

AUSTRALIAN CAPITAL TERRITORY

INSURANCE AUTHORITY ACT 2000

**VESTING OF ASSETS AND LIABILITIES IN THE AUSTRALIAN CAPITAL
TERRITORY INSURANCE AUTHORITY**

INSTRUMENT NO. 111 OF 2001

EXPLANATORY STATEMENT

Subsection 36 (1) of the *Insurance Authority Act 2000* (the Act) provides that the Treasurer may declare that stated assets or liabilities of the Territory, as recorded in the ACT Insurance Management Account, vest in ACT Insurance Authority.

Subsection 36 (4) states that the declaration under subsection 36 (1) is a Disallowable Instrument; and unless disallowed under Section 6 of the *Subordinate Laws Act 1989*, takes effect –

- (i) on the day immediately after the last day the declaration could have been disallowed under that section; or
- (ii) if the declaration provides for a later time of effect – the later time.

The proposed declaration will have a retrospective effect as the stated assets and liabilities of the Territory are to vest in ACT Insurance Authority as from 1 April 2001. Accordingly, the declaration will attract the application of section 7 of the *Subordinate Laws Act 1989*.

Section 7 of the *Subordinate Laws Act 1989* relates to Retrospectivity and states:

“A subordinate law shall not be expressed to take effect from a date before the date of its notification in the Gazette where, if the law so took effect -

(a) the rights of a person (other than the Territory or a Territory authority) existing at the date of notification would be affected in a manner prejudicial to that person; or

(b) liabilities would be imposed on a person (other than the Territory or a Territory authority) in respect of any act or omission before the date of notification;

and where any subordinate law contains a provision in contravention of this section, that provision is void and of no effect.”

As no person will be prejudicially affected by the declaration, Section 7 will not invalidate the retrospectivity.