

2017

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Justice, Consumer Affairs and Road Safety)

Co-operatives National Law (ACT) Bill 2017

Contents

		Page
Part 1	Preliminary	
1	Name of Act	2
2	Commencement	2
3	Dictionary	2
4	Terms used in Co-operatives National Law (ACT)	2
5	Notes	3
6	Offences against Act—application of Criminal Code etc	3

	Page
Part 2	Application of Co-operatives National Law and Co-operatives National Regulations
7	Application of Co-operatives National Law and Co-operatives National Regulations 4
8	Exclusion of Legislation Act 5
Part 3	Some matters referred to in Co-operatives National Law (ACT)
9	Meaning of certain terms in Co-operatives National Law (ACT) 6
10	Corporations application legislation—the Law, s 4 6
11	Designated authority—the Law, s 4 6
12	Designated instrument—the Law, s 4 7
13	Designated tribunal—the Law, s 4 10
14	Shares compulsorily acquired—the Law, s 436 11
15	Deregistration—the Law, s 453 12
16	Costs of inquiry—the Law, s 530 12
17	Secrecy—the Law, s 537 12
18	Pecuniary penalty orders—the Law, s 556 13
19	Registrar of Co-operatives—the Law, s 595 13
20	Protection of officials from liability—the Law, s 595 13
21	Stamp duty on transfer—the Law, s 620 14
22	Registration fees—the Law, s 620 15
Part 4	Application of Corporations Act
23	Definitions—pt 4 16
24	Provisions to which this part applies 16
25	Effect of declaratory provisions 17
26	Modifications to applied Corporations law 18
27	Conferral of functions on ASIC 19
28	Conferral of functions on ACT courts 19
29	Implied application of regulations and other provisions of Corporations legislation 20
30	Proceedings for offences 20
31	Application of Corporations legislation by other means 22

	Page	
Part 5	Miscellaneous	
32	Rules of co-operatives formed to carry on club may restrict voting rights	23
33	Proceeding for offences	23
34	Proceeding for recovery of fines or penalties under co-operatives rules	24
35	Regulation-making power—local regulations	24
Part 6	Repeals and consequential amendments	
36	Legislation repealed	26
37	Legislation amended—sch 2	26
Part 10	Transitional	
50	Meaning of <i>commencement day</i> —pt 10	27
51	Exclusion of Legislation Act—Co-operatives National Regulations	27
52	Saving of operation of Cooperatives Act 2002	27
53	Registration of co-operatives	28
54	Minimum paid up amount of shares—the Law, s 78 (4)	28
55	Entitlements of former members of trading co-operatives—the Law, sch 3, s 1	28
56	Entitlement to distribution from business or reserves of co-operative	29
57	Transitional regulations	29
58	Expiry—pt 10	29
Schedule 1	Modifications—Co-operatives National Law	30
Schedule 2	Consequential amendments	33
Part 2.1	Confiscation of Criminal Assets Act 2003	33
Part 2.2	Electricity Feed-in (Renewable Energy Premium) Act 2008	33
Part 2.3	Land Tax Act 2004	34
Part 2.4	Legislation Act 2001	34
Part 2.5	Perpetuities and Accumulations Act 1985	35

Contents

	Page
Part 2.6 Unclaimed Money Act 1950	35
Dictionary	36

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(As presented)

(Minister for Justice, Consumer Affairs and Road Safety)

Co-operatives National Law (ACT) Bill 2017

A Bill for

An Act to apply a national law relating to co-operatives, 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 *Co-operatives National Law (ACT) Act 2017*.

4 **2 Commencement**

5 This Act commences on 1 May 2017.

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

8 **3 Dictionary**

- 9 (1) The dictionary at the end of this Act is part of this Act.
- 10 (2) A definition in the dictionary applies to the local application
11 provisions of this Act.

12 *Note 1* The dictionary at the end of this Act defines certain terms used in this
13 Act, and includes references (*signpost definitions*) to other terms
14 defined elsewhere in this Act.

15 For example, the signpost definition '*local regulations*—see
16 section 35.' means that the term 'local regulations' is defined in that
17 section and the definition applies to this Act.

18 *Note 2* A definition in the dictionary (including a signpost definition) applies to
19 the entire Act unless the definition, or another provision of the Act,
20 provides otherwise or the contrary intention otherwise appears (see
21 [Legislation Act](#), s 155 and s 156 (1)).

22 **4 Terms used in Co-operatives National Law (ACT)**

23 Terms used in the local application provisions of this Act and also in
24 the *Co-operatives National Law (ACT)* have the same meanings in
25 those provisions as they have in the *Co-operatives National Law*
26 (*ACT*).

27 *Note* A definition in an Act applies except so far as the contrary intention
28 appears (see [Legislation Act](#), s 155).

1 **5** **Notes**

2 A note included in the local application provisions of this Act is
3 explanatory and is not part of this Act.

4 *Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of
5 notes.

6 **6** **Offences against Act—application of Criminal Code etc**

7 Other legislation applies in relation to offences against this Act.

8 *Note* *Criminal Code*
9 The [Criminal Code](#), ch 2 applies to all offences against this Act (see
10 Code, pt 2.1).
11 The chapter sets out the general principles of criminal responsibility
12 (including burdens of proof and general defences), and defines terms
13 used for offences to which the Code applies (eg *conduct*, *intention*,
14 *recklessness* and *strict liability*).

