



Australian Capital Territory

Red Tape Reduction Legislation Amendment Act 2017

A2017-17

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Commencement 2
3	Legislation amended 2
4	Legislation repealed 3
Part 2	Agents Act 2003
5	Requirement for audit Section 115 (1) 4
6	Section 115 (2) (a) 4

J2016-753

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

	Page
7	Section 115 (3) 4
Part 3	Associations Incorporation Act 1991
8	Copies of certificates of incorporation Section 10 5
9	Inspection of documents Section 11 (2) (b) (i) 5
10	Notice of changes in committee New section 62 (3) 5
11	Register of members Section 67 (2) 5
12	New section 70A 6
13	Certificates as evidence Section 115 (3) (b) (i) 6
14	New section 119B 6
15	Registered office of incorporated association New section 121 (4) 6
16	Service of documents New section 122 (1) (d) 7
17	Dictionary, new definition of <i>ACNC registered entity</i> 7
Part 4	Charitable Collections Act 2003
18	Unlawfully conducting collections Section 14 (2) 8
19	Unlawfully taking part in collections Section 15 (1) (b) 8
20	Dictionary, new definition of <i>ACNC registered entity</i> 8
Part 5	Domestic Animals Act 2000
21	Greyhounds Section 48 9
22	Seizure of dogs—general Section 56 (c) 9
Part 6	Environment Protection Act 1997
23	Activities requiring environmental authorisation Schedule 1, table 1.2, items 44 to 46 10
<hr/>	
contents 2	Red Tape Reduction Legislation Amendment Act 2017 A2017-17

	Page
Part 7	Environment Protection Regulation 2005
24	Section 14 11
25	Unapproved sale or supply of painted etc firewood—offence Section 14A (1) (b) 13
Part 8	Magistrates Court (Environment Protection Infringement Notices) Regulation 2005
26	Environment protection legislation infringement notice offences and penalties Schedule 1, pt 1.2, new items 7A to 7C 14
Part 9	Security Industry Regulation 2003
27	Prescribed training courses for employee licences—Act, s 21 (1) (a) (iii) Table 8, items 8 and 9 15
Part 10	Utilities Act 2000
28	Definitions—pt 3A Section 54A, new definition of <i>base amount</i> 16
29	Section 54A, definition of <i>fixed net regulatory cost</i> 16
30	Energy industry levy—imposition Section 54C (2) 16
31	Section 54C (3) (a) and (b) 17
32	Section 54C (4) (a) and (b) 17
33	Section 54C (5) 17
34	Energy industry sectors etc Section 54D (2) 19
35	National regulatory obligations and costs Section 54E (1) (b) 19
36	Section 54E (3) (a) 19
37	Section 54E (3) (b) 20
38	Section 54E (3) (b) 20
39	Section 54E (4) (a) (ii) 20
40	Section 54E (4) (a) (iii), (iv) and (v) 20
41	Section 54E (5) 21
42	Section 54E (7), new definition of <i>COAG EC</i> 21

Contents

	Page	
43	Section 54E (7), definition of <i>MCE</i>	21
44	Local regulatory costs Section 54F (2)	21
45	Section 54F (4)	22
46	Annual regulatory costs etc Section 54G (3)	22
47	New section 54GA	22
48	Further energy sector determinations Section 54H (1) (a)	23
49	Section 54H (1) (b) (iii)	23
50	Production of distribution and sales information Section 54I (1)	23
51	Section 54I (2) (b)	24
52	Section 54I (2), new note	24
53	Registration of energy utilities Section 54K	24
54	New section 54K (2)	24
55	Offence—failure to register Section 54L (1) (b)	25
56	Returns under Taxation Administration Act Section 54M (2), new note	25
57	New section 54O	25
58	New part 20	26
59	Dictionary, new definition of <i>base amount</i>	27
60	Dictionary, definition of <i>fixed net regulatory cost</i>	27
Part 11	Water Resources Act 2007	
61	Waterway work licence—requirement Section 42 (1) (b)	28
62	Section 42 (2)	28



Australian Capital Territory

Red Tape Reduction Legislation Amendment Act 2017

A2017-17

An Act to amend legislation for red tape reduction, and for other purposes

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

J2016-753

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Red Tape Reduction Legislation Amendment Act 2017*.

