



Australian Capital Territory

ACTION Authority Act 2001

A2001-61

Republication No 9

Effective: 19 June 2006 – 1 July 2006

Republication date: 19 June 2006

Last amendment made by A2006-30

Uncommenced repeal: see endnote 3

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *ACTION Authority Act 2001* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 19 June 2006. It also includes any amendment, repeal or expiry affecting the republished law to 19 June 2006.

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

ACTION Authority Act 2001

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19/06/06

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Australian Capital Territory

ACTION Authority Act 2001

An Act to establish the ACTION Authority, and for related purposes

Part 1 Preliminary

1 Name of Act

This Act is the *ACTION Authority Act 2001*.

2 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.

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)).

3 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.

Part 2 **ACTION Authority**

Note for pt 2

The governance of territory authorities, including ACTION Authority, is regulated by the *Financial Management Act 1996* (the *FMA*), pt 9 as well as the Act that establishes them.

The FMA, pt 9 deals, for example, with the corporate status of territory authorities and their powers, the make-up of governing boards, the responsibilities of the governing board and board members, how governing board positions can be ended, meetings of governing boards and conflicts of interest.

Division 2.1 **Establishment and functions of authority**

4 **Establishment of authority**

The ACTION Authority (the *authority*) is established.

5 **Functions**

The functions of the authority are—

- (a) to provide an effective, affordable and accessible public transport network within its area of operation; and
- (b) without prejudice to paragraph (a), to operate on a sound commercial basis; and
- (c) to maximise the sustainable return to the Territory on its investment in the authority; and
- (d) to perform services to the community in accordance with any agreement with the Minister; and
- (e) to implement any directions from the Minister under this Act; and

(f) to exercise any other function given to it under this Act or another territory law; and

(g) to carry out activities incidental to its other functions.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def of *entity*).

6 Restrictions on dealings with assets

(1) In this section:

subsidiary means a company that, for the Corporations Act, is a subsidiary of the authority.

(2) The authority or a subsidiary must not, without the Treasurer's prior written approval—

(a) enter into a contract involving the payment or receipt of a total amount larger than \$500 000; or

(b) sell or otherwise dispose of, or mortgage or otherwise give security over, a significant asset; or

(c) mortgage or give a charge over all, or a significant part, of its undertakings or assets.

(3) An approval of the Treasurer may be given subject to conditions or restrictions stated in the approval.

(4) For this section, an asset, or part of the undertakings or assets, of the authority or a subsidiary is *significant* if—

(a) it is significant when interpreted in accordance with accounting standards relating to materiality ordinarily used in Australia when the decision about whether it is significant is made; or

(b) a document published by the authority or subsidiary identifies it as significant (however described); or

- (c) a memorandum of understanding or other agreement between the Minister or Treasurer and the authority or subsidiary identifies it as significant (however described); or
 - (d) it is prescribed under the financial management guidelines under the *Financial Management Act 1996* for this section.
- (5) This section is additional to the *Financial Management Act 1996*, part 9 (Governance of territory authorities).

Division 2.2 Governing board

7 Establishment of governing board

The authority has a governing board.

8 Governing board members

The governing board has at least 5, but not more than 7, members.

Note 1 The chair and deputy chair of the governing board must be appointed under the *Financial Management Act 1996*, s 79.

Note 2 The chief executive officer of the authority is a member of the governing board (see *Financial Management Act 1996*, s 80 (4)).

9 Term of chief executive officer of authority

The chief executive officer of the authority must not be appointed for a term of longer than 5 years.

Note 1 The governing board must appoint a chief executive officer (see *Financial Management Act 1996*, s 80 (2)).

Note 2 A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

Part 3 Authority staff

10 Executive staff

- (1) This section applies to staff at an executive level (*executive staff*).
- (2) The authority may employ, on behalf of the Territory, the executive staff it considers necessary to exercise its functions.
- (3) The conditions of employment of an executive staff employee are the conditions agreed between the authority and the executive staff employee.

11 Other staff

- (1) This section does not apply to staff at an executive level.
- (2) The authority may employ the staff it considers necessary to exercise its functions.
- (3) The authority's staff must be employed under the *Public Sector Management Act 1994*.

Note The *Public Sector Management Act 1994*, s 24 provides that the chief executive officer of a territory instrumentality has all the powers of a chief executive under the Act in relation to the instrumentality staff to be employed under that Act (including, for example, in relation to the appointment of people to, or the employment of people for, that staff). Under that Act, s 3, def *chief executive officer*, the chief executive officer of an instrumentality is the person who has responsibility for managing its affairs.

- (4) However, if an agreement approved or certified under the *Workplace Relations Act 1996* (Cwlth) provides that the staff to which this section applies are to cease to be public servants, the Minister must, in writing, declare that the *Public Sector Management Act 1994* ceased to apply to the staff on the date of effect of the agreement.