- 1 **Part 2** **Application of Co-operatives**
2 **National Law and Co-operatives**
3 **National Regulations**
- 4 **7 Application of Co-operatives National Law and**
5 **Co-operatives National Regulations**
- 6 (1) Subject to this section, the Co-operatives National Law, as in force
7 from time to time, set out in the appendix to the NSW Act—
- 8 (a) applies as a territory law, as modified by schedule 1; and
9 (b) as so applying may be referred to as the *Co-operatives*
10 *National Law (ACT)*; and
11 (c) so applies as if it were part of this Act.
- 12 (2) A law that amends the Co-operatives National Law set out in the
13 appendix to the NSW Act and is passed by the New South Wales
14 Parliament after this Act's notification day must be presented to the
15 Legislative Assembly not later than 6 sitting days after the day it is
16 passed.
- 17 (3) The amending law may be disallowed by the Legislative Assembly
18 in the same way, and within the same period, that a disallowable
19 instrument may be disallowed.
- 20 *Note* See the [Legislation Act](#), s 65 (Disallowance by resolution of Assembly).
- 21 (4) If the amending law is not presented to the Legislative Assembly in
22 accordance with subsection (2), or is disallowed under
23 subsection (3), the Co-operatives National Law applying under
24 subsection (1) is taken—
- 25 (a) not to include the amendments made by the amending law; and
26 (b) to include any provision repealed or amended by the amending
27 law as if the amending law had not been made.

- 1 (5) The Co-operatives National Regulations, as in force from time to
2 time—
- 3 (a) apply as Co-operatives National Regulations in force under the
4 *Co-operatives National Law (ACT)*, as modified by local
5 regulations; and
- 6 (b) as so applying may be referred to as the *Co-operatives*
7 *National Regulation (ACT)*.
- 8 (6) In this section:
- 9 *NSW Act* means the *Co-operatives (Adoption of National Law)*
10 *Act 2012* (NSW).

11 **8 Exclusion of Legislation Act**

- 12 (1) The *Legislation Act* does not apply to the *Co-operatives National*
13 *Law (ACT)*.
- 14 (2) However, the *Legislation Act*, chapter 7 (Presentation, amendment
15 and disallowance of subordinate laws and disallowable instruments)
16 applies to the *Co-operatives National Regulation (ACT)* as if—
- 17 (a) a reference to a subordinate law were a reference to the
18 Co-operatives National Regulations; and
- 19 (b) a reference to ‘notification day’ in the *Legislation Act*,
20 section 64 (Presentation of subordinate laws and disallowable
21 instruments) were a reference to ‘published’ as mentioned in
22 the *Co-operatives National Law (ACT)*, section 614 (1)
23 (Publication and commencement of National Regulations); and
- 24 (c) any other necessary changes were made.
- 25 (3) This section does not limit the application of the *Legislation Act* to
26 the local application provisions of this Act.

1 **Part 3** **Some matters referred to in**
2 **Co-operatives National Law**
3 **(ACT)**

4 **9** **Meaning of certain terms in Co-operatives National Law**
5 **(ACT)**

6 In the *Co-operatives National Law (ACT)*:

7 *police officer* means a police officer.

8 *Note* The [Legislation Act](#), dictionary, pt 1 defines *police officer* as a member
9 or special member of the Australian Federal Police.

10 *public sector official* means a public employee.

11 *Note* *Public employee* means a public servant, a person employed by a
12 territory instrumentality or a statutory office-holder or a person
13 employed by a statutory office-holder (see [Legislation Act](#), dict, pt 1).

14 *Registrar* means the Registrar of Co-operatives designated under
15 section 19 (Registrar of Co-operatives—the Law, s 595).

16 *this jurisdiction* means the ACT.

17 **10** **Corporations application legislation—the Law, s 4**

18 The Corporations application legislation for the ACT is this Act,
19 part 4 (Application of Corporations Act).

20 **11** **Designated authority—the Law, s 4**

21 (1) The Registrar is the designated authority for the following
22 provisions of the *Co-operatives National Law (ACT)*:

23 (a) section 15 (Modifications to applied provisions);

24 (b) section 492 (Appointment of inspectors);

25 (c) section 494 (Inspector's identity card);

26 (d) section 520 (Appointment of investigators);

- 1 (e) section 601 (Inspection of register of co-operatives);
- 2 (f) section 622 (Approval of forms).
- 3 (2) A magistrate is the designated authority for the following provisions
- 4 of the *Co-operatives National Law (ACT)*:
- 5 (a) section 504 (Warrants);
- 6 (b) section 505 (Warrants—applications made otherwise than in
- 7 person).

8 **12 Designated instrument—the Law, s 4**

- 9 (1) The designated instrument for a provision of the *Co-operatives*
- 10 *National Law (ACT)* mentioned in an item in table 12, column 2, for
- 11 the case mentioned in column 4, is the instrument mentioned in
- 12 column 5 for the item and case.

