2017

### THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Regulatory Services)

# Red Tape Reduction Legislation Amendment Bill 2017

## 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4	Legislation repealed	3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

Contents
----------

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 ACNC registered entity	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 ACNC registered entity	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
contents 2	Red Tape Reduction Legislation Amendment Bill 2017	

		Page
Part 7	<b>Environment Protection Regulation 2005</b>	
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 fixed net regulatory cost	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 COAG EC	21

contents 3

		Page
43	Section 54E (7), definition of MCE	21
44	Local regulatory costs	04
	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 540	25
58	New part 20	26
59	Dictionary, new definition of <i>base amount</i>	27
60	Dictionary, definition of fixed net regulatory cost	27
Part 11	Water Resources Act 2007	
61	Waterway work licence—requirement Section 42 (1) (b)	28
62	Section 42 (2)	28

#### contents 4

2017

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Regulatory Services)

# Red Tape Reduction Legislation Amendment Bill 2017

## A Bill for

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

#### Part 1 Preliminary

Section 1

## 1 Part 1 Preliminary

1	Name of Act
	This Act is the Red Tape Reduction Legislation Amendment Act 2017.
2	Commencement
(1)	<ul> <li>The following provisions commence on 1 July 2017:</li> <li>Part 3 (Associations Incorporation Act 1991)</li> <li>Part 4 (Charitable Collections Act 2003)</li> <li>Part 10 (Utilities Act 2000).</li> <li>Note The naming and commencement provisions automatically commence or the notification day (see Legislation Act, s 75 (1)).</li> </ul>
(2)	
(3)	
3	Legislation amended
	<ul> <li>This Act amends the following legislation:</li> <li>Agents Act 2003</li> <li>Associations Incorporation Act 1991</li> <li>Charitable Collections Act 2003</li> <li>Domestic Animals Act 2000</li> </ul>
page 2	Red Tape Reduction Legislation Amendment Bill 2017

1 2 3 4 5 6 7		<ul> <li>Environment Protection Act 1997</li> <li>Environment Protection Regulation 2005</li> <li>Magistrates Court (Environment Protection Infringement Notices) Regulation 2005</li> <li>Security Industry Regulation 2003</li> <li>Utilities Act 2000</li> <li>Water Resources Act 2007.</li> </ul>
8	4	Legislation repealed
9		The following legislation is repealed:
10		• Public Bathing Act 1956 (A1956-12)
11 12		• Environment Protection (ACT Firewood) Code of Practice 1999 (DI1999-114).

page 3

#### Part 2 Agents Act 2003

Section 5

## Part 2Agents Act 2003

2 3	5	Requirement for audit Section 115 (1)
4		omit
5	6	Section 115 (2) (a)
6		substitute
7		(a) the person—
8		(i) is or was a licensed agent; or
9		(ii) is a personal representative of a licensed agent; and
10	7	Section 115 (3)
11		omit
12		subsection (2)
13		substitute
14		this section
12 13		subsection (2) substitute

page 4

1 2			Associations Incorporation Act 1991
3 4	8		Copies of certificates of incorporation Section 10
5			omit
6 7	9		Inspection of documents Section 11 (2) (b) (i)
8			omit
9 10	10		Notice of changes in committee New section 62 (3)
11			insert
12 13		(3)	Subsection (1) does not apply to an incorporated association that is an ACNC registered entity.
14 15	11		Register of members Section 67 (2)
16			substitute
17 18 19 20 21 22		(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.

page 5

#### Part 3 Associations Incorporation Act 1991

Section 12

1	12	New section 70A
2		in part 5, insert
3	70A	Application—pt 5
4 5		This part does not apply to an incorporated association that is an ACNC registered entity.
6 7	13	Certificates as evidence Section 115 (3) (b) (i)
8		omit
9	14	New section 119B
10		in part 11, insert
11	119B	Information sharing on ACNC registered entities
12 13 14	(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
15		registered entities.
16	(2)	In this section:
17 18 19		<i>Commissioner of the ACNC</i> means the Commissioner of the ACNC established under the <i>Australian Charities and Not-for-profits Commission Act 2012</i> (Cwlth), section 110-5.
20 21	15	Registered office of incorporated association New section 121 (4)
22		insert
23	(4)	This section does not apply to an ACNC registered entity.

