

2003

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Planning)

Planning and Land Legislation Amendment Bill 2003

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(Minister for Planning)

Planning and Land Legislation Amendment Bill 2003

A Bill for

An Act to amend the *Planning and Land Act 2002*, to repeal Acts relating to certain development authorities, and for other purposes.

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Planning and Land Legislation Amendment Act*
4 *2003*.

5 **2 Commencement**

6 This Act commences on the day the *Planning and Land Act 2002*
7 commences.

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

Part 2 Planning and Land Act 2002

3 Act amended—pt 2

This part amends the *Planning and Land Act 2002*.

Note The Act is also amended in sch 1.

4 New chapter 6

insert

Chapter 6 Transitional provisions

Part 6.1 Interpretation

78 Definitions for ch 6

In this chapter:

repealed Act means—

- (a) in relation to the Gungahlin Development Authority—the *Gungahlin Development Authority Act 1996* as in force immediately before the commencement; or
- (b) in relation to the Kingston Foreshore Development Authority—the *Kingston Foreshore Development Authority Act 1999* as in force immediately before the commencement.

repealed authority means—

- (a) the Gungahlin Development Authority as in existence immediately before the commencement; or
- (b) the Kingston Foreshore Development Authority as in existence immediately before the commencement.

1 **Part 6.2 Assets, rights and liabilities**

2 **79 Vesting of assets, rights and liabilities**

3 (1) All assets, rights and liabilities of a repealed authority vest in the
4 land agency.

5 (2) However, the Minister may, in writing, exclude an asset of a
6 repealed authority from subsection (1).

7 (3) An asset excluded from subsection (1) vests in the Territory.

8 (4) An exclusion under subsection (2) is a notifiable instrument.

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

10 **80 Registration of changes in ownership of certain assets**

11 (1) This section applies if—

12 (a) an asset, including an interest in land, vests in the land agency
13 or the Territory under section 79; and

14 (b) information about ownership of the asset may be entered in a
15 statutory property register.

16 (2) On application by the land agency chief executive officer or the
17 chief executive, a person responsible for the statutory property
18 register must make the entries in the register and do anything else
19 that is necessary or desirable to reflect the operation of section 79.

20 (3) The evidentiary value of a statutory property register is not affected
21 by—

22 (a) the making of an entry under this section; or

23 (b) a failure to make an entry under this section; or

24 (c) a failure by the chief executive officer or the chief executive to
25 make an application under this section.

1 (4) In this section:

2 *statutory property register* means a register kept under a Territory
3 law for recording ownership of property (including interests in
4 property) if—

5 (a) title to the property is passed by registration in the register of
6 ownership of the property; or

7 (b) the owner of an interest in the property may lose the interest if
8 the interest is not registered in the register.

9 **Examples**

10 1 the register of land titles kept under the *Land Titles Act 1925*, section 43

11 2 a book, index or register mentioned in the *Instruments Act 1933*

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

15 **81 Evidentiary certificate for vested assets and liabilities**

16 (1) The land agency chief executive officer may certify that an asset or
17 liability has vested in the land agency under section 79.

18 (2) The chief executive may certify that an asset has vested in the
19 Territory under section 79.

20 (3) A certificate under subsection (1) or (2) is evidence of what it states.

21 (4) A document that purports to be a certificate under subsection (1) or
22 (2) is taken to be such a certificate unless the contrary is proved.

23 **82 Proceedings and evidence**

24 (1) For a proceeding begun before the commencement of this Act and to
25 which a repealed authority is a party, the land agency is substituted
26 as a party.