13 **Table 12 Designated instruments**

column 1 item	column 2 section	column 3 description	column 4 case	column 5 designated instrument
1	33 (1)	certificate of registration	all cases	notifiable instrument
2	35 (5)	exemption from special postal ballot for amendment of rules of conversion	individual co-operative	written order
			class of co-operatives	notifiable instrument
3	60 (2)	specifying rule amendments requiring prior approval by Registrar	all cases	notifiable instrument
4	71 (1)	exemption from requirements of pt 2.4, div 2	individual co-operative	written order
			class of co-operatives	notifiable instrument

Part 3 Some matters referred to in Co-operatives National Law (ACT)

Section 12

column 1 item	column 2 section	column 3 description	column 4 case	column 5 designated instrument
5	92 (6)	exemption from complying with disclosure direction	all cases	written order
6	171 (1)	exemption from requirements of pt 2.6, div 5	individual co-operative	written order
			class of co-operatives	notifiable instrument
7	221 (1)	approval of omission of 'Limited' or 'Ltd' from name	all cases	notifiable instrument
8	226 (6)	exemption from requirement to display location notice	individual small co-operative	written order
			all small co-operatives	notifiable instrument
			class of co-operatives	notifiable instrument
9	316 (1)	exemption for individual co-operative from accounting and auditing provisions	all cases	written order
10	317 (1)	exemption for class of co-operatives from accounting and auditing provisions	all cases	notifiable instrument
11	319 (1)	exemption for non-auditor members and former members of audit firms, and former employees of audit companies from accounting and auditing provisions	all cases	notifiable instrument
12	320 (1)	exemption for classes of non-auditor members etc from accounting and auditing provisions	all cases	notifiable instrument

column 1 item	column 2 section	column 3 description	column 4 case	column 5 designated instrument
13	322 (1)	exemption from National Regulations made under pt 3.3	all cases	notifiable instrument
14	338 (6)	exemption from compliance with s 338	individual co-operative	written order
			class of co-operatives	notifiable instrument
15	343 (10)	exemption from compliance with s 343	individual co-operative	written order
			class of co-operatives	notifiable instrument
16	359 (3)	exemption from compliance with s 359 or s 248	all cases	written order
17	363 (2)	stating maximum greater than 20% of nominal value of issued share capital	individual co-operative	written order
			class of co-operatives	notifiable instrument
18	372 (1)	exemption of person or class of persons from the operation of pt 3.5, div 1	all cases	notifiable instrument
19	380 (1)	exemption from compliance with pt 3.5, div 2 or s 248	all cases	written order
20	397 (4)	exemption from compliance with s 397	all cases	written order
21	401 (7)	notification by Registrar of date of effect of transfer of engagements between co-operatives	all cases	notifiable instrument
22	404 (4)	exemption from compliance with s 404 or s 248	all cases	written order
23	443 (5)	liquidator's notice of appointment	all cases	written notice

Part 3 Some matters referred to in Co-operatives National Law (ACT)

Section 13

column 1 item	column 2 section	column 3 description	column 4 case	column 5 designated instrument
24	445 (3)	exemption from compliance with s 445 or s 248	individual co-operative	written order
			class of co-operatives	notifiable instrument
25	607 (3)	Registrar's approval	individual co-operative or person	written order
			class of co-operatives or persons	notifiable instrument

1 (2) In this section:

2 ***notifiable instrument*** means a notifiable instrument in the approved
3 form.

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

5 ***written notice*** means a written notice in the approved form.

6 ***written order*** means a written order in the approved form.

7 **13 Designated tribunal—the Law, s 4**

8 (1) The designated tribunal for the *Co-operatives National Law (ACT)*
9 is—

10 (a) for part 7.3 (Appeals and review) of the Law—the ACAT; or

11 (b) for any other provision of the Law—the Magistrates Court.

- 1 (2) In a proceeding under this Act in which the Magistrates Court is the
2 designated tribunal, the Magistrates Court may, on its own initiative
3 or on application by a party to the proceeding—
- 4 (a) transfer the proceeding to the Supreme Court on the ground
5 that the proceeding raises a complex question or matter of
6 general importance; or
- 7 (b) reserve a question of law for determination by the Supreme
8 Court.
- 9 (3) If a proceeding has been transferred to the Supreme Court under
10 subsection (2) (a), the proceeding may be continued and completed
11 as if steps taken in the proceeding prior to the transfer had been
12 taken in the Supreme Court.

13 **14 Shares compulsorily acquired—the Law, s 436**

14 For the *Co-operatives National Law (ACT)*, section 436 (3) (b) (ii),
15 the [Corporations Act](#), section 1341 (1) and (2) (Entitlement to
16 unclaimed property) are taken to be omitted and substituted by the
17 following subsections and note:

- 18 ‘(1) If unclaimed property is an amount of money, the amount must
19 be paid to the public trustee and guardian.

20 *Note* A person who claims to be entitled to an amount paid to the
21 public trustee and guardian under this section may apply to the
22 public trustee for payment of the amount (see [Unclaimed Money
23 Act 1950](#), pt 5).

- 24 (2) If unclaimed property has been sold or disposed of under
25 section 1339 (2), the amount of the proceeds must be paid to
26 the public trustee and guardian.’