2 Commencement

(1) The following provisions commence on 1 July 2017:

- Part 3 (Associations Incorporation Act 1991)
- Part 4 (Charitable Collections Act 2003)
- Part 10 (Utilities Act 2000).

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

(2) The following provisions commence on 31 August 2017:

- Part 2 (Agents Act 2003)
- Part 6 (Environment Protection Act 1997)
- Part 7 (Environment Protection Regulation 2005)
- Part 8 (Magistrates Court (Environment Protection Infringement Notices) Regulation 2005)
- Part 9 (Security Industry Regulation 2003)
- Part 11 (Water Resources Act 2007).

(3) The remaining provisions commence on the day after this Act's notification day.

3 Legislation amended

This Act amends the following legislation:

- [Agents Act 2003](#)
- [Associations Incorporation Act 1991](#)
- [Charitable Collections Act 2003](#)
- [Domestic Animals Act 2000](#)

- *Environment Protection Act 1997*
- *Environment Protection Regulation 2005*
- *Magistrates Court (Environment Protection Infringement Notices) Regulation 2005*
- *Security Industry Regulation 2003*
- *Utilities Act 2000*
- *Water Resources Act 2007.*

4 Legislation repealed

The following legislation is repealed:

- *Public Bathing Act 1956* (A1956-12)
- *Environment Protection (ACT Firewood) Code of Practice 1999* (DI1999-114).

Part 2 Agents Act 2003

5 Requirement for audit Section 115 (1)

omit

6 Section 115 (2) (a)

substitute

(a) the person—

(i) is or was a licensed agent; or

(ii) is a personal representative of a licensed agent; and

7 Section 115 (3)

omit

subsection (2)

substitute

this section

Part 3 Associations Incorporation Act 1991

8 Copies of certificates of incorporation Section 10

omit

9 Inspection of documents Section 11 (2) (b) (i)

omit

10 Notice of changes in committee New section 62 (3)

insert

- (3) Subsection (1) does not apply to an incorporated association that is an ACNC registered entity.

11 Register of members Section 67 (2)

substitute

- (2) An incorporated association must make the register of members available for inspection by members at reasonable times, or at any times stated for the purpose in the rules of the association, at the address of the public officer of the association, at the registered office of the association (if any) or at another place in the ACT nominated by the committee of the association.

12 New section 70A

in part 5, insert

70A Application—pt 5

This part does not apply to an incorporated association that is an ACNC registered entity.

**13 Certificates as evidence
Section 115 (3) (b) (i)**

omit

14 New section 119B

in part 11, insert

119B Information sharing on ACNC registered entities

- (1) The registrar-general may enter into an arrangement with the Commissioner of the ACNC for the provision of information to the registrar-general about incorporated associations that are ACNC registered entities.
- (2) In this section:

Commissioner of the ACNC means the Commissioner of the ACNC established under the [Australian Charities and Not-for-profits Commission Act 2012](#) (Cwlth), section 110-5.

**15 Registered office of incorporated association
New section 121 (4)**

insert

- (4) This section does not apply to an ACNC registered entity.

**16 Service of documents
New section 122 (1) (d)**

insert

- (d) if the association is an ACNC registered entity—giving the document or process in accordance with the [Australian Charities and Not-for-profits Commission Act 2012](#) (Cwlth), section 195-10.

17 Dictionary, new definition of *ACNC registered entity*

insert

ACNC registered entity means a registered entity under the [Australian Charities and Not-for-profits Commission Act 2012](#) (Cwlth).

Part 4 Charitable Collections Act 2003

18 Unlawfully conducting collections Section 14 (2)

substitute

- (2) This section does not apply if the person is—
- (a) an ACNC registered entity; or
 - (b) a person authorised to conduct the collection by—
 - (i) the licensee for the licence authorising the conduct of the collection; or
 - (ii) an ACNC registered entity.

19 Unlawfully taking part in collections Section 15 (1) (b)

substitute

- (b) the person is not authorised to take part in the collection by either—
- (i) the relevant licensee; or
 - (ii) an ACNC registered entity; and

20 Dictionary, new definition of *ACNC registered entity*

insert

ACNC registered entity means a registered entity under the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth).

