

**1998**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**ACTS REVISION (TAXATION OF TERRITORY  
AUTHORITIES) BILL 1998**

**EXPLANATORY MEMORANDUM**

**Circulated by the authority of the Chief Minister and Treasurer**

**Kate Carnell, MLA**

## **Acts Revision (Taxation of Territory Authorities) Bill 1998**

### **Summary**

The Acts Revision (Taxation of Territory Authorities) Bill 1998 renders ACT Government business enterprises (GBEs), which are separate legal entities, liable for a range of Territory taxes, fees and charges. This initiative reflects the ACT Government's commitment to National Competition Policy and the principles of the Competitive Neutrality in the ACT Policy Statement.

The liability of each legally separate ACT GBE is based on section 7 of the *Interpretation Act 1967* which states that "Each Act binds the Crown". This section goes on to state that "Unless an Act provides otherwise, an Act does not apply in relation to the Territory to the extent that it requires or otherwise provides for the payment of money that, upon payment, would form part of the public money of the Territory".

This Bill is declaratory and intended to clarify the liability of legally separate ACT GBEs for Territory taxes, fees and charges.

This Bill inserts provisions, which declare legally separate ACT GBEs liable to Territory taxes, fees and charges, into the following Acts:

*Cultural Facilities Corporation Act 1997*  
*Gungahlin Development Authority Act 1996*  
*Hotel School Act 1996*  
*Milk Authority Act 1971*  
*National Exhibition Centre Trust Act 1976*

The Bill also specifically exempts the Canberra Tourism and Events Corporation, the Commissioner for Housing and the Trustees of the Canberra Public Cemeteries from liability for certain Territory taxes as these agencies have been assessed as not liable under this initiative (liability for Territory/Commonwealth taxes or tax equivalents).

### **Financial Implications**

It is estimated that the Territorial tax liability of reviewed GBEs will be \$3 508M during 1998/99. Of this GBEs directly affected by this Bill will contribute \$0 416M.

## **Details of the Acts Revision (Taxation of Territory Authorities) Bill 1998**

### **Title**

Clause 1 - provides for the short title of this Act to be the *Acts Revision (Taxation of Territory Authorities) Bill 1998*

### **Commencement**

Clause 2 - provides for this Act to Commence on the day on which it is notified in the *Gazette*

### **Amendment of Acts and Regulations**

Subsection 3 (1) states that the Acts specified in Part I of the Schedule to this Act are amended as stated in Part I

Subsection 3 (2) states that the Regulations specified in Part II of the Schedule to this Act are amended as stated in Part II

## **SCHEDULE**

### **PART I \_ AMENDMENT OF ACTS**

#### ***Cultural Facilities Corporation Act 1997***

New section 30A - inserts a new section which renders the Corporation liable for any tax, fee or charge provided for by a law of the Territory

#### ***Financial Institutions Duty Act 1987***

Paragraph 19(1)(ca) - removes the eligibility of "a Territory authority" to apply for exempt account status in respect of an account kept by a registered financial institution

#### ***Gungahlin Development Authority Act 1996***

New section 35A - inserts a new section which renders the Authority liable to pay any tax, fee or charge provided for by a law of the Territory

#### ***Hotel School Act 1996***

Repeal section 32 and replace it with a new section 32 - inserts a new section which renders the School liable to pay any tax, fee or charge provided for by a law of the Territory This has been done to ensure that there are uniform "liability" clauses in the enabling legislation for each affected GBE

### ***Milk Authority Act 1971***

Repeal section 21M and replace it with a new section 21M - inserts a new section which renders the Authority liable to pay any tax, fee or charge provided for by a law of the Territory This has been done to ensure that there are uniform 'liability' clauses in the enabling legislation for each affected GBE

### ***National Exhibition Centre Trust Act 1976***

New section 27 in Part V - inserts a new section which renders the Trust liable to pay any tax, fee or charge provided for by a law of the Territory

### ***Stamp duties and Taxes Act 1987***

Omit Schedule 1, paragraph (m) and substitute a new paragraph (m) - extends the application of the prescribed rate of stamp duty, currently \$20 per conveyance, to include the Canberra Tourism and Events Corporation and the Trustees of the Canberra Public Cemeteries as well as the Commissioner for Housing.

## **PART II \_ AMENDMENT OF REGULATIONS**

### ***Financial Institutions Regulations***

Regulation 3, add paragraphs (f) and (g) - this provides for application to be made for approval as an exempt account in respect of an account kept by a registered financial institution on behalf of the Canberra Tourism and Events Corporation and the Commissioner for Housing

### ***Stamp Duties and Taxes Regulations***

Repeal Regulations 4 and 5 and substitute new Regulations 4 and 5 - this has the effect of applying the prescribed rate of stamp duty, currently \$20 per transaction, to the Canberra Tourism and Events Corporation, the Commissioner for Housing and the Trustees of the Canberra Public Cemeteries in respect of general insurance premiums (Regulation 4) and the sale or purchase of marketable securities (Regulation 5)