



Australian Capital Territory

Insurance Authority Act 2005

A2005-24

Republication No 4

Effective: 1 January 2011 – 30 June 2011

Republication date: 1 January 2011

Last amendment made by A2010-54

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Insurance Authority Act 2005* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 January 2011. It also includes any commencement, amendment, repeal or expiry affecting the republished law to 1 January 2011.

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 does not include 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

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Insurance Authority Act 2005

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R4
01/01/11

Insurance Authority Act 2005
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Australian Capital Territory

Insurance Authority Act 2005

An Act to make provision about the Australian Capital Territory Insurance Authority, and for other purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Insurance Authority Act 2005*.

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 '*territory risk*—see section 5.' means that the term '*territory risk*' 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 Meaning of *territory risk*

For this Act, a *territory risk* is any risk of the Territory, and includes—

- (a) a direct risk of the Territory or a territory entity; and
- (b) a risk accepted by the Territory or a territory entity; and

- (c) a risk arising under a guarantee or indemnity given by the Territory or a territory entity;

whether or not the risk relates to an officer, employee or agent of the Territory or a territory entity or to property owned by or held on behalf of the Territory or a territory entity.

6 **Meaning of *territory entity***

- (1) In this Act:

territory entity means—

- (a) a territory authority; or
- (b) a public sector company.

Note **Territory authority** is defined in the Legislation Act, dict, pt 1.

- (2) In this section:

controlling interest—the Territory or a territory entity has a ***controlling interest*** in a company if its interest in the company is of a kind that—

- (a) it can—
 - (i) control the composition of the board of directors of the company; or
 - (ii) cast, or control the casting of, more than 50% of the maximum number of votes that might be cast at a general meeting of the company; or
 - (iii) control more than 50% of the issued share capital of the company (excluding any part of the issued share capital that carries no right to participate beyond a particular amount in a distribution of either profits or capital); or
- (b) if paragraph (a) does not apply—no-one else holds a greater interest in the company.

public sector company means—

- (a) a territory-owned corporation; or
- (b) a subsidiary of a territory-owned corporation; or
- (c) a company prescribed by regulation; or
- (d) any other company in which the Territory or another territory entity has a controlling interest.

Note ***Territory-owned corporation*** is defined in the Legislation Act, dict, pt 1.

subsidiary, of a territory-owned corporation, means a subsidiary under the *Territory-owned Corporations Act 1990* of the territory-owned corporation.

Part 2 The insurance authority

Note for pt 2

The governance of territory authorities, including the insurance 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.

7 The authority

- (1) The Australian Capital Territory Insurance Authority is established.

Note 1 The authority is a corporation (see *Financial Management Act 1996*, s 54 (1), s 72, def *relevant territory authority*, and s 73).

Note 2 The Legislation Act, dict, pt 1, defines *establish* as including continue in existence.

- (2) The chief executive is the authority.

8 Functions of authority

The authority has the following functions:

- (a) to carry on the business of insurer of territory risks;
- (b) to take out insurance of territory risks with other entities;
- (c) to satisfy or settle claims in relation to territory risks (including claims that may not necessarily be valid in law);
- (d) with the Treasurer's approval, to take action for the realising, enforcing, assigning or extinguishing rights against third parties arising out of or in relation to its business, including, for example—

- (i) taking possession of, dealing with or disposing of, property; or
- (ii) carrying on a third party's business as a going concern;
- (e) to develop and promote good practices for the management of territory risks;
- (f) to give advice to the Minister about insurance and the management of territory risks;
- (g) to exercise any other function given to it under this Act or another territory law.

Note 1 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 *entity*).

Note 2 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).

10 Information etc from agencies

- (1) The authority may ask an agency, or make arrangements with an agency for it, to give the authority information, or a copy of a document, in the agency's possession or control for the exercise of its functions.
- (2) The agency must comply with the request or arrangement.
- (3) In this section:

agency means—

- (a) an administrative unit; or
- (b) a territory entity.

11 Indemnities for third parties

- (1) The authority may give an indemnity to a third party for a territory risk arising under a contract to which the Territory or a territory

entity is a party only if the Minister has certified that the giving of the indemnity by the authority is in the Territory's interest.