- 1 **15 Deregistration—the Law, s 453**
- 2 (1) For the *Co-operatives National Law (ACT)*, section 453 (d)
- 3 (Application of Corporations Act—deregistration), a reference to
- 4 the Commonwealth in any of the following sections of the
- 5 [Corporations Act](#) is taken to be a reference to the Territory:
- 6 (a) section 601AD (Effect of deregistration);
- 7 (b) section 601AE (What the Commonwealth or ASIC does with
- 8 the property);
- 9 (c) section 601AF (The Commonwealth’s and ASIC’s power to
- 10 fulfil outstanding obligations of deregistered company).
- 11 (2) For the *Co-operatives National Law (ACT)*, section 453 (e), a
- 12 reference in the [Corporations Act](#), section 601AE, to crediting an
- 13 amount to a Special Account (within the meaning of the [Public](#)
- 14 [Governance, Performance and Accountability Act 2013](#) of the
- 15 Commonwealth) is taken to be a reference to crediting the amount to
- 16 the consolidated revenue fund.
- 17 **16 Costs of inquiry—the Law, s 530**
- 18 For the *Co-operatives National Law (ACT)*, section 530 (3) (b)
- 19 (Costs of inquiry), the prescribed entity is the Territory.
- 20 **17 Secrecy—the Law, s 537**
- 21 (1) For the *Co-operatives National Law (ACT)*, section 537 (4) (c)
- 22 (Secrecy), information may be divulged to the following entities:
- 23 (a) the Treasurer;
- 24 (b) the commissioner for revenue;
- 25 (c) the auditor-general;

- 1 (d) the ombudsman;
- 2 (e) a person nominated by a person mentioned in paragraphs (a)
- 3 to (d).
- 4 (2) For the *Co-operatives National Law (ACT)*, section 537 (6),
- 5 definition of *former Act*, the *Cooperatives Act 2002* is specified.

6 **18 Pecuniary penalty orders—the Law, s 556**

7 For the *Co-operatives National Law (ACT)*, section 556 (2)

8 (Pecuniary penalty orders), a pecuniary penalty ordered to be paid in

9 this jurisdiction is to be paid and treated as a civil debt owed to the

10 Territory.

11 *Note* An amount owing under a law may be recovered as a debt in a court of

12 competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

13 **19 Registrar of Co-operatives—the Law, s 595**

14 The commissioner for fair trading is designated as the Registrar of

15 Co-operatives and may exercise the functions of the Registrar of

16 Co-operatives under—

- 17 (a) the local application provisions of this Act; and
- 18 (b) the local regulations; and
- 19 (c) the *Co-operatives National Law (ACT)*; and
- 20 (d) the *Co-operatives National Regulation (ACT)*.

21 **20 Protection of officials from liability—the Law, s 595**

- 22 (1) An official is not civilly liable for conduct engaged in honestly and
- 23 without recklessness—
- 24 (a) in the exercise of a function; or
- 25 (b) in the reasonable belief that the conduct was in the exercise of
- 26 a function.

- 1 (2) Any civil liability that would, apart from this section, attach to the
2 official attaches instead to the Territory.
- 3 (3) In this section:
- 4 **conduct** means an act or omission to do an act.
- 5 **function** means a function under—
- 6 (a) the local application provisions of this Act; or
7 (b) the local regulations; or
8 (c) the *Co-operatives National Law (ACT)*; or
9 (d) the *Co-operatives National Regulation (ACT)*.
- 10 **official** means—
- 11 (a) the Minister; or
12 (b) the Registrar; or
13 (c) a public sector official engaged in the administration of the
14 local application provisions of this Act or the *Co-operatives*
15 *National Law (ACT)*.
- 16 *Note* A reference to an Act includes a reference to the statutory instruments
17 made or in force under the Act, including any regulation (see
18 [Legislation Act](#), s 104).

19 **21 Stamp duty on transfer—the Law, s 620**

- 20 (1) This section applies if—
- 21 (a) a co-operative that transfers its incorporation under the
22 *Co-operatives National Law (ACT)*, part 4.3 (Mergers and
23 transfers of engagements), division 2 (Transfer of
24 incorporation), was before its registration as a co-operative
25 under that Law a company under the [Corporations Act](#); and

- 1 (b) stamp duty had been paid on its incorporation as a company in
2 relation to the amount of the nominal capital of the company
3 (or, if the nominal capital was subsequently increased, on the
4 amount of its nominal capital as increased).
- 5 (2) Any stamp duty paid must be taken into account and included in
6 assessing the stamp duty payable on its incorporation or registration
7 in accordance with the transfer.

8 **22 Registration fees—the Law, s 620**

9 No fee is chargeable under any Act for registration of an instrument
10 executed or registered in relation to a transfer of any property to
11 give effect to the *Co-operatives National Law (ACT)*, section 413
12 (Effect of merger or transfer on assets and liabilities) or section 481
13 (Effect of merger or transfer of engagements) in relation to—

- 14 (a) a merger of co-operatives; or
15 (b) a transfer of engagements; or
16 (c) a transfer of incorporation.

1 **Part 4 Application of Corporations Act**

2 **23 Definitions—pt 4**

3 In this part:

4 *applied Corporations law* means a provision or provisions of the
5 Corporations legislation, or of an Act, regulation or other instrument
6 forming part of the Corporations legislation, that this part applies to
7 a matter as if the provision were a territory law.

