



Australian Capital Territory

Taxation (Government Business Enterprises) Act 2003

A2003-12

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Australian Capital Territory

Taxation (Government Business Enterprises) Act 2003

A2003-12

An Act about the payment of tax, and amounts equivalent to tax, by government business enterprises, and for other purposes

*Notified under the Legislation Act 2001 on 27 March 2003
(see www.legislation.act.gov.au)*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Taxation (Government Business Enterprises) Act 2003*.

2 Commencement

- (1) Parts 2 and 3 are taken to have commenced on 1 July 2002.
- (2) The remaining provisions commence on the day after the notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

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 words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition '*memorandum of understanding*—see section 5.' means that the expression 'memorandum of understanding' 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 Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

Part 2 Payment of Commonwealth income tax equivalent

5 Purpose of pt 2

The purpose of this part is to give effect in relation to the Territory to the 2001 *memorandum of understanding* between the Territory, the Commonwealth, the States and the commissioner of taxation about the national tax equivalent regime.

6 Territory entities subject to national tax equivalent regime

A Territory entity prescribed under the regulations for this section must comply with—

- (a) the taxation laws listed in the memorandum of understanding, schedule 2 subject to the modifications of the application of those laws made by the memorandum and the manual; and
- (b) the manual.

7 Application of principle of competitive neutrality

In making regulations for section 6, the Executive must have regard to the principle that, to eliminate resource allocation distortions arising out of the public ownership of entities engaged in significant business activities, government businesses should not enjoy any net competitive advantage simply because of their public ownership.

8 Information to be given

A Territory entity prescribed for section 6 must, on being asked to do so by the Minister, give the Minister—

- (a) any information asked for by the Minister about the entity's compliance with its obligations under this part; or
- (b) a copy of any return or other document the entity has given the commissioner of taxation in compliance, or purported compliance, with its obligations under this part.

Part 3 Payment of taxes and charges generally

9 Territory entities subject to taxes and charges generally

A territory entity prescribed under the regulations for this section is not exempt from liability for any tax (however described), or any fee or charge, under Territory law.

10 Territory entities subject to taxes and charges at direction of Minister

- (1) The Minister may, in writing, direct a Territory entity that is not prescribed for section 9 to pay any tax (however described), or any fee or charge payable under a Territory law.
- (2) A direction is a notifiable instrument.

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

Part 4 Miscellaneous

11 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.

12 Acts amended—sch1

Schedule 1 amends the Acts mentioned in it.

Schedule 1 **Consequential amendments**

(see s 12)

Part 1.1 **ACTION Authority Act 2001**

[1.1] Section 35

omit

Part 1.2 **Cultural Facilities Corporation Act 1997**

[1.2] Section 30A

omit

Part 1.3 **Gungahlin Development Authority Act 1996**

[1.3] Sections 35 and 35A

omit

Part 1.4 **Hotel School Act 1996**

[1.4] Section 32

omit

Part 1.5 Insurance Authority Act 2000

[1.5] Section 34

substitute

34 Exemption from insurance levy and stamp duty on policies

ACTIA is exempt from the payment of any insurance levy or stamp duty on an insurance policy issued by ACTIA.

Part 1.6 Kingston Foreshore Development Authority Act 1999

[1.6] Section 3, new definition of *business plan*

insert

business plan, of the authority for a financial year—see section 27.

[1.7] Section 27

substitute

27 Meaning of *business plan*

A *business plan*, of the authority for a financial year, is the business plan of the authority in force for that year, and includes any modification of the plan under section 31.

[1.8] Sections 27A and 34 to 37

omit

Part 1.7 National Exhibition Centre Trust Act 1976

[1.9] Section 27

omit

Part 1.8 Payroll Tax Act 1987

[1.10] Section 9 (1) (h) and (i)

substitute

- (h) from a bank account kept under the *Financial Management Act 1996*, part 5, unless—
 - (i) the bank account is nominated by the Minister in writing for this subparagraph; or
 - (ii) the wages are paid or payable by an entity prescribed for the *Taxation (Government Business Enterprises) Act 2003*, section 9; or
 - (iii) the wages are paid or payable by an entity to which a direction under the *Taxation (Government Business Enterprises) Act 2003*, section 10 applies to make the entity liable to tax under this Act; or
- (i) by a Territory authority funded solely by money appropriated from the public money of the Territory by an Act unless—
 - (i) the wages are paid or payable by a Territory authority prescribed for the *Taxation (Government Business Enterprises) Act 2003*, section 9; or
 - (ii) the wages are paid or payable by a Territory authority to which a direction under the *Taxation (Government Business Enterprises) Act 2003*, section 10 applies to make the authority liable to tax under this Act.

[1.11] Section 9 (2)

substitute

- (2) A nomination under subsection (1) (h) (i) is a disallowable instrument.

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

Part 1.9 Stadiums Authority Act 2000

[1.12] Section 36

omit

Part 1.10 Territory Owned Corporations Act 1990

[1.13] Part 5 heading

substitute

Part 5 Territory taxes

[1.14] Section 28A

omit

[1.15] Section 29 (3)

omit

[1.16] New section 29 (4A)

insert

- (4A) This section does not apply to a Territory owned corporation prescribed for the *Taxation (Government Business Enterprises) Act 2003*, section 9 or to a subsidiary of such a corporation.

[1.17] Section 29

renumber subsections when Act next republished under Legislation Act 2001

[1.18] Sections 30 to 30L

omit

[1.19] Schedule 4, clause 5

omit

[1.20] Schedule 5, clause 4

omit

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- administrative unit
- State
- Territory authority
- Territory owned corporation.

commissioner of taxation means the Commissioner of Taxation of the Commonwealth.

manual means the manual kept by the commissioner of taxation under the memorandum of understanding.

memorandum of understanding—see section 5.

Territory entity includes the following:

- (a) a Territory authority;
- (b) a Territory owned corporation;
- (c) an administrative unit;
- (d) a part of an administrative unit.

Endnote

Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

[Presentation speech made in Assembly on 12 December 2002]

I certify that the above is a true copy of the Taxation (Government Business Enterprises) Bill 2003 which originated in the Assembly as the Taxation (Government Business Enterprises) Bill 2002 and was passed by the Legislative Assembly on 11 March 2003.

Clerk of the Legislative Assembly

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