(2) In this section:

third party means an entity other than the Territory or a territory entity.

12 Advisory board for authority

- (1) The insurance management guidelines must provide for the establishment of an advisory board for the authority.
- (2) The authority must establish the advisory board in accordance with the insurance management guidelines.

Part 3 Territory risks

13 Ministerial directions to agencies about territory risks

- (1) The Minister may give a written direction to an agency in relation to any of the following:
 - (a) the management of territory risks;
 - (b) the insurance of territory risks, including, for example—
 - (i) what territory risks must or may be insured with the authority; and
 - (ii) what territory risks must or may be insured with other entities.

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).

- (2) A direction under this section is a disallowable instrument.

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

- (3) An agency must comply with a direction given to it under this section.
- (4) For the *Competition and Consumer Act 2010* (Cwlth), this Act authorises—
 - (a) the giving of a direction under this section; and
 - (b) the doing of, or the failure to do, anything by the Territory, an agency or the authority to comply with a direction under this section.

- (5) In this section:
agency—see section 10 (3).

Part 4 Miscellaneous

14 Insurance management guidelines

- (1) The Treasurer may make insurance management guidelines for this Act.
- (2) Without limiting subsection (1), an insurance management guideline may make provision for the membership and functions of the advisory board under section 12.
- (3) An insurance management guideline is a disallowable instrument.

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

15 Approved forms

- (1) The Minister may, in writing, approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see the Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

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

16 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 terms:

- administrative unit
- chief executive (see s 163)
- entity
- Minister (see s 162)
- the Territory
- Treasurer.

authority means the Australian Capital Territory Insurance Authority.

insurance includes reinsurance and coinsurance.

insurance management guideline means a guideline made under section 14.

territory entity—see section 6.

territory risk—see section 5.

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

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

Endnotes

3 Legislation history

3 Legislation history

Insurance Authority Act 2005 A2005-24

notified LR 11 May 2005

s 1, s 2 commenced 11 May 2005 (LA s 75 (1))

remainder commenced 12 May 2005 (s 2)

as amended by

Financial Management Legislation Amendment Act 2005 A2005-52 sch 1 pt 1.11

notified LR 26 October 2005

s 1, s 2 commenced 26 October 2005 (LA s 75 (1))

sch 1 pt 1.11 commenced 1 January 2006 (s 2 (2))

Fair Trading (Australian Consumer Law) Amendment Act 2010 A2010-54 sch 3 pt 3.12

notified LR 16 December 2010

s 1, s 2 commenced 16 December 2010 (LA s 75 (1))

sch 3 pt 3.12 commenced 1 January 2011 (s 2 (1))

4 Amendment history

Commencement

s 2 om LA s 89 (4)

The insurance authority

pt 2 hdg sub A2005-52 amdt 1.144

The authority

s 7 am A2005-52 amdt 1.145, amdt 1.146; ss renum A2005-52
amdt 1.147

Powers of authority generally

s 9 om A2005-52 amdt 1.148

Ministerial directions to agencies about territory risks

s 13 am A2010-54 amdt 3.34

Consequential and transitional matters

pt 5 hdg exp 12 May 2006 (s 21)

Legislation repealed

s 17 om LA s 89 (3)

Continuation of ACTIA

s 18 exp 12 May 2006 (s 21 (LA s 88 declaration applies))

References to repealed Act

s 19 exp 12 May 2006 (s 21)

Modification of pt 5's operation

s 20 exp 12 May 2006 (s 21)

Expiry of pt 5

s 21 exp 12 May 2006 (s 21)

Dangerous Substances Act 2004, section 47C (b) and (c)

s 22 om LA s 89 (3)

Taxation (Government Business Enterprises) Regulation 2003, section 4

s 23 om LA s 89 (3)

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 12 May 2005	12 May 2005– 31 Dec 2005	not amended	new Act
R2 1 Jan 2006	1 Jan 2006– 12 May 2006	A2005-52	amendments by A2005-52
R3 13 May 2006	13 May 2006– 31 Dec 2010	A2005-52	commenced expiry

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