8 *Corporations legislation* means the Corporations legislation to
9 which the [Corporations Act](#), part 1.1A (Interaction between
10 Corporations legislation and State and Territory laws) applies.

11 *declaratory provision* means a provision of a territory law to which
12 this part applies by operation of section 24.

13 *matter* includes act, omission, body, person or thing.

14 *modification* includes addition, exception, omission or substitution.

15 **24 Provisions to which this part applies**

16 (1) This part applies to a provision if the provision declares a matter to
17 be an applied Corporations legislation matter for the purposes of this
18 part in relation to any of the following (whether with or without
19 modifications):

20 (a) the whole of the Corporations legislation;

21 (b) a specified Act, regulations or other instrument forming part of
22 the Corporations legislation;

23 (c) a specified provision of the Corporations legislation or of an
24 Act, regulation or other instrument forming part of the
25 Corporations legislation.

- 1 (2) Subsection (1) does not apply to a provision to the extent that it
2 declares a matter to be an applied Corporations legislation matter for
3 the purposes of this part in relation to a provision of the
4 Corporations legislation, or of an Act, regulations or other
5 instrument forming part of the Corporations legislation, that already
6 applies to the matter as a law of the Commonwealth.

7 **25 Effect of declaratory provisions**

- 8 (1) Subject to this part, a declaratory provision has effect in relation to a
9 matter as follows:
- 10 (a) if the declaratory provision is one to which section 24 (1) (a)
11 applies—the whole of the Corporations legislation applies to
12 the matter as if it were a territory law;
- 13 (b) if the declaratory provision is one to which section 24 (1) (b)
14 applies—the Act, regulation or other instrument specified by
15 the declaratory provision applies to the matter as if it were a
16 territory law;
- 17 (c) if the declaratory provision is one to which section 24 (1) (c)
18 applies—the provision specified by the declaratory provision
19 applies in relation to the matter as if it were a territory law.
- 20 (2) A provision applied to a matter by a declaratory provision, or taken
21 by force of section 29 (1) (Implied application of regulations and
22 other provisions of Corporations legislation) to apply to the matter,
23 is applied as in force from time to time unless the declaratory
24 provision applies it as in force at a particular time specified by the
25 declaratory provision.

1 **26 Modifications to applied Corporations law**

2 (1) This part operates to apply a provision of the Corporations
3 legislation, or of an Act, regulation or other instrument forming part
4 of the Corporations legislation, as a territory law subject to the
5 following modifications:

6 (a) any modifications specified by or under the declaratory
7 provision;

8 *Note* The *Co-operatives National Law (ACT)*, s 15 also modifies the
9 applied provisions, including modifying references to ASIC and
10 the gazette.

11 (b) a reference to the Minister is a reference to the Minister
12 administering the declaratory provision;

13 (c) a reference to this jurisdiction is a reference to the ACT;

14 (d) any other modifications that are necessary or prescribed by
15 regulation, whether generally or in relation to a particular
16 applied Corporations law.

17 (2) Any power to make regulations under an Act containing a
18 declaratory provision extends to the making of regulations
19 specifying modifications for the purposes of this part.

20 (3) Except as provided by subsection (1), definitions and other
21 interpretation provisions of the Corporations legislation, or of the
22 Act, regulations or other instrument forming part of the
23 Corporations legislation, relevant to the applied Corporations law
24 are taken also to apply to the matter that is the subject of the
25 declaratory provision.

26 (4) This section has effect subject to the following sections:

27 (a) section 27 (Conferral of functions on ASIC);

28 (b) section 28 (Conferral of functions on ACT courts);

1 (c) section 29 (Implied application of regulations and other
2 provisions of Corporations legislation);

3 (d) section 30 (Proceedings for offences).

4 **27 Conferral of functions on ASIC**

5 (1) Neither a declaratory provision nor an applied Corporations law
6 operates to confer a function on ASIC in relation to the applied
7 Corporations law unless—

8 (a) the declaratory provision provides for ASIC to exercise that
9 function pursuant to an agreement or arrangement of the kind
10 referred to in the *Australian Securities and Investments*
11 *Commission Act 2001* (Cwlth), section 11 (8) or (9A) (b)
12 (Corporations legislation functions and powers and other
13 functions and powers); and

14 (b) ASIC is authorised to exercise that function under the
15 *Australian Securities and Investments Commission Act 2001*
16 (Cwlth), section 11.

17 (2) If a declaratory provision operates to confer a function on ASIC in
18 relation to an applied Corporations law, the conferral of that
19 function is taken not to impose a duty to exercise that function
20 despite anything to the contrary in the applied Corporations law.

21 **28 Conferral of functions on ACT courts**

22 An applied Corporations law that confers a function or duty on a
23 court or on the Court is taken to confer that function or duty (along
24 with the jurisdiction to exercise that function or duty) on the
25 Supreme Court or such other court of the ACT specified by or under
26 the declaratory provision.