Part 5 Domestic Animals Act 2000

**21 Greyhounds
 Section 48**

omit

**22 Seizure of dogs—general
 Section 56 (c)**

omit

Part 6 Environment Protection Act 1997

23 Activities requiring environmental authorisation Schedule 1, table 1.2, items 44 to 46

omit

Part 7 Environment Protection Regulation 2005

24 Section 14

substitute

14 Conditions for sale or supply of firewood

- (1) This section applies to a person who—
 - (a) sells or supplies firewood in the ACT unless—
 - (i) the quantity of firewood sold or supplied is less than 100kg; or
 - (ii) the firewood is sold under a scheme in which an annual fee is paid for the right to collect waste softwood in pine plantations; or
 - (b) prepares firewood for sale or supply in the ACT.
- (2) The following conditions apply to the preparation, sale or supply of firewood by the person:
 - (a) if practicable, each buyer must be offered a choice of mixed wood loads;
 - (b) wood must be offered and supplied by weight, not by volume;
 - (c) each buyer must be given a written statement of the weight of the load supplied;
 - (d) if the load is a mixed wood load—the buyer must be given a written statement of the approximate weight of hardwood and softwood in the load;
 - (e) unseasoned wood must not be supplied;

- (f) each buyer must be given a pamphlet supplied by the environment protection authority that sets out recommended wood burning practices and encourages compliance with those practices;
- (g) each buyer must be given the following information:
 - (i) the common name and species (if known) of the wood;
 - (ii) the place from which the wood was originally taken;
 - (iii) the kind of wood;

Examples—par (g) (i)

box, gum, pine

Examples—par (g) (ii)

ACT pine forests, Cowra

Example—par (g) (iii)

residue from forestry processing operations of native forest timber

Note An example is part of the regulation, 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).

- (h) an annual report for a reporting year must be given to the environment protection authority by 31 January in the year following the reporting year;

Note If a form is approved under the Act, s 165A for this provision, the form must be used.

- (i) wooden sleepers must only be obtained from a wholesaler who supplies sleepers in the ACT with the agreement of the chief health officer and the environment protection authority;
- (j) the sale or supply of wooden sleepers must be accompanied by an information sheet, agreed with the environment protection authority, about the risks of burning sleepers, including that sleepers should not be burnt in open fires or for cooking.

- (3) A person commits an offence if the person—
- (a) prepares firewood for sale or supply; and
 - (b) fails to comply with a condition mentioned in subsection (2).

Maximum penalty: 10 penalty units

- (4) A person commits an offence if the person—
- (a) sells or supplies firewood; and
 - (b) fails to comply with a condition mentioned in subsection (2).

Maximum penalty: 10 penalty units

- (5) An offence against this section is a strict liability offence.

- (6) In this section:

prepare, firewood for sale or supply, means cut, store or season the firewood.

reporting year means 1 January to 31 December.

**25 Unapproved sale or supply of painted etc firewood—
offence
Section 14A (1) (b)**

substitute

- (b) does not have the written agreement of the environment protection authority and the chief health officer to sell or supply the firewood.

Part 8 **Magistrates Court (Environment Protection Infringement Notices) Regulation 2005**

26 **Environment protection legislation infringement notice offences and penalties**
Schedule 1, pt 1.2, new items 7A to 7C

insert

7A	14 (3)	10	300
7B	14 (4)	10	300
7C	14A (1)	10	300

Part 9 **Security Industry
Regulation 2003**

27 **Prescribed training courses for employee licences—Act,
s 21 (1) (a) (iii)
Table 8, items 8 and 9**

omit

Part 10 Utilities Act 2000

28 Definitions—pt 3A Section 54A, new definition of *base amount*

insert

base amount—see section 54G (3).

29 Section 54A, definition of *fixed net regulatory cost*

omit

30 Energy industry levy—imposition Section 54C (2)

substitute

- (2) The levy for the levy year is worked out as follows:

$$B + EV + (AV - EV_{-1})$$

where:

AV means the actual variable amount for the energy utility for the previous levy year worked out as follows:

$$(ANR - (B_{-1} \times NC_{-1})) \times M_{-1}$$

B is the base amount for the levy year determined under section 54GA (2).