Section 16

1 2	16	Service of documents New section 122 (1) (d)
3		insert
4 5 6 7		(d) if the association is an ACNC registered entity—giving the document or process in accordance with the <i>Australian Charities and Not-for-profits Commission Act 2012</i> (Cwlth), section 195-10.
8	17	Dictionary, new definition of ACNC registered entity
9		insert
10 11 12		ACNC registered entity means a registered entity under the Australian Charities and Not-for-profits Commission Act 2012 (Cwlth).

Red Tape Reduction Legislation Amendment Bill 2017

page 7

#### Part 4 Charitable Collections Act 2003

Section 18

## Part 4 Charitable Collections Act 2003

2 3	18		Unlawfully conducting collections Section 14 (2)
4			substitute
5 6		(2)	This section does not apply if the person is authorised to conduct the collection by—
7 8			(a) the licensee for the licence authorising the conduct of the collection; or
9			(b) an ACNC registered entity.
10 11	19		Unlawfully taking part in collections Section 15 (1) (b)
12			substitute
13 14			(b) the person is not authorised to take part in the collection by either—
15			(i) the relevant licensee; or
16			(ii) an ACNC registered entity; and
17	20		Dictionary, new definition of ACNC registered entity
18			insert
19 20 21			ACNC registered entity means a registered entity under the Australian Charities and Not-for-profits Commission Act 2012 (Cwlth).

Section 21

## 1 Part 5 Domestic Animals Act 2000

2 3	21	Greyhounds Section 48
4		omit
5 6	22	Seizure of dogs—general Section 56 (c)
7		omit

Red Tape Reduction Legislation Amendment Bill 2017

page 9

Part 6 Environment Protection Act 1997

Section 23

## Part 6 Environment Protection Act 1997

2	23	Activities requiring environmental authorisation
3		Schedule 1, table 1.2, items 44 to 46

4 omit

page 10

Red Tape Reduction Legislation Amendment Bill 2017

Part 7

#### **Environment Protection** Part 7 1 **Regulation 2005** 2 24 Section 14 3 substitute 4 14 Conditions for sale or supply of firewood 5 (1) This section applies to a person who— 6 sells or supplies firewood in the ACT unless— (a) 7 (i) the quantity of firewood sold or supplied is less than 8 100kg; or 9 (ii) the firewood is sold under a scheme in which an annual 10 fee is paid for the right to collect waste softwood in pine 11 plantations; or 12 (b) prepares firewood for sale or supply in the ACT. 13 (2) The following conditions apply to the preparation, sale or supply of 14 firewood by the person: 15 (a) if practicable, each buyer must be offered a choice of mixed 16 wood loads: 17 (b) wood must be offered and supplied by weight, not by volume; 18 (c) each buyer must be given a written statement of the weight of 19 the load supplied; 20 (d) if the load is a mixed wood load—the buyer must be given a 21 written statement of the approximate weight of hardwood and 22 softwood in the load; 23 (e) unseasoned wood must not be supplied; 24

Red Tape Reduction Legislation Amendment Bill 2017

page 11

Section 24

1	(f)		uyer must be given a pamphlet supplied by the
2			ment protection authority that sets out recommended
3			urning practices and encourages compliance with those
4		practice	s;
5	(g)	each bu	yer must be given the following information:
6		(i) the	e common name and species (if known) of the wood;
7		(ii) the	e place from which the wood was originally taken;
8		(iii) the	e kind of wood;
9		Example	s—par (g) (i)
10		box, gum	, pine
11		Example	s—par (g) (ii)
12		-	e forests, Cowra
13		Example	—par (g) (iii)
14		residue fr	om forestry processing operations of native forest timber
15		Note	An example is part of the regulation, is not exhaustive and may
16			extend, but does not limit, the meaning of the provision in which
17			it appears (see Legislation Act, s 126 and s 132).
18	(h)	an annu	al report for a reporting year must be given to the
19		environ	ment protection authority by 31 January in the year
20		followir	ng the reporting year;
21		Note	If a form is approved under the Act, s 165A for this provision, the
22			form must be used.
23	(i)	wooden	sleepers must only be obtained from a wholesaler who
24		supplies	s sleepers in the ACT with the agreement of the chief
25		health o	fficer and the environment protection authority;
26	(j)	the sale	or supply of wooden sleepers must be accompanied by
27	0,		mation sheet, agreed with the environment protection
28			y, about the risks of burning sleepers, including that
29			should not be burnt in open fires or for cooking.