1 **29 Implied application of regulations and other provisions of**
2 **Corporations legislation**

- 3 (1) Unless a declaratory provision provides otherwise, the following
4 provisions of the Corporations legislation, or of an Act, regulation
5 or other instrument forming part of the Corporations legislation, are
6 also taken to apply to a matter that is the subject of a declaratory
7 provision as if they were a territory law:
- 8 (a) the provisions of any regulations made under the applied
9 Corporations law;
- 10 (b) any provision of the Corporations legislation, or of an Act,
11 regulation or other instrument forming part of the Corporations
12 legislation, that creates an offence in relation to a contravention
13 of the applied Corporations law or specifies the penalty for an
14 offence created by a provision of the applied Corporations law;
- 15 (c) the provisions of the [Corporations Act](#), part 9.4B (Civil
16 consequences of contravening civil penalty provisions) for the
17 purposes of any provision of the applied Corporations law that
18 is a civil penalty provision within the meaning of that part.
- 19 (2) The regulations may prescribe modifications (whether generally or
20 in relation to a particular applied Corporations law) of any of the
21 provisions that are also taken to apply to a matter by force of
22 subsection (1) for the purposes of that application.

23 **30 Proceedings for offences**

- 24 (1) Proceedings for an offence against an applied Corporations law may
25 be dealt with as an offence against a territory law.

- 1 (2) For the purposes of an offence against an applied Corporations
2 law—
- 3 (a) the amount of a penalty unit specified in relation to the offence
4 by the applied Corporations law, or a provision taken by force
5 of section 29 (1) to apply to the matter that is the subject of the
6 declaratory provision, is \$100; and
- 7 (b) territory laws apply in relation to the offence as if the applied
8 Corporations law, or a provision taken by force of
9 section 29 (1) to apply to the matter that is the subject of the
10 declaratory provision, were a territory law.
- 11 (3) Without limiting subsection (2) (b), the territory law referred to in
12 that subsection as applying in relation to an offence include laws
13 with respect to the following:
- 14 (a) the investigation and prosecution of offences;
- 15 (b) the arrest, custody, bail, trial, finding of guilt and conviction of
16 persons charged with offences;
- 17 (c) proceedings relating to a matter referred to in paragraph (a)
18 or (b);
- 19 (d) the classification of offences as indictable or summary;
- 20 (e) appeals and reviews relating to criminal proceedings and to
21 proceedings of the kind referred to in paragraph (c);
- 22 (f) the sentencing, punishment and release of persons found guilty
23 or convicted of offences;
- 24 (g) fines, penalties and forfeitures;
- 25 (h) confiscation of the proceeds of crime.

- 1 **31 Application of Corporations legislation by other means**
- 2 Nothing in this part prevents a territory law from applying any
- 3 provision of the Corporations legislation, or of an Act, regulations
- 4 or other instrument forming part of the Corporations legislation, as a
- 5 territory law otherwise than by means of a declaratory provision.

- 1 (3) In this section:
2 *offence* means an offence under—
3 (a) the local application provisions of this Act; or
4 (b) the local regulations; or
5 (c) the *Co-operatives National Law (ACT)*; or
6 (d) the *Co-operatives National Regulation (ACT)*.

7 **34 Proceeding for recovery of fines or penalties under**
8 **co-operatives rules**

9 A proceeding for the recovery of a fine or penalty imposed by the
10 rules of a co-operative may be commenced—

- 11 (a) in the Magistrates Court; and
12 (b) only on application by the co-operative.

13 **35 Regulation-making power—local regulations**

- 14 (1) The Executive may make regulations (the *local regulations*) for—
15 (a) the local application provisions of this Act; and
16 (b) the *Co-operatives National Law (ACT)*.

17 *Note 1* For the power to make regulations, see the [Legislation Act](#), s 44.

18 *Note 2* A regulation must be notified, and presented to the Legislative
19 Assembly, under the [Legislation Act](#).

- 20 (2) A regulation may make provision in relation to—
21 (a) the administration of the *Co-operatives National Law (ACT)*;
22 and
23 (b) procedural matters relating to any aspects of the *Co-operatives*
24 *National Law (ACT)*; and

- 1 (c) without limiting paragraph (a) or (b), administrative matters
2 relating to the supervision and inspection of co-operatives.
- 3 (3) A regulation may create offences and fix maximum penalties for the
4 offences of not more than the amount mentioned in the
5 *Co-operatives National Law (ACT)*, section 612 (5) (Power to make
6 Co-operatives National Regulations).

1 **Part 6** **Repeals and consequential**
2 **amendments**

3 **36 Legislation repealed**

- 4 (1) The following legislation is repealed:
- 5 • *Cooperatives Act 2002* (A2002-45)
 - 6 • *Cooperatives Regulation 2003* (SL2003-22).
- 7 (2) All other legislative instruments under the *Cooperatives Act 2002*
- 8 are repealed.
- 9 (3) The following legislative instrument under the *Legislation Act* is
- 10 repealed:
- 11 • *Legislation (Cooperatives) Delegation 2014 (No 1)*
 - 12 (NI2014-558).

13 **37 Legislation amended—sch 2**

14 This Act amends the legislation mentioned in schedule 2.

1 **Part 10** **Transitional**

2 **50** **Meaning of *commencement day*—pt 10**

3 In this part:

4 *commencement day* means the day section 3 commences.