EV means the estimated variable amount for the energy utility for the levy year worked out as follows:

$$(ENR - (B \times NC)) \times M_{-1}$$

EV₋₁ means the estimated variable amount for the energy utility for the previous levy year worked out as follows:

$$(ENR_{-1} - (B_{-1} \times NC_{-1})) \times M_{-2}$$

31 Section 54C (3) (a) and (b)

substitute

- (a) B is taken to be zero in relation to the utility for the levy year; and
- (b) EV is taken to be zero in relation to the utility for the levy year.

32 Section 54C (4) (a) and (b)

substitute

- (a) AV is taken to be zero in relation to the utility for the levy year; and
- (b) EV₋₁ is taken to be zero in relation to the utility for the levy year.

33 Section 54C (5)

substitute

- (5) In this section:

ANR means the actual net regulatory cost for the energy industry sector for the previous levy year determined under section 54GA (1) (b).

B₋₁ means the base amount for the previous levy year determined under section 54GA (2).

market share, for an energy utility for a levy year means—

- (a) for an electricity distributor—the total number of megawatt hours of electricity distributed in the ACT by the distributor in that year, divided by the total number of megawatt hours of electricity distributed in the ACT in that year; and

- (b) for an NERL retailer that supplies electricity—the total number of megawatt hours of electricity sold in the ACT by the retailer in that year, divided by the total number of megawatt hours of electricity sold in the ACT in that year; and
- (c) for a gas distributor—the total number of megajoules of gas distributed in the ACT by the distributor in that year, divided by the total number of megajoules of gas distributed in the ACT in that year; and
- (d) for an NERL retailer that supplies gas—the total number of megajoules of gas sold in the ACT by the retailer in that year, divided by the total number of megajoules of gas sold in the ACT in that year.

M₁ means the market share of the energy utility for the previous levy year.

Note Before 1 October in a levy year, the administrator must determine, for the year before the levy year, the total number of megawatt hours of electricity or megajoules of gas distributed or sold in the ACT by all energy utilities in each energy sector in the year (see s 54H (1) (b) (ii)).

M₂ means the market share of the energy utility for the levy year before the previous levy year.

NC, for an energy industry sector for a levy year, means the number of energy utilities that provided an energy utility service in the sector before 30 August in the levy year as determined under section 54H (1) (a) (i).

NC₁, for an energy industry sector for a levy year, means the number of energy utilities that provided an energy utility service in the sector at any time during the previous levy year as determined under section 54H (1) (b) (i).

ENR means the estimated net regulatory cost for the energy industry sector for the levy year determined under section 54GA (1) (a).

ENR₁ means the estimated net regulatory cost for the energy industry sector for the previous levy year determined under section 54GA (1) (a).

**34 Energy industry sectors etc
Section 54D (2)**

after

provides

insert

, or has provided,

**35 National regulatory obligations and costs
Section 54E (1) (b)**

omit

Ministerial Council on Energy's

substitute

COAG EC's

36 Section 54E (3) (a)

omit

each levy year

substitute

the levy year

37 Section 54E (3) (b)

before

national regulatory cost

insert

actual

38 Section 54E (3) (b)

omit

each levy year

insert

the levy year

39 Section 54E (4) (a) (ii)

omit

MCE's

substitute

COAG EC's

40 Section 54E (4) (a) (iii), (iv) and (v)

omit

MCE

substitute

COAG EC

41 Section 54E (5)

before

national regulatory cost

insert

actual

42 Section 54E (7), new definition of COAG EC

insert

COAG EC means the Council of Australian Governments Energy Council.

43 Section 54E (7), definition of MCE

omit

**44 Local regulatory costs
Section 54F (2)**

substitute

- (2) The administrator must, before 1 October in the levy year, in accordance with this section, determine—
- (a) the estimated local regulatory cost to be applied to each energy industry sector for the levy year; and
 - (b) the actual local regulatory cost to be applied to each energy industry sector for the year before the levy year.

45 Section 54F (4)

before

local regulatory cost

insert

actual

**46 Annual regulatory costs etc
Section 54G (3)**

substitute

- (3) For this part, the *base amount* for an energy industry sector is the minimum additional cost of regulating 1 more energy utility in the energy industry sector for a period of 1 year.