27 (2) A proceeding for a cause of action may be brought against the land
28 agency if, before the commencement of this Act—

Section 4

- 1 (a) the cause of action had accrued against a repealed authority;
2 and
- 3 (b) a proceeding had not begun in relation to the cause of action;
4 and
- 5 (c) the limitation period for the cause of action had not ended.
- 6 (3) The *Limitation Act 1985*, part 3 (Postponement of bar) applies to the
7 beginning of a proceeding that may be brought by or against the
8 land agency under this section as if the cause of action had been
9 accrued by, or had accrued against, the agency.
- 10 (4) The court or other entity in which, or before which, a proceeding
11 may be or has been begun or continued under this section may give
12 directions about the proceeding.
- 13 (5) Any evidence that, apart from the repeal of the repealed Acts, would
14 have been admissible for or against a repealed authority is
15 admissible for or against the land agency.
- 16 (6) An order made in a proceeding by or against a repealed authority
17 before the commencement of this Act may, after the
18 commencement, be enforced by or against the land agency.
- 19 (7) In this section:
- 20 ***proceeding*** includes a proceeding by way of appeal or review
21 (including review under the *Ombudsman Act 1989*) or any other
22 civil proceeding in relation to an asset, right or liability vested in the
23 land agency under section 79 (Vesting of assets, rights and
24 liabilities).
- 25 ***repealed Acts*** means:
- 26 (a) the *Gungahlin Development Authority Act 1996*; and
- 27 (b) the *Kingston Foreshore Development Authority Act 1999*.

Part 6.3 Reports and financial statements of repealed authorities

83 Continuation of repealed authorities for annual reports

- (1) Each repealed authority continues in existence but only for this part.
- (2) The *Annual Reports (Government Agencies) Act 1995* continues to apply to a repealed authority in relation to a reporting period for the authority—
 - (a) beginning before the commencement of this section; and
 - (b) for which a report had not been presented by the authority under that Act, section 8 (Annual reports of public authorities) before the repeal of the repealed Act.
- (3) The *Gungahlin Development Authority Act 1996*, section 38 (Information to be included in annual report) applies to a report by the Gungahlin Development Authority mentioned in subsection (2).
- (4) The *Kingston Foreshore Development Authority Act 1999*, section 41 (Annual report) applies to a report by the Kingston Foreshore Development Authority mentioned in subsection (2).
- (5) A repealed authority must prepare a financial statement under the *Financial Management Act 1996*, section 59 (Annual financial statements)—
 - (a) in relation to its operations for each financial year during which the authority operated; if
 - (b) a financial statement under that section had not been prepared before the repeal of the repealed Act establishing the authority.
- (6) In this section:
reporting period—see the *Annual Reports (Government Agencies) Act 1995*, section 4.

1 **84 Continuation of repealed authorities CEOs for certain**
2 **purposes**

3 (1) The position of chief executive officer for the Gungahlin
4 Development Authority established under the repealed Act
5 continues in existence but only for this part.

6 (2) The position of chief executive officer of the Kingston Foreshore
7 Development Authority established under the repealed Act
8 continues in existence but only for this part.

9 **Part 6.4 Other provisions**

10 **85 Transitional regulations**

11 (1) The regulations may prescribe transitional matters necessary or
12 convenient to be prescribed because of the enactment of this Act or
13 the *Planning and Land (Consequential Amendments) Act 2002*.

14 (2) The regulations may modify the operation of this Act to make
15 provision in relation to any matter that, in the Executive's opinion,
16 is not, or not adequately, dealt with in this Act or the *Planning and*
17 *Land (Consequential Amendments) Act 2002*.

18 **86 Expiry of ch 6**

19 This chapter expires 1 year after the day it commences.

1 **Part 3** **Repeals and further**
2 **amendments**

3 **5 Repeal of Acts**

4 The following Acts are repealed:

- 5 • *Gungahlin Development Authority Act 1996* No 38
6 • *Kingston Foreshore Development Authority Act 1999* No 89.

