the Minister must be satisfied that—
 - (a) the asset—
 - (i) has been used, or made available for use, for the authority's operations; or
 - (ii) otherwise relates to those operations; and
 - (b) it would be appropriate to transfer the asset to the authority; and
 - (c) the authority has, in writing, consented to the transfer.
- (3) If the Territory is—
 - (a) a party to a contract or an agreement; or
 - (b) subject to an obligation;

that relates to an asset transferred under subsection (1), the Minister may make provision, in the instrument of transfer or another instrument signed by the Minister, for the authority to be substituted for the Territory as—

- (c) that party to the contract or an agreement; or
- (d) the body subject to the obligation.
- (4) An instrument under this section takes effect according to its terms.
- (5) For this section, an estate or interest in land is taken not to be an asset.

47 Area specified by national capital plan

A provision of this Act giving a function to the authority takes effect, in relation to the area mentioned in section 4 (1) (b), subject to any relevant provision or requirement of the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth).

Schedule 1 Appointment and terms and conditions of appointed members

(see s 11 (1) and s 13)

1 Appointment and terms of office

- (1) The appointment of a person as an appointed member is to be by the Minister by signed writing.
- (2) Before appointing a person, the Minister must—
 - (a) consider the suitability of the person for appointment having regard to the person's expertise and knowledge; and
 - (b) consult with the relevant committee of the Legislative Assembly; and
 - (c) consider any recommendation made by the committee, being a recommendation made within 30 days after the consultation.

- (3) In subclause (2):

relevant committee means—

- (a) a standing committee of the Legislative Assembly nominated by the Speaker for subclause (2); or
 - (b) if no nomination in paragraph (a) is in effect—the standing committee of the Legislative Assembly responsible for the scrutiny of public accounts.
- (4) An appointed member holds office, subject to this Act—
 - (a) for the period specified in the instrument of appointment; and
 - (b) on the terms and conditions (if any) in relation to matters not provided for by this Act specified in the instrument of appointment.

- (5) The period of the appointment must not be more than 3 years.
- (6) Subject to this Act, a former appointed member is eligible for reappointment.

2 Remuneration and allowances

An appointed member is entitled to remuneration, allowances and other entitlements in accordance with—

- (a) a determination of the remuneration tribunal; or
- (b) if there is no such determination—an interim determination by the Chief Minister under the *Remuneration Tribunal Act 1995*.

3 Resignation

An appointed member may resign office by writing signed by the member and given to the Minister.

4 Ending of appointment

- (1) The Minister may end the appointment of an appointed member because of the misbehaviour or physical or mental incapacity of the member.
- (2) If an appointed member—
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
 - (b) is absent for 3 consecutive meetings; or
 - (c) without reasonable excuse contravenes section 20; or
 - (d) is convicted in Australia or elsewhere of an offence punishable by imprisonment for 1 year or longer;

the Minister must, subject to subclause (3), end the appointment of that member.

- (3) For subclause (2) (b), an absence on leave is to be disregarded.
- (4) The ending of an appointment must be in writing signed by the Minister.

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 |
| ins = inserted/added | renum = renumbered |
| LA = Legislation Act 2001 | reloc = relocated |
| LR = legislation register | R[X] = Republication No |
| 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 |

3 Legislation history

Kingston Foreshore Development Authority Act 1999 No 89

notified 23 December 1999 (Gaz 1999 No S65)

s 1, s 2 commenced 23 December 1999 (s 2 (1))

remainder commenced 17 February 2000 (s 2 (2) and Gaz 2000 No 7)

as amended by

Legislation (Consequential Amendments) Act 2001 No 44 pt 204

notified 26 July 2001 (Gaz 2001 No 30)

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

pt 204 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

4 Amendment history

Commencement

s 2 om 2001 No 44 amdt 1.2293

Development area

s 4 am 2001 No 44 amdt 1.2294, amdt 1.2295

Definitions for pt 4

s 27 am 2001 No 44 amdt 1.2297, amdt 1.2298

def **equivalent law** am 2001 No 44 amdt 1.2296

Declaration that Commonwealth law not equivalent law

s 27A ins 2001 No 44 amdt 1.2299

Ministerial directions

s 40 am 2001 No 44 amdt 1.2300, amdt 1.2301

Regulation-making power

s 45 sub 2001 No 44 amdt 1.2302

Transitional—first business plan

s 48 om 2001 No 44 amdt 1.2303

Appointment and terms and conditions of appointed members

sch 1 (prev sch) renum R2 LA

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 | not amended | 1 March 2000 |

Authorised when accessed at www.legislation.act.gov.au or in authorised printed form

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