1		(3)	A person commits an offence if the person—
2			(a) prepares firewood for sale or supply; and
3			(b) fails to comply with a condition mentioned in subsection (2).
4			Maximum penalty: 10 penalty units
5		(4)	A person commits an offence if the person—
6			(a) sells or supplies firewood; and
7			(b) fails to comply with a condition mentioned in subsection (2).
8			Maximum penalty: 10 penalty units
9		(5)	An offence against this section is a strict liability offence.
10		(6)	In this section:
11 12			<i>prepare</i> , firewood for sale or supply, means cut, store or season the firewood.
13			reporting year means 1 January to 31 December.
14 15 16	25		Unapproved sale or supply of painted etc firewood— offence Section 14A (1) (b)
17			substitute
18 19 20			(b) does not have the written agreement of the environment protection authority and the chief health officer to sell or supply the firewood.

page 13

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

Section 26

1 2 3	Part 8		•	Court (Environment nfringement Notices) 2005
4 5	26	Environmen offences and	• •	lation infringement notice
6			pt 1.2, new items	7A to 7C
7		insert		
	7A	14 (3)	10	300
	7B	14 (4)	10	300
	7C	14A (1)	10	300
		- 1	1	

page 14

Section 27

# 1Part 9Security Industry<br/>Regulation 2003227Prescribed training courses for employee licences—Act,<br/>s 21 (1) (a) (iii)<br/>Table 8, items 8 and 96omit

Red Tape Reduction Legislation Amendment Bill 2017

page 15

Part 10 Utilities Act 2000

Section 28

## Part 10 Utilities Act 2000

2 3	28		Definitions—pt 3A Section 54A, new definition of <i>base amount</i>
4			insert
5			<i>base amount</i> —see section 54G (3).
6	29		Section 54A, definition of fixed net regulatory cost
7			omit
8 9	30		Energy industry levy—imposition Section 54C (2)
10			substitute
11		(2)	The levy for the levy year is worked out as follows:
			$B + EV + (AV - EV_{-1})$
12			where:
13 14			<i>AV</i> means the actual variable amount for the energy utility for the previous levy year worked out as follows:
			$(ANR - (B_{-1} \times NC_{-1})) \times M_{-1}$
15 16			$\boldsymbol{B}$ is the base amount for the levy year determined under section 54GA (2).
17 18			<i>EV</i> means the estimated variable amount for the energy utility for the levy year worked out as follows:
			$(ENR - (B \times NC)) \times M_{-1}$
19 20			<i>EV</i> <sub>-1</sub> means the estimated variable amount for the energy utility for the previous levy year worked out as follows:
			$(ENR_{-1} - (B_{-1} \times NC_{-1})) \times M_{-2}$

page 16

Red Tape Reduction Legislation Amendment Bill 2017

1	31		Section 54C (3) (a) and (b)
2			substitute
3 4			(a) B is taken to be zero in relation to the utility for the levy year; and
5			(b) EV is taken to be zero in relation to the utility for the levy year.
6	32		Section 54C (4) (a) and (b)
7			substitute
8 9			(a) AV is taken to be zero in relation to the utility for the levy year; and
10 11			(b) EV <sub>-1</sub> is taken to be zero in relation to the utility for the levy year.
12	33		Section 54C (5)
13			substitute
14		(5)	In this section:
15 16 17			<i>ANR</i> means the actual net regulatory cost for the energy industry sector for the previous levy year determined under section 54GA (1) (b).
18 19			$B_{.1}$ means the base amount for the previous levy year determined under section 54GA (2).
20			market share, for an energy utility for a levy year means—
21 22 23 24			(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