(5) If the Minister makes a declaration under subsection (4), the *Public Sector Management Act 1994* is taken to have ceased to apply to the staff to which this section applies on the date of effect of the agreement.

(6) The declaration is a notifiable instrument.

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

(7) This subsection and subsections (3) to (6) expire on the day the declaration is notified.

Part 4 Miscellaneous

12 Ministerial directions

- (1) The Minister may give the authority written directions in relation to the exercise of its functions.
- (2) Before giving a direction the Minister must—
 - (a) tell the governing board about the effect of the proposed direction; and
 - (b) give the board a reasonable opportunity to comment on the proposed direction; and
 - (c) consider any comments made by the board.
- (3) The Minister must present a copy of a direction to the Legislative Assembly within 6 sitting days after the day the Minister makes it.
- (4) On receiving a direction under this section, the authority must comply with it.
- (5) The Territory must reimburse the authority for the net reasonable expense of complying with a direction.
- (6) The *net reasonable expense* of complying with a direction is—
 - (a) if the direction requires the authority to do something that, apart from the direction, it would not have done—the reasonable cost of, and the estimated revenue foregone in, complying with the direction; or
 - (b) if the direction requires the authority to do something in a way that is different from how the authority had intended to do it—the additional cost incurred, and the estimated revenue foregone, in doing the thing in accordance with the direction; or

- (c) if the direction requires the authority not to do something that, apart from the direction, it would have done—the difference (if any) between any estimated foregone revenue and the savings resulting from not doing the thing.
- (7) An amount is not payable under subsection (5) unless it is agreed to by the Minister and the authority or, failing agreement, is decided by the Treasurer.

13 Dividends

- (1) If there are profits available for paying a dividend for a financial year, the Treasurer may, after consulting the board, direct the authority to declare a dividend for the year of the amount directed by the Treasurer.
- (2) Within 1 month after the day the authority receives a direction under subsection (1), the authority must declare, and pay the Territory, a dividend in accordance with the direction.
- (3) For this section, *available* profits for a financial year are—
 - (a) the profits for the financial year; and
 - (b) any profits for any previous financial year that have not previously been taken into account in deciding whether a dividend should be declared.
- (4) In this section:
profit includes the net proceeds of the sale of assets.

14 Authority's annual report

A report prepared by the authority under the *Annual Reports (Government Agencies) Act 2004* for a financial year must include—

- (a) a copy of any direction given under section 12 (Ministerial directions) during the year; and

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

Note **Financial year** has an extended meaning in the *Annual Reports (Government Agencies) Act 2004*.

15 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 2)

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 terms:

- exercise
- function.

authority means ACTION Authority.

chief executive officer means the chief executive officer of the authority.

Note The chief executive officer must be appointed under the *Financial Management Act 1996*, s 80.

governing board means the governing board of the authority.

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 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.

2 Abbreviation key

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

ACTION Authority Act 2001 No 61

notified 10 September 2001 (Gaz 2001 No S66)
s 1, s 2 commenced 10 September 2001 (IA s 10B)
remainder (ss 3-39) commenced 1 January 2002 (s 2 and CN 2001 No 1)

as amended by

ACTION Authority Amendment Act 2001 No 99 (as am by A2003-3 pt 3)

notified LR 20 December 2001
s 5 om A2003-3 s 7 before commencement
remainder commenced 20 December 2001 (s 2 (1))

Statute Law Amendment Act 2002 No 30 pt 3.2 (as am by A2003-3 pt 4)

notified LR 16 September 2002
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))
amdt 3.24, amdt 3.25 om A2003-3 s 9 before commencement
pt 3.2 commenced 17 September 2002 (s 2 (1))

ACTION Authority Amendment Act 2003 A2003-3

notified LR 3 March 2003
pt 1, pt 2 taken to have commenced 10 September 2001 (s 2 (1))
pt 3 taken to have commenced 20 December 2001 (s 2 (2))
pt 4 taken to have commenced 16 September 2002 (s 2 (3))
Note This Act also amends the ACTION Authority Amendment Act 2001 No 99 and the Statute Law Amendment Act 2002 No 30.