5 **51** **Exclusion of Legislation Act—Co-operatives National**
6 **Regulations**

7 (1) This section applies if Co-operatives National Regulations are
8 published before the commencement day.

9 (2) Section 8 (2) applies as if the Co-operatives National Regulations
10 were published on the commencement day.

11 **52** **Saving of operation of Cooperatives Act 2002**

12 (1) The repeal of the *Cooperatives Act 2002* does not affect an existing
13 right, privilege or liability acquired, accrued or incurred under that
14 Act.

15 *Note* A reference to an Act includes a reference to the statutory instruments
16 made or in force under the Act, including any regulation (see
17 [Legislation Act](#), s 104).

18 (2) An investigation, proceeding or remedy in relation to an existing
19 right, privilege or liability under the *Cooperatives Act 2002* may be
20 started, exercised, continued or completed, and the right, privilege
21 or liability may be enforced and any penalty imposed, as if the
22 repeal had not happened.

23 (3) In this section:

24 *liability* includes liability to penalty for an offence against the law.

25 *penalty* includes punishment and forfeiture.

26 *privilege* includes immunity.

27 *right* includes capacity, interest, status and title.

- 1 **53 Registration of co-operatives**
- 2 (1) This section applies if, immediately before the commencement day,
3 a co-operative was registered under the *Cooperatives Act 2002*.
- 4 (2) The co-operative is, on the commencement day—
- 5 (a) taken to be registered under the *Co-operatives National Law*
6 *(ACT)*; and
- 7 (b) if the co-operative was—
- 8 (i) a trading co-operative under the *Cooperatives Act 2002*—
9 taken to be a distributing co-operative under the
10 *Co-operatives National Law (ACT)*; or
- 11 (ii) a non-trading co-operative under the *Cooperatives*
12 *Act 2002*—taken to be a non-distributing co-operative
13 under the *Co-operatives National Law (ACT)*.
- 14 **54 Minimum paid up amount of shares—the Law, s 78 (4)**
- 15 The *Co-operatives National Law (ACT)*, section 78 (Minimum paid
16 up amount) does not affect shares issued before the commencement
17 day.
- 18 **55 Entitlements of former members of trading**
19 **co-operatives—the Law, sch 3, s 1**
- 20 (1) This section applies if a person’s membership of a trading
21 co-operative was cancelled before the commencement day.
- 22 (2) A reference in the *Co-operatives National Law (ACT)*, part 2.6,
23 division 5 (Entitlements of former members of distributing
24 co-operatives) to a period of 2 years after the person’s shares were
25 forfeited is taken to be a reference to a period of 5 years after the
26 person’s shares were forfeited.

1 **56** **Entitlement to distribution from business or reserves of**
2 **co-operative**

3 Any entitlement that a member or former member of a co-operative
4 had immediately before the commencement of this section, in
5 relation to a surplus arising from the business of the co-operative or
6 a part of the reserves of the co-operative, continues in force until
7 satisfied.

8 **57** **Transitional regulations**

- 9 (1) A regulation may prescribe transitional matters necessary or
10 convenient to be prescribed because of the enactment of this Act.
- 11 (2) A regulation may modify this part (including in relation to another
12 territory law) to make provision in relation to anything that, in the
13 Executive’s opinion, is not, or is not adequately or appropriately,
14 dealt with in this part.
- 15 (3) A regulation under subsection (2) has effect despite anything else in
16 this Act or another territory law.

17 **58** **Expiry—pt 10**

18 This part expires 5 years after the commencement day.

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

1 **Schedule 1** **Modifications—Co-operatives**
2 **National Law**

3 (see s 7)

4 **[1.1] Section 15 (2) (f)**

5 *substitute*

6 (f) a reference in the applied provisions to notification (however
7 described) in the Gazette is to be read as a reference to
8 notification under the [Legislation Act](#);

9 **[1.2] Section 88 (1), penalty**

10 *omit*

11 or imprisonment for 6 months, or both

12 **[1.3] Section 88 (2), penalty**

13 *omit*

14 or imprisonment for 6 months, or both

15 **[1.4] Section 90 (1), penalty**

16 *omit*

17 or imprisonment for 6 months, or both

18 **[1.5] Section 92 (1), penalty**

19 *omit*

20 or imprisonment for 3 months, or both

21 **[1.6] Section 252 (1), penalty**

22 *omit*

23 or imprisonment for 3 months, or both

-
- 1 **[1.7] Section 252 (2), penalty**
- 2 *omit*
- 3 or imprisonment for 3 months, or both
- 4 **[1.8] Section 286 (4), penalty**
- 5 *omit*
- 6 penalty units or imprisonment for 3 months, or both
- 7 **[1.9] Section 287 (1), penalty**
- 8 *omit*
- 9 or imprisonment for 3 months, or both
- 10 **[1.10] Section 340 (1), penalty**
- 11 *omit*
- 12 or imprisonment for 6 months, or both
- 13 **[1.11] Section 340 (2), penalty**
- 14 *omit*
- 15 or imprisonment for 6 months, or both
- 16 **[1.12] Section 453 (e)**
- 17 *omit*
- 18 (within the meaning of the *Financial Management and*
- 19 *Accountability Act 1997* of the Commonwealth)
- 20 *substitute*
- 21 (within the meaning of the *Public Governance, Performance and*
- 22 *Accountability Act 2013* (Cwlth))

1 **[1.13] Section 570**

2 *substitute*

3 **570 Operation of Part—appeal means review**

4 A reference in this part to an appeal against a decision of the
5 Registrar means a review of the decision.

6 *Note* Decisions are reviewed under the *ACT Civil and Administrative*
7 *Tribunal Act 2008*, pt 4A.