page 17

#### Part 10 Utilities Act 2000

Section 33

1 2	(b) for an NERL retailer that supplies electricity—the total number of megawatt hours of electricity sold in the ACT by the retailer
3 4	in that year, divided by the total number of megawatt hours of electricity sold in the ACT in that year; and
5	(c) for a gas distributor—the total number of megajoules of gas
6 7	distributed in the ACT by the distributor in that year, divided by the total number of megajoules of gas distributed in the
8	ACT in that year; and
9 10	(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,
11	divided by the total number of megajoules of gas sold in the
12	ACT in that year.
13	$M_{-1}$ means the market share of the energy utility for the previous
14	levy year.
15	<i>Note</i> Before 1 October in a levy year, the administrator must determine, for
16	the year before the levy year, the total number of megawatt hours of
17 18	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)).
19	$M_{-2}$ means the market share of the energy utility for the levy year
20	before the previous levy year.
21	<i>NC</i> , for an energy industry sector for a levy year, means the number
22	of energy utilities that provided an energy utility service in the
23	sector before 30 August in the levy year as determined under
24	section 54H (1) (a) (i).
25	NC.1, for an energy industry sector for a levy year, means the
26	number of energy utilities that provided an energy utility service in
27	the sector at any time during the previous levy year as determined
28	under section 54H (1) (b) (i).
29	<b>ENR</b> means the estimated net regulatory cost for the energy industry
30	sector for the levy year determined under section 54GA (1) (a).

1 2 3		$ENR_{.1}$ means the estimated net regulatory cost for the energy industry sector for the previous levy year determined under section 54GA (1) (a).
4 5	34	Energy industry sectors etc Section 54D (2)
6		after
7		provides
8		insert
9		, or has provided,
10 11	35	National regulatory obligations and costs Section 54E (1) (b)
12		omit
13		Ministerial Council on Energy's
14		substitute
15		COAG EC's
16	36	Section 54E (3) (a)
17		omit
18		each levy year
19		substitute
20		the levy year

page 19

Part 10 Utilities Act 2000

Section 37

1	37	Section 54E (3) (b)
2		before
3		national regulatory cost
4		insert
5		actual
6	38	Section 54E (3) (b)
7		omit
8		each levy year
9		insert
10		the levy year
	00	
11	39	Section 54E (4) (a) (ii)
11 12	39	Section 54E (4) (a) (ii) omit
	39	
12	39	omit
12 13	39	omit MCE's
12 13 14	39 40	omit MCE's substitute
12 13 14 15		omit MCE's substitute COAG EC's
12 13 14 15 16		omit MCE's substitute COAG EC's Section 54E (4) (a) (iii), (iv) and (v)
12 13 14 15 16 17		omit MCE's substitute COAG EC's Section 54E (4) (a) (iii), (iv) and (v) omit
12 13 14 15 16 17 18		omit MCE's substitute COAG EC's Section 54E (4) (a) (iii), (iv) and (v) omit MCE

Section 41

1	41		Section 54E (5)
2			before
3			national regulatory cost
4			insert
5			actual
6	42		Section 54E (7), new definition of COAG EC
7			insert
8			COAG EC means the Council of Australian Governments Energy
9			Council.
10	43		Section 54E (7), definition of MCE
11			omit
12 13	44		Local regulatory costs Section 54F (2)
14			substitute
15 16		(2)	The administrator must, before 1 October in the levy year, in accordance with this section, determine—
17 18			(a) the estimated local regulatory cost to be applied to each energy industry sector for the levy year; and
19 20			(b) the actual local regulatory cost to be applied to each energy industry sector for the year before the levy year.

Red Tape Reduction Legislation Amendment Bill 2017

page 21

Part 10 Utilities Act 2000

Section 45

1	45	Section 54F (4)
2		before
3		local regulatory cost
4		insert
5		actual
6 7	46	Annual regulatory costs etc Section 54G (3)
8		substitute
9 10 11	(3)	For this part, the <i>base amount</i> 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.
12	47	New section 54GA
13		insert
14	54GA	Regulatory cost—determinations
15 16	(1)	The administrator must, before 1 October in a levy year, determine—
17 18		(a) the estimated net regulatory cost to be applied to each energy industry sector for the levy year; and
19 20		(b) the actual net regulatory cost to be applied to each energy industry sector for the previous levy year.
21 22 23	(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.

