



AUSTRALIAN CAPITAL TERRITORY

ACTION Authority Amendment Act 2003

A2003–3

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AUSTRALIAN CAPITAL TERRITORY

ACTION Authority Amendment Act 2003

A2003–3

An Act to amend the *ACTION Authority Act 2001*, and for other purposes

*Notified under the Legislation Act 2001 on 3 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 *ACTION Authority Amendment Act 2003*.

2 Commencement

- (1) This part and part 2 are taken to have commenced on 10 September 2001.
- (2) Part 3 is taken to have commenced on 20 December 2001.
- (3) Part 4 is taken to have commenced on 16 September 2002.

Part 2 ACTION Authority Act 2001

3 Act amended—pt 2

This part amends the *ACTION Authority Act 2001*.

4 Sections 21 and 22

substitute

21 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.

22 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 are to 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 staff members who are public servants. 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.

5 New sections 39A to 39D

insert

39A Validation of new staff employed by authority

- (1) This section applies to a person (other than a member of staff at an executive level) who was engaged (however described) by the authority as a member of its staff after 1 January 2002 and before the day after the day the *ACTION Authority Amendment Act 2003* is notified.
- (2) The person is taken to have been appointed as an officer, or engaged for temporary employment, as the case requires, under the *Public Sector Management Act 1994* on the day the person was engaged by the authority.

39B Powers of commissioner for public administration

The commissioner for public administration may take any action (including giving directions) that the commissioner considers is necessary or desirable to protect employee entitlements consequent on the enactment of the *ACTION Authority Amendment Act 2003*.

Examples

- 1 requiring the creation of records about leave entitlements under the *Public Sector Management Act 1994* for a person engaged by the authority after 1 January 2002

- 1 for a staff member who was employed by the authority for a period during 2002 and who is re-employed by the authority after the commencement of this section—recognising the period of employment in 2002 as prior service under the *Public Sector Management Act 1994*
- 2 requiring the amendment of the records of a staff member to whom the declaration made on 21 December 2001 under the *ACTION Authority Act 2001*, section 22 (as that section was when the Act was notified in the Gazette of 10 September 2001) to show that, for the relevant period, the person was employed under the *Public Sector Management Act 1994*

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

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

Sections 39A and 39B are declared to be laws to which the Legislation Act, section 88 (Repeal does not end transitional or validating effect etc) applies.

39D Modification of pt 6's operation

The regulations may modify the operation of this part to make provision in relation to any matter that, in the Executive's opinion, is not, or is not adequately, dealt with in this part.

Part 3

ACTION Authority Amendment Act 2001

6 Act amended—pt 3

This part amends the *ACTION Authority Amendment Act 2001*.

7 Section 5

omit

Part 4 Statute Law Amendment Act 2002

8 Act amended—pt 4

This part amends the Statute Law Amendment Act 2002.

9 Amendments 3.24 and 3.25

omit

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 ACTION Authority Amendment Bill 2003 which originated in the Assembly as the ACTION Authority Amendment Bill 2002 and was passed by the Legislative Assembly on 18 February 2003.

Clerk of the Legislative Assembly