47 New section 54GA

insert

54GA Regulatory cost—determinations

- (1) The administrator must, before 1 October in a levy year, determine—
- (a) the estimated net regulatory cost to be applied to each energy industry sector for the levy year; and
 - (b) the actual net regulatory cost to be applied to each energy industry sector for the previous levy year.
- (2) The administrator must, before 1 October in a year and every 5 years after the first determination, determine the base amount for an energy industry sector.

- (3) The administrator may amend a determination under subsection (2) in extraordinary circumstances.

Example—extraordinary circumstances

A large number of energy utilities unexpectedly enter the energy industry sector.

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).

- (4) A determination under this section is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

**48 Further energy sector determinations
Section 54H (1) (a)**

substitute

- (a) for the levy year—the number of energy utilities that provided an energy utility service in each energy utility sector at any time before 30 August in the year;

49 Section 54H (1) (b) (iii)

omit

**50 Production of distribution and sales information
Section 54I (1)**

after

at any time

insert

before 30 August in the levy year or

51 Section 54I (2) (b)

omit

15 September

substitute

30 August

52 Section 54I (2), new note

insert

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

**53 Registration of energy utilities
Section 54K**

omit

commissioner must register

substitute

commissioner for revenue must register

54 New section 54K (2)

insert

- (2) The commissioner for revenue must tell the administrator about the registration of an energy utility under subsection (1).

**55 Offence—failure to register
Section 54L (1) (b)**

after

commissioner

insert

for revenue

**56 Returns under Taxation Administration Act
Section 54M (2), new note**

insert

Note 2 It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

57 New section 54O

in part 3A, insert

54O Administrator to publish information

The administrator must publish the following information:

- (a) an explanation of the purpose of the energy industry levy;
- (b) an explanation of how the energy industry levy is calculated;
- (c) an annual statement about the data relied on by the administrator to determine—
 - (i) national regulatory costs under section 54E; and
 - (ii) local regulatory costs under section 54F; and
 - (iii) net regulatory costs under section 54G; and
 - (iv) base amounts under section 54G;

- (d) an outline of the administrative practices adopted by the administrator in administering the energy industry levy;
- (e) an explanation of the obligations of energy utilities in relation to the energy industry levy under the Act.

58 New part 20

insert

**Part 20 Transitional—Red Tape
Reduction Legislation
Amendment Act 2017**

411 Calculation of energy industry levy in transitional year

- (1) This section applies to an energy utility in the transitional year.
- (2) Despite section 54C (2), the levy for the energy utility in the transitional year is worked out as follows:

$$B + EV + A$$

where:

A is the adjustment for the previous year worked out in accordance with section 54C (5) as in force immediately before the commencement of this section.

B—see section 54C (2).

EV—see section 54C (2).

- (3) In this section:

transitional year means the levy year commencing on 1 July 2017.

412 Expiry—pt 20

This part expires 1 year after the day it commences.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

59 Dictionary, new definition of *base amount*

insert

base amount, for part 3A (Energy industry levy)—see section 54G (3).

60 Dictionary, definition of *fixed net regulatory cost*

omit

Part 11 Water Resources Act 2007

61 Waterway work licence—requirement Section 42 (1) (b)

substitute

- (b) the person does not have—
- (i) a waterway work licence for the waterway work; or
 - (ii) authority for an activity that includes the waterway work under the *Environment Protection Act 1997*.

62 Section 42 (2)

substitute

- (2) However, a waterway work licence is not required if the work to be undertaken is—
- (a) the construction or alteration of—
 - (i) a water structure that has a capacity of less than 2ML and is not in a waterway; or
 - (ii) a structure prescribed by regulation; or
 - (b) undertaken as part of an authorised activity under the *Environment Protection Act 1997*; or
 - (c) undertaken under an environmental protection agreement under the *Environment Protection Act 1997*.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 30 March 2017.

2 Notification

Notified under the [Legislation Act](#) on 14 June 2017.

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 Red Tape Reduction Legislation Amendment Bill 2017, which was passed by the Legislative Assembly on 6 June 2017.

Clerk of the Legislative Assembly

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