



Australian Capital Territory

Utilities (Network Facilities Tax) Act 2006

A2006-58

Republication No 3

Effective: 23 June 2021

Republication date: 23 June 2021

Last amendment made by [A2021-12](#)

About this republication

The republished law

This is a republication of the *Utilities (Network Facilities Tax) Act 2006* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 23 June 2021. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 23 June 2021.

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, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

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 the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Utilities (Network Facilities Tax) Act 2006

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R3
23/06/21

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Australian Capital Territory

Utilities (Network Facilities Tax) Act 2006

An Act to impose a tax on owners of utility network facilities, and for other purposes

1 Name of Act

This Act is the *Utilities (Network Facilities Tax) Act 2006*.

Note This Act is a tax law under the [Taxation Administration Act 1999](#). As a tax law, this Act is subject to provisions of the [Taxation Administration Act 1999](#) about the administration and enforcement of tax laws generally.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition ‘*network facility*—see section 6.’ means that the term ‘*network facility*’ is defined in that section.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 *Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

6 What is a *network facility*?

- (1) A *network facility* means any part of the infrastructure of a utility network.
- (2) However, a network facility does not include any facility, or part of a facility, that is affixed to land for which any of the following is in force in relation to the use of the land for the utility network:
 - (a) a lease;
 - (b) a licence granted by the Territory;
 - (c) any right prescribed by regulation.

Examples of a network facility

- 1 powerlines or pipes over or under land
- 2 telecommunications cabling

7 What is a *utility network*?

A utility network is—

- (a) any of the following under the *Utilities Act 2000*:
 - (i) an electricity transmission network;
 - (ii) an electricity network (for the distribution of electricity);
 - (iii) a gas transmission network;
 - (iv) a gas distribution network;
 - (v) a sewerage network;
 - (vi) a water network; or
- (b) a telecommunications network under the *Telecommunications Act 1997* (Cwlth) for communication between members of the public; or
- (c) any other network prescribed by regulation.

8 Network facility tax

- (1) The owner of a network facility on land in the ACT is liable to pay tax in relation to the facility at the rate worked out as follows:

determined rate × route length

- (2) In this section:

determined rate means the rate determined under the *Taxation Administration Act 1999*, section 139.

Note The *Taxation Administration Act 1999* provides for the Minister to determine the rate at which, or the method by which, an amount of tax payable under a tax law is to be calculated (see s 139 (1) (b)).

9 Registration of owners of network facilities

The commissioner must register a person as the owner of a network facility if—

- (a) the person owns a network facility; and
- (b) all or any part of the facility is on land in the ACT; and
- (c) the person has applied to the commissioner for registration as the owner of the facility.

10 Offence—failure to register

A person commits an offence if—

- (a) the person becomes the owner of a network facility; and
- (b) the network facility is on land in the ACT; and
- (c) the person does not apply to the commissioner to be registered under this Act within 90 days after the day the person becomes the owner of the network facility.

Maximum penalty: 250 penalty units.

11 Ownership of network facility—fixtures to land

For this Act, the owner or occupier of land to which a network facility is affixed has no proprietary interest in the facility only because it is affixed to the land.

12 Returns

- (1) The owner of a network facility must lodge a return for a year if, at any time during the year, the owner was the owner of a network facility on land in the ACT.
- (2) The return for a year must—
 - (a) be in writing; and
 - (b) be lodged with the commissioner not later than 60 days after the end of the year; and
 - (c) state—
 - (i) the route length of each network facility to which the return relates; and
 - (ii) the way the owner calculated the route length for the facility.

13 Assessment

If the route length used in the commissioner's assessment of the tax payable in relation to a network facility for a year is different from that stated in the owner's return for the facility for the year, the assessment must also include a statement about—

- (a) the information the commissioner used in the assessment; and
- (b) the way the commissioner estimated the route length.

Note Assessments are made under the [Taxation Administration Act 1999](#) and objections may be made under that Act, s 100 (1) (a).

14 Regulation-making power

The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

Dictionary

(see s 3)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following term:

- the Territory.

assessment—see the [Taxation Administration Act 1999](#), dictionary.

commissioner—see the [Taxation Administration Act 1999](#), dictionary.

land includes water.

network facility—see section 6.

network facility tax means tax payable under section 8.

on—a network facility is **on** land if the facility, or any part of the facility, is on, over or under the land.

owner, for a network facility, means the legal owner, whether or not the legal owner also has rights to operate the facility.

registered means registered under section 9.

route length, of a network facility on land, means the length of the horizontal projection of the facility on the land.

utility network—see section 7.

year means a year ending on 31 March.

Endnotes

1 About the endnotes

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 are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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

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

3 Legislation history

Utilities (Network Facilities Tax) Act 2006 A2006-58

notified LR 20 December 2006

s 1, s 2 commenced 20 December 2006 (LA s 75 (1))

remainder commenced 21 December 2006 (s 2)

as amended by

Statute Law Amendment Act 2021 A2021-12 sch 3 pt 3.61

notified LR 9 June 2021

s 1, s 2 commenced 9 June 2021 (LA s 75 (1))

sch 3 pt 3.61 commenced 23 June 2021 (s 2 (1))

4 Amendment history

Commencement

s 2 om LA s 89 (4)

Offence—failure to register

s 10 (2)-(6) exp 21 December 2007 (s 10 (6) (LA s 88 declaration applies))

Returns

s 12 am [A2021-12](#) amdt 3.176

Taxation Administration Act 1999, new section 4 (ka)

s 15 om LA s 89 (3)

Endnotes

5 Earlier republications

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.

| Republication No and date | Effective | Last amendment made by | Republication for |
|----------------------------------|------------------------------|-------------------------------|--------------------------|
| R1 21 Dec 2006 | 21 Dec 2006– 21 Dec 2007 | not amended | new Act |
| R2 22 Dec 2007 | 22 Dec 2007– 22 June 2021 | not amended | commenced expiry |

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