Taxation (Government Business Enterprises) Act 2003 A2003-12 sch 1 pt 1.1

notified LR 27 March 2003
s 1, s 2 taken to have commenced 1 July 2002 (LA s 75 (2))
sch 1 pt 1.1 commenced 28 March 2003 (s 2 (2))

Endnotes

3 Legislation history

Annual Reports Legislation Amendment Act 2004 A2004-9 sch 1 pt 1.1

notified LR 19 March 2004
s 1, s 2 commenced 19 March 2004 (LA s 75 (1))
sch 1 pt 1.1 commenced 13 April 2004 (s 2 and see Annual Reports (Government Agencies) Act 2004 A2004-8, s 2 and CN2004-5)

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.1

notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 2 pt 2.1 commenced 9 April 2004 (s 2 (1))

Public Sector Management Amendment Act 2005 (No 2) A2005-44 sch 1 pt 1.1

notified LR 30 August 2005
s 1, s 2 commenced 30 August 2005 (LA s 75 (1))
sch 1 pt 1.1 commenced 8 September 2005 (s 2 and CN2005-19)

Financial Management Legislation Amendment Act 2005 A2005-52 sch 1 pt 1.1

notified LR 26 October 2005
s 1, s 2 commenced 26 October 2005 (LA s 75 (1))
sch 1 pt 1.1 commenced 1 January 2006 (s 2 (2))

Administrative (Miscellaneous Amendments) Act 2006 A2006-30 sch 1 pt 1.1

notified LR 16 June 2006
s 1, s 2 commenced 16 June 2006 (LA s 75 (1))
sch 1 pt 1.1 commenced 19 June 2006 (s 2 (2))

as repealed by

Administrative (Miscellaneous Amendments) Act 2006 A2006-30 s 4 (1) (a)

notified LR 16 June 2006
s 1, s 2 commenced 16 June 2006 (LA s 75 (1))
s 4 (1) (a) commences 1 July 2006 (s 2 (1))

4 Amendment history

Dictionary

s 2 om LA s 89 (4)
ins 2002 No 30 amdt 3.4
am A2004-15 amdt 2.1

Notes

s 3 sub 2002 No 30 amdt 3.4

ACTION Authority

pt 2 hdg note ins A2005-52 amdt 1.1

Establishment and functions of authority

div 2.1 hdg sub A2005-52 amdt 1.2

Establishment of authority

s 4 sub A2005-52 amdt 1.3

Functions

s 5 am 2002 No 30 amdt 3.5; A2005-52 amdt 1.4; pars renum
A2005-52 amdt 1.5

Restrictions on dealings with assets

s 6 om 2002 No 30 amdt 3.6
ins A2005-52 amdt 1.6
am A2006-30 amdt 1.1

Governing board

div 2.2 hdg sub A2005-52 amdt 1.7

Establishment of governing board

s 7 om A2005-52 amdt 1.6
ins A2005-52 amdt 1.7

Governing board members

s 8 sub A2005-52 amdt 1.7

Term of chief executive officer of authority

s 9 am 2002 No 30 amdt 3.7
sub A2005-52 amdt 1.7

Procedures

div 2.3 hdg om A2005-52 amdt 1.8

Authority staff

pt 3 hdg sub A2005-52 amdt 1.9

The chief executive

div 3.1 hdg om 2002 No 30 amdt 3.19

Employees

div 3.2 hdg om 2002 No 30 amdt 3.23

Endnotes

4 Amendment history

Executive staff

s 10 orig s 10 sub 2002 No 30 amdt 3.8
om A2005-52 amdt 1.7
(prev s 21) sub A2003-3 s 4
renum A2005-52 amdt 1.11

Other staff

s 11 orig s 11 am 2002 No 30 amdt 3.9, amdt 3.10
om A2005-52 amdt 1.7
(prev s 22) am 2002 No 30 amdt 3.24 (amdt 3.24 om A2003-3
s 9 before commencement)
renum and reloc as s 36AA 2002 No 30 amdt 3.25 (amdt 3.25
om A2003-3 s 9 before commencement)
sub A2003-3 s 4
am A2005-44 amdt 1.1; A2005-52 amdt 1.12
renum A2005-52 amdt 1.13
(3)-(7) exp on notification of declaration under s 11 (4)
(s 11 (7))

Miscellaneous

pt 4 hdg sub A2005-52 amdt 1.14

Ministerial directions

s 12 om A2005-52 amdt 1.7
ins A2005-52 amdt 1.14

Dividends

s 13 am 2002 No 30 amdt 3.11
om A2005-52 amdt 1.7
ins A2005-52 amdt 1.14

Authority's annual report

s 14 hdg sub 2002 No 30 amdt 3.12
s 14 am 2002 No 30 amdt 3.13-3.16; A2004-15 amdt 2.2
om A2005-52 amdt 1.7
ins A2005-52 amdt 1.14

Regulation-making power

s 15 am 2002 No 30 amdt 3.17
om A2005-52 amdt 1.7
ins A2005-52 amdt 1.14

Calling meetings of board

s 16 sub 2002 No 30 amdt 3.18
om A2005-52 amdt 1.8

Procedure at meetings

s 17 om A2005-52 amdt 1.8

Quorum

s 18 om A2005-52 amdt 1.8

Appointment of chief executive

s 19 sub 2002 No 30 amdt 3.20
am A2004-15 amdt 2.3
om A2005-52 amdt 1.10

Functions of chief executive

s 20 hdg sub 2002 No 30 amdt 3.21
s 20 am 2002 No 30 amdt 3.22
om A2005-52 amdt 1.10