8 **[1.14] New section 578 (4)**

9 *insert*

10 (4) In this section:

11 *rules of the designated tribunal* means the *ACT Civil and*
12 *Administrative Tribunal Act 2008*.

13 *Note* A reference to an Act includes a reference to the statutory instruments
14 made or in force under the Act, including any regulation (see
15 *Legislation Act*, s 104).

1 **Schedule 2** **Consequential amendments**

2 (see s 37)

3 **Part 2.1** **Confiscation of Criminal Assets**
4 **Act 2003**

5 **[2.1]** **Dictionary, definition of *financial institution*,**
6 **paragraph (c)**

7 *omit*

8 cooperative

9 *substitute*

10 co-operative

11 **Part 2.2** **Electricity Feed-in (Renewable**
12 **Energy Premium) Act 2008**

13 **[2.2]** **Section 5F (1), definition of *eligible entity*,**
14 **paragraph (a) (ii)**

15 *omit*

16 cooperative

17 *substitute*

18 co-operative

19 **[2.3]** **Section 5F (3), definition of *cooperative***

20 *substitute*

21 *co-operative*—see the *Co-operatives National Law (ACT)*, section 4.

1 **Part 2.3 Land Tax Act 2004**

2 **[2.4] Section 11 (3), definition of *not-for-profit housing***
3 ***corporation***

4 *omit*

5 *Cooperatives Act 2002*

6 *substitute*

7 *Co-operatives National Law (ACT)*

8 **Part 2.4 Legislation Act 2001**

9 **[2.5] Dictionary, part 1, new definitions**

10 *insert*

11 *Co-operatives National Law (ACT)* means the provisions applying
12 in the ACT because of the *Co-operatives National Law (ACT)*
13 *Act 2017*, section 7 (1) (Application of Co-operatives National Law
14 and Co-operatives National Regulations).

15 *Co-operatives National Regulation (ACT)* means the provisions
16 applying in the ACT because of the *Co-operatives National Law*
17 *(ACT) Act 2017*, section 7 (5) (Application of Co-operatives
18 National Law and Co-operatives National Regulations).

1 **Part 2.5** **Perpetuities and Accumulations**
2 **Act 1985**

3 **[2.6] Section 14 (3), definition of *fund***

4 *omit*

5 cooperative

6 *substitute*

7 co-operative

8 **Part 2.6** **Unclaimed Money Act 1950**

9 **[2.7] Section 26, definition of *unclaimed money*,**
10 **new paragraph (ca)**

11 *insert*

12 (ca) the *Co-operatives National Law (ACT)*, section 436 (3) (b) (ii)
13 (Disposal of consideration for shares compulsorily acquired);

14 *Note* The *Co-operatives National Law (ACT)*, s 436 (3) (b) (ii) is
15 affected by the *Co-operatives National Law (ACT) Act 2017*,
16 s 14.

17 **[2.8] Dictionary, definition of *company*, paragraph (a) (ii)**

18 *omit*

19 [Cooperatives Act 2002](#)

20 *substitute*

21 *Co-operatives National Law (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:

- ACAT
- ACT
- auditor-general
- commissioner for fair trading
- commissioner for revenue
- Corporations Act
- director-general (see s 163)
- disallowable instrument (see s 9)
- instrument (see s 14)
- magistrate
- Minister (see s 162)
- notifiable instrument (see s 10)
- ombudsman
- police officer
- public employee
- public servant
- public trustee and guardian
- Supreme Court
- territory law
- Treasurer.

applied Corporations law, for part 4 (Application of Corporations Act)—see section 23.

Co-operatives National Law means the Co-operatives National Law set out in the appendix to the [Co-operatives \(Adoption of National Law\) Act 2012](#) (NSW).

Co-operatives National Law (ACT) means the provisions applying because of section 7 (1).

- 1 ***Co-operatives National Regulation (ACT)*** means the provisions
2 applying because of section 7 (2).
- 3 ***Co-operatives National Regulations*** means the Co-operatives
4 National Regulations made under the Co-operatives National Law.
- 5 ***Corporations legislation***, for part 4 (Application of Corporations
6 Act)—see section 23.
- 7 ***declaratory provision***, for part 4 (Application of Corporations
8 Act)—see section 23.
- 9 ***local application provisions of this Act*** means the provisions of this
10 Act other than—
- 11 (a) the *Co-operatives National Law (ACT)*; and
- 12 (b) the modified text of the Co-operatives National Law (ACT) in
13 schedule 1.
- 14 ***local regulations***—see section 35.
- 15 ***matter***, for part 4 (Application of Corporations Act)—see
16 section 23.
- 17 ***modification***, for part 4 (Application of Corporations Act)—see
18 section 23.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 16 February 2017.

2 Notification

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

3 Republications of amended laws

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

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