1 2		(3)	The administrator may amend a determination under subsection (2) in extraordinary circumstances.		
3			Example—extraordinary circumstances		
4			A large number of energy utilities unexpectedly enter the energy industry sector.		
5 6 7			<i>Note</i> 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).		
8		(4)	A determination under this section is a notifiable instrument.		
9			<i>Note</i> A notifiable instrument must be notified under the Legislation Act.		
10 11	48		Further energy sector determinations Section 54H (1) (a)		
12			substitute		
13 14 15			<ul> <li>(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;</li> </ul>		
16	49		Section 54H (1) (b) (iii)		
17			omit		
18 19	50		Production of distribution and sales information Section 54I (1)		
20			after		
21			at any time		
22			insert		
23			before 30 August in the levy year or		

page 23

#### Part 10 Utilities Act 2000

Section 51

1	51		Section 54I (2) (b)
2			omit
3			15 September
4			substitute
5			30 August
6	52		Section 54I (2), new note
7			insert
8 9 10			<i>Note</i> 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).
11 12	53		Registration of energy utilities Section 54K
13			omit
14			commissioner must register
15			substitute
16			commissioner for revenue must register
17	54		New section 54K (2)
18			insert
19 20		(2)	The commissioner for revenue must tell the administrator about the registration of an energy utility under subsection (1).

Section 55

1 2	55	Offence—failure to register Section 54L (1) (b)		
3		after		
4		commissioner		
5		insert		
6		for revenue		
7 8	56	Returns under Taxation Administration Act Section 54M (2), new note		
9		insert		
10 11 12		<i>Note 2</i> 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).		
13	57	New section 540		
14		in part 3A, insert		
15	540	Administrator to publish information		
16		The administrator must publish the following information:		
17		(a) an explanation of the purpose of the energy industry levy;		
18		(b) an explanation of how the energy industry levy is calculated;		
19 20		(c) an annual statement about the data relied on by the administrator to determine—		
21		(i) national regulatory costs under section 54E; and		
22		(ii) local regulatory costs under section 54F; and		
23		(iii) net regulatory costs under section 54G; and		
24		(iv) base amounts under section 54G;		

Red Tape Reduction Legislation Amendment Bill 2017

page 25

#### Section 58 (d) an outline of the administrative practices adopted by the 1 administrator in administering the energy industry levy; 2 (e) an explanation of the obligations of energy utilities in relation 3 to the energy industry levy under the Act. 4 New part 20 58 5 6 insert Part 20 **Transitional**—Red Tape 7 **Reduction Legislation** 8 Amendment Act 2017 9 Calculation of energy industry levy in transitional year 411 10 (1) This section applies to an energy utility in the transitional year. 11 (2) Despite section 54C (2), the levy for the energy utility in the 12 transitional year is worked out as follows: 13 B + EV + Awhere: 14 A is the adjustment for the previous year worked out in accordance 15 with section 54C(5) as in force immediately before the 16 commencement of this section. 17 **B**—see section 54C (2). 18 EV—see section 54C (2). 19 (3) In this section: 20 transitional year means the levy year commencing on 1 July 2017. 21

Part 10

Utilities Act 2000

1	412	Expiry—pt 20			
2		This part expires 1 year after the day it commences.			
3 4 5		<i>Note</i> 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).			
6	59	Dictionary, new definition of base amount			
7		insert			
8 9		<i>base amount</i> , for part 3A (Energy industry levy)—see section 54G (3).			
10	60	Dictionary, definition of fixed net regulatory cost			
11		omit			

page 27

Part 11 Water Resources Act 2007

Section 61

## Part 11 Water Resources Act 2007

2 3	61		Waterway work licence—requirement Section 42 (1) (b)		
4			substitute		
5			(b) the person does not have—		
6		(i) a waterway work licence for the waterway work; or			
7 8	(ii) authority for an activity that includes the waterway work under the <i>Environment Protection Act 1997</i> .				
9	62		Section 42 (2)		
10			substitute		
11 12		(2)	However, a waterway work licence is not required if the work to be undertaken is—		
13			(a) the construction or alteration of—		
14 15			(i) a water structure that has a capacity of less than 2ML and is not in a waterway; or		
16			(ii) a structure prescribed by regulation; or		
17 18			(b) undertaken as part of an authorised activity under the <i>Environment Protection Act 1997</i> ; or		
19 20			(c) undertaken under an environmental protection agreement under the <i>Environment Protection Act 1997</i> .		

page 28

## Endnotes

1	<b>Presentation speech</b> Presentation speech made in the Legislative Assembly on 30 March 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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Red Tape Reduction Legislation Amendment Bill 2017

page 29