Executive staff

s 21 renum as s 10

Other staff

s 22 renum as s 11

Requests for information

s 23 om A2005-52 amdt 1.14

Notification of significant events

s 24 om A2005-52 amdt 1.14

Ministerial directions

s 25 am 2002 No 30 amdt 3.26, amdt 3.27
om A2005-52 amdt 1.14

Business plans

s 26 am 2002 No 30 amdt 3.28
om A2005-52 amdt 1.14

Compliance with business plans

s 27 om A2005-52 amdt 1.14

Dividends

s 28 om A2005-52 amdt 1.14

Other reporting requirements

s 29 om A2005-52 amdt 1.14

Meaning of *relevant person* for div 5.1

s 30 om A2004-15 amdt 2.4

Improper use of position

s 31 om A2004-15 amdt 2.4

Improper use of information

s 32 om A2004-15 amdt 2.4

Miscellaneous

pt 5 hdg om A2005-52 amdt 1.14

Conduct of persons associated with the authority

div 5.1 hdg om A2004-15 amdt 2.4

Endnotes

4 Amendment history

General

div 5.2 hdg om A2004-15 amdt 2.5

Power to bind authority

s 33 om A2005-52 amdt 1.14

Authority's annual report

s 34 sub A2004-9 amdt 1.1
om A2005-52 amdt 1.14

Taxation

s 35 om A2003-12 amdt 1.1

Regulation-making power

s 35A ins 2001 No 99 amdt 4
om A2005-52 amdt 1.14

Transitional provisions

pt 6 hdg sub 2002 No 30 amdt 3.29
exp 31 December 2003 (s 40 (1))

Transfer of assets, rights and liabilities

s 36 exp 31 December 2003 (s 40 (1))

Other staff

s 36AA (prev s 22) renum and reloc 2002 No 30 amdt 3.25 (amdt 3.25
om A2003-3 s 9 before commencement)

Transferred staff

s 36A ins 2001 No 99 s 5 (s 5 om A2003-3 s 7 before
commencement)

Evidentiary certificate

s 37 exp 31 December 2003 (s 40 (1))

Registration of changes in title to certain assets

s 38 exp 31 December 2003 (s 40 (1))

Proceedings and evidence

s 39 exp 31 December 2003 (s 40 (1))

Validation of new staff employed by authority

s 39A ins A2003-3 s 5
exp 31 December 2003 (s 40 (1))

Powers of commissioner for public administration

s 39B ins A2003-3 s 5
exp 31 December 2003 (s 40 (1))

Operation of s 39A and s 39B preserved despite expiry

s 39C ins A2003-3 s 5
exp 31 December 2003 (s 40 (1))

Modification of pt 6's operation

s 39D ins A2003-3 s 5
exp 31 December 2003 (s 40 (1))

Expiry of pt 6

s 40 ins 2001 No 99 amdt 6
am 2002 No 30 amdt 3.30
exp 31 December 2003 (s 40 (1))

Dictionary

dict ins 2002 No 30 amdt 3.31
sub A2005-52 amdt 1.15
def **appointed director** ins 2002 No 30 amdt 3.31
om A2005-52 amdt 1.15
def **authority** ins 2002 No 30 amdt 3.31
sub A2005-52 amdt 1.15
def **board** ins 2002 No 30 amdt 3.31
om A2005-52 amdt 1.15
def **chief executive** ins 2002 No 30 amdt 3.31
om A2005-52 amdt 1.15
def **chief executive officer** ins A2005-52 amdt 1.15
def **commencement day** ins 2002 No 30 amdt 3.31
exp 31 December 2003 (s 40 (1))
def **director** ins 2002 No 30 amdt 3.31
om A2005-52 amdt 1.15
def **governing board** ins A2005-52 amdt 1.15
def **relevant person** ins 2002 No 30 amdt 3.31
om A2004-15 amdt 2.6

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	Amendments to	Republication date
1	Act 2001 No 99	4 January 2002
1 (RI)	Act 2001 No 99 ‡	4 March 2003
2	Act 2002 No 30	24 September 2002
2 (RI)	Act 2002 No 30 ‡	4 March 2003

Endnotes

5 Earlier republications

Republication No	Amendments to	Republication date
3	A2003-12	28 March 2003
4	A2003-12	24 December 2003
5	A2004-15	9 April 2004
6	A2004-15	13 April 2004
7	A2005-44	8 September 2005
8	A2005-52	1 January 2006

‡ includes retrospective amendments by A2003-3

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