

**2002**

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

**ACTION AUTHORITY AMENDMENT BILL 2002**

**EXPLANATORY STATEMENT**

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# **ACTION Authority Amendment Bill 2002**

## **Explanatory Statement**

The ACTION Authority Amendment Bill 2002 (the Bill) amends the *ACTION Authority Act 2001* (the Act) to provide for preservation of entitlements for ACTION employees. The Act established the ACTION bus service as an independent statutory authority, creating separate governance and administrative arrangement. The Act provided its corporate status, Board of Management, Procedures, Chief Executive and Staff, and accountability and finance arrangements. It also provided for the transfer of staff, assets, rights and liabilities from the ACT Public Service to the ACTION Authority.

The intention at the time the Act was passed was that staff transferring to the Authority would retain all their existing employment terms and conditions, until such time as it was agreed through industrial negotiations that these change. This provided certainty to employees, and flexibility to the Authority to develop terms and conditions specific to their operations over a period of time. Since the establishment of the Authority, ACTION has continued to apply similar terms and conditions for all employees through the current enterprise agreement. ACTION believes, and the Government supports this view, that the current focus of the Authority requires a unified workforce working under one set of terms and conditions.

Since the commencement of the Act on 1 January 2002, it has been identified that a number of terms and conditions have not been fully preserved:

- Full rights of ACTION employees to transfer back to the ACT Public Service, should there be a suitable vacancy identified;
- Full recognition of service with ACTION in calculating some entitlements, should an employee return to the ACT Public Service. These are entitlements are some of those calculated according to length of service, such as redundancy payments; and
- Superannuation arrangements available to staff transferred, may not be available to new employees.

The Government believes that these entitlements should be preserved, at least until such time as management and staff agree that an alternative approach delivers a better result in ACTION's particular case.

A review of the options available to the Government identified that changing the ACTION Authority Act 2001 to specify that all employees, except the senior executives, were to be regarded as public servants employed under the *Public Sector Management Act 1994*, was the simplest and most effective way of dealing with all these issues.

To ensure that there is clear continuity in terms and conditions for ACTION employees the amendments will apply from the commencement of the *ACTION Authority Act*.

The main elements of the Bill are:

- Change to Sections 21 and 22 of the *ACTION Authority Act* to substitute new employment arrangements for those previously stipulated.
- Section 22(4) allows for a future change whereby employment under the *Public Sector Management Act* can be dispensed with. This is consistent with the former provisions in the Act and allows ACTION to move to new employment arrangements by mutual agreement with its workforce. The change will be effected by disallowable instrument to ensure the transparency of the process to the Assembly.
- New sections 39A to 39D are inserted in the Act to ensure that the change of employment status arrangements are effective for all staff and to remove doubt that any action taken under the previous legislation could have unintended consequences to the detriment of employees.

### **Financial and Regulatory Impact**

The amendments proposed in the Bill have no regulatory impact.

The amendments proposed in the Bill have no direct financial impact, based on the current public service pay and conditions, and the specific conditions applying in the ACTION enterprise agreement.

### **Consequential Amendments**

No consequential amendments were required to the *Public Sector Management Act 1994*.

### **Technical Amendments**

Technical amendments to facilitate the changes are made to the *ACTION Authority Amendment Act 2001* and the *Statute Law Amendment Act 2002*.