



Australian Capital Territory

Administrative Decisions (Judicial Review) Amendment Act 2013

A2013-37

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Australian Capital Territory

Administrative Decisions (Judicial Review) Amendment Act 2013

A2013-37

An Act to amend the *Administrative Decisions (Judicial Review) Act 1989*

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

1 Name of Act

This Act is the *Administrative Decisions (Judicial Review) Amendment Act 2013*.

2 Commencement

This Act commences on the day after its notification day.

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

3 Legislation amended

This Act amends the *Administrative Decisions (Judicial Review) Act 1989*.

**4 Dictionary
Section 2, note 1**

omit

For example, the signpost definition '*person aggrieved*—see section 3B.' means that the term 'person aggrieved' is defined that section.

substitute

For example, the signpost definition '*conduct engaged in* for the purpose of making a decision—see section 3C.' means that the term 'conduct engaged in' is defined in that section.

**5 Meaning of *person aggrieved*
Section 3B**

omit

6 New section 4A*insert***4A Who may make an application under this Act**

- (1) An eligible person may make an application under this Act, subject to subsections (2) and (3).
- (2) If the application relates to a category A decision, or conduct engaged in for the purpose of making the decision, the person may make the application only if—
 - (a) the person's interests are, or would be, adversely affected by the decision, failure to make the decision, or conduct engaged in for the purpose of making the decision; or
 - (b) if the decision is of a kind that is proposed in a report or recommendation—the person's interests are, or would be, adversely affected if the decision were, or were not, made in accordance with the report or recommendation.
- (3) If the application relates to a category B decision, or conduct engaged in for the purpose of making the decision, the person may make the application unless—
 - (a) an enactment does not allow the person to make the application; or
 - (b) each of the following apply:
 - (i) the interests of the eligible person are not adversely affected by the decision or conduct;
 - (ii) the application fails to raise a significant issue of public importance.
- (4) The Supreme Court may at any time, on application by a party, refuse to hear the application or dismiss the application if satisfied that the applicant is not an eligible person.

(5) In this section:

category A decision means a decision of an administrative character made, proposed to be made, or required to be made (whether in the exercise of a discretion or not) under—

- (a) the *Heritage Act 2004*; or
- (b) the *Planning and Development Act 2007*, other than a decision under that Act mentioned in schedule 1.

category B decision means a decision to which this Act applies, other than a category A decision.

7 Applications for review of decisions

Section 5 (1)

omit everything before paragraph (a), substitute

- (1) An eligible person may apply to the Supreme Court for an order of review in relation to a decision to which this Act applies on 1 or more of the following grounds:

8 Applications for review of conduct related to making of decisions

Section 6 (1)

omit

a person aggrieved by the conduct

substitute

an eligible person

**9 Applications for failures to make decisions
Section 7 (1)**

omit

a person aggrieved by the failure to make the decision

substitute

an eligible person

10 Section 7 (2)

omit

a person aggrieved by the failure

substitute

an eligible person

**11 Application to be made a party to a proceeding
Section 12 (1)**

substitute

- (1) An eligible person may apply to the Supreme Court to be made a party to an application made under this Act.

12 New section 19A

insert

19A Intervention by other people

- (1) The Supreme Court may, on application by a party or its own initiative, give leave to a person (an *intervener*) to intervene in a proceeding under this Act.

- (2) In considering whether to give leave, the Supreme Court—
- (a) must have regard to the following:
- (i) whether the intervener’s contribution is different from the contribution of the parties to the proceeding;
 - (ii) whether the intervener’s contribution is likely to be useful to the court;
 - (iii) whether the intervention will unreasonably interfere with the ability of someone who has a private interest in the subject matter of the application to deal with it differently or at all; and
- (b) may have regard to any other matter the court considers relevant.
- (3) The Supreme Court may give leave subject to conditions.
- (4) There is no right of appeal in relation to a decision of the Supreme Court under this section.

13 Dictionary, note 2

insert

- corporation
- individual

14 Dictionary, new definition of *eligible person*

insert

eligible person, for an application under this Act, means—

- (a) an individual; or
- (b) a corporation, if the subject matter of the application relates to a matter that happens after the corporation was incorporated or came into existence; or
- (c) an unincorporated organisation or association if the subject matter of the application relates to a matter that—
 - (i) forms part of the objects or purposes of the organisation or association; and
 - (ii) happens after the organisation or association came into existence.

15 Dictionary, definition of *person aggrieved*

omit

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 16 May 2013.

2 Notification

Notified under the [Legislation Act](#) on 25 September 2013.

3 Republications of amended laws

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

I certify that the above is a true copy of the Administrative Decisions (Judicial Review) Amendment Bill 2013, which was passed by the Legislative Assembly on 19 September 2013.

Clerk of the Legislative Assembly

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