7 **6 Repeal of instruments**

8 The following instruments are repealed:

- 9 • *Gungahlin Development Authority Appointment 2002 (No 1)*
10 DI2002-142
11 • *Gungahlin Development Authority Appointment 2002 (No 2)*
12 DI2002-143
13 • *Gungahlin Development Authority Appointment 2002 (No 3)*
14 DI2002-165
15 • *Gungahlin Development Authority - Australian Capital*
16 *Territory (Gungahlin Development Authority Act 1996) 2002*
17 NI2002-17.

18 **7 Acts and regulations amended—sch 1**

19 Schedule 1 amends the Acts and regulations mentioned in it.

1 **Schedule 1 Further amendments**
2 (see s 7)

3 **Part 1.1 Land (Planning and**
4 **Environment) Act 1991**

5 **[1.1] Section 229 (4) (ac)**

6 *omit*

7 **[1.2] Section 246 (1) (b) (i)**

8 *omit*

9 (other than an application

10 **[1.3] Section 283 (1)**

11 *substitute*

12 (1) The Executive may, in writing, authorise anybody to act on its
13 behalf in the exercise of a function under part 2 (Planning) or part 5
14 (Land administration), other than a function under the following
15 sections:

- 16 • section 163 (4) (Leases to community organisations)
17 • section 164 (3) (Special leases)
18 • section 167 (1) (Eligibility for certain classes of leases)
19 • section 178 (3) (Refund of amount paid for grant of lease).

20 **[1.4] Section 283 (3)**

21 *omit*

[1.5] New section 293

insert

293 Proceedings and evidence

(1) This section applies if—

(a) a provision of this Act, as in force immediately before the commencement of this section, expressly authorised or required the commissioner to do something; and

(b) after the commencement of this section, the thing may be done by another entity (the *substituted entity*).

(2) For a proceeding begun in relation to the thing before the commencement of this section and to which the commissioner is a party, the substituted entity is substituted as a party.

(3) A proceeding for a cause of action in relation to the thing may be brought against the substituted entity if, before the commencement of this section —

(a) the cause of action had accrued against the commissioner; and

(b) a proceeding had not begun in relation to the cause of action; and

(c) the limitation period for the cause of action had not ended.

(4) The *Limitation Act 1985*, part 3 (Postponement of bar) applies to the beginning of a proceeding that may be brought by or against the substituted entity under this section as if the cause of action had been accrued by, or had accrued against, the entity.

(5) The court or other entity in which, or before which, a proceeding may be or has been begun or continued under this section may give directions about the proceeding.

(6) Any evidence that, apart from the abolition of the position of commissioner, would have been admissible for or against the commissioner is admissible for or against the substituted entity.

- 1 (7) An order made in a proceeding by or against the commissioner
2 before the commencement of this section may, after the
3 commencement, be enforced by or against the substituted entity.
- 4 (8) In this section:
- 5 *commissioner* means the commissioner under this Act as in force
6 immediately before the commencement of this section.
- 7 *proceeding* means a civil or administrative proceeding, and includes
8 a proceeding by way of appeal or review (including review under
9 the *Ombudsman Act 1989*).
- 10 (9) This section expires 1 year after the day it commences.

11 **[1.6] Dictionary, definition of *Gungahlin central area***

12 *omit*

13 **Part 1.2 Planning and Land Act 2002**

14 **[1.7] Section 48 (4) (a) and (b)**

15 *omit*

16 authority

17 *insert*

18 land agency

19 **[1.8] Section 48 (5)**

20 *omit*

21 subsection (3)

22 *substitute*

23 subsection (4)

[1.9] Section 75 (3), definition of *official*, paragraph (c)

substitute

(c) the land agency chief executive officer; or

(d) a land agency board member.

**Part 1.3 Public Sector Management
Act 1994**

[1.10] Section 5 (i) and (j)

substitute

(i) the University of Canberra.

**Part 1.4 Taxation (Government
Business Enterprises)
Regulations 2003**

[1.11] Regulation 4

omit

- Gungahlin Development Authority
- Kingston Foreshore Development Authority

substitute

- land development agency

Endnote

Republications of amended laws

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

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