

2005

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Treasurer)

## Insurance Authority Bill 2005

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## **Insurance Authority Bill 2005**

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### **A Bill for**

An Act to make provision about the Australian Capital Territory Insurance Authority, and for other purposes

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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 *Insurance Authority Act 2005*.

4 **2 Commencement**

5 This Act commences on the day after its notification day.

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

8 **3 Dictionary**

9 The dictionary at the end of this Act is part of this Act.

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

13 For example, the signpost definition '*territory risk*—see section 5.'  
14 means that the term '*territory risk*' is defined in that section.

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

19 **4 Notes**

20 A note included in this Act is explanatory and is not part of this Act.

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

23 **5 Meaning of *territory risk***

24 For this Act, a *territory risk* is any risk of the Territory, and  
25 includes—

26 (a) a direct risk of the Territory or a territory entity; and

- 1 (b) a risk accepted by the Territory or a territory entity; and  
2 (c) a risk arising under a guarantee or indemnity given by the  
3 Territory or a territory entity;  
4 whether or not the risk relates to an officer, employee or agent of the  
5 Territory or a territory entity or to property owned by or held on  
6 behalf of the Territory or a territory entity.

7 **6 Meaning of *territory entity***

8 (1) In this Act:

9 *territory entity* means—

- 10 (a) a territory authority; or  
11 (b) a public sector company.

12 *Note* *Territory authority* is defined in the Legislation Act, dict, pt 1.

13 (2) In this section:

14 *controlling interest*—the Territory or a territory entity has a  
15 *controlling interest* in a company if its interest in the company is of  
16 a kind that—

- 17 (a) it can—  
18 (i) control the composition of the board of directors of the  
19 company; or  
20 (ii) cast, or control the casting of, more than 50% of the  
21 maximum number of votes that might be cast at a general  
22 meeting of the company; or  
23 (iii) control more than 50% of the issued share capital of the  
24 company (excluding any part of the issued share capital  
25 that carries no right to participate beyond a particular  
26 amount in a distribution of either profits or capital); or

1 (b) if paragraph (a) does not apply—no-one else holds a greater  
2 interest in the company.

3 ***public sector company*** means—

4 (a) a territory-owned corporation; or

5 (b) a subsidiary of a territory-owned corporation; or

6 (c) a company prescribed by regulation; or

7 (d) any other company in which the Territory or another territory  
8 entity has a controlling interest.

9 *Note* ***Territory-owned corporation*** is defined in the Legislation Act, dict,  
10 pt 1.

11 ***subsidiary***, of a territory-owned corporation, means a subsidiary  
12 under the *Territory Owned Corporations Act 1990* of the  
13 territory-owned corporation.



- 1 (e) to develop and promote good practices for the management of  
2 territory risks;
- 3 (f) to give advice to the Minister about insurance and the  
4 management of territory risks;
- 5 (g) to exercise any other function given to it under this Act or  
6 another territory law.
- 7 *Note 1* A provision of a law that gives an entity (including a person) a function  
8 also gives the entity powers necessary and convenient to exercise the  
9 function (see Legislation Act, s 196 and dict, pt 1, def *entity*).
- 10 *Note 2* An example is part of the Act, is not exhaustive and may extend, but  
11 does not limit, the meaning of the provision in which it appears (see  
12 Legislation Act, s 126 and s 132).

13 **9 Powers of authority generally**

- 14 (1) The authority has the legal capacity and powers of an individual  
15 both in and outside the ACT (including outside Australia).

16 **Examples**

- 17 1 to enter into a contract  
18 2 to own, deal with and dispose of property  
19 3 to act as trustee

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

- 23 (2) Without limiting subsection (1), the authority—
- 24 (a) has the powers given to it under this Act or another territory  
25 law; and
- 26 (b) may do anything that it is authorised to do by a territory law or  
27 a law of another jurisdiction; and



1 (c) may exercise its powers in and outside the ACT (including  
2 outside Australia).

3 **Example for par (b)**

4 The authority may arrange for the authority to be registered or recognised under a  
5 law of another jurisdiction.

6 (3) The authority's legal capacity to do something is not affected by the  
7 fact that the authority's interests are not, or would not be, served by  
8 doing it.

9 (4) To remove any doubt, this section does not—

10 (a) authorise the authority to do anything that is prohibited by a  
11 territory law or a law of another jurisdiction; and

12 (b) give the authority a right that a territory law or a law of another  
13 jurisdiction denies to the authority.

14 (5) In this section:

15 *another jurisdiction* means the Commonwealth, a State, another  
16 Territory or a foreign country.

17 **10 Information etc from agencies**

18 (1) The authority may ask an agency, or make arrangements with an  
19 agency for it, to give the authority information, or a copy of a  
20 document, in the agency's possession or control for the exercise of  
21 its functions.

22 (2) The agency must comply with the request or arrangement.

23 (3) In this section:

24 *agency* means—

25 (a) an administrative unit; or

26 (b) a territory entity.

1 **11 Indemnities for third parties**

2 (1) The authority may give an indemnity to a third party for a territory  
3 risk arising under a contract to which the Territory or a territory  
4 entity is a party only if the Minister has certified that the giving of  
5 the indemnity by the authority is in the Territory's interest.

6 (2) In this section:

7 *third party* means an entity other than the Territory or a territory  
8 entity.

9 **12 Advisory board for authority**

10 (1) The insurance management guidelines must provide for the  
11 establishment of an advisory board for the authority.

12 (2) The authority must establish the advisory board in accordance with  
13 the insurance management guidelines.



1 **Part 4** **Miscellaneous**

2 **14 Insurance management guidelines**

3 (1) The Treasurer may make insurance management guidelines for this  
4 Act.

5 (2) Without limiting subsection (1), an insurance management guideline  
6 may make provision for the membership and functions of the  
7 advisory board under section 12.

8 (3) An insurance management guideline is a disallowable instrument.

9 *Note* A disallowable instrument must be notified, and presented to the  
10 Legislative Assembly, under the Legislation Act.

11 **15 Approved forms**

12 (1) The Minister may, in writing, approve forms for this Act.

13 (2) If the Minister approves a form for a particular purpose, the  
14 approved form must be used for that purpose.

15 *Note* For other provisions about forms, see the Legislation Act, s 255.

16 (3) An approved form is a notifiable instrument.

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

18 **16 Regulation-making power**

19 The Executive may make regulations for this Act.

20 *Note* A regulation must be notified, and presented to the Legislative  
21 Assembly, under the Legislation Act.

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1 **Part 5** **Consequential and transitional**  
2 **matters**

3 **17** **Legislation repealed**

4 The following legislation is repealed:

- 5 • *Insurance Authority Act 2000* A2000-57
- 6 • *Insurance Authority Appointment 2003 (No 1)* NI2003-347
- 7 • *Insurance Authority Appointment 2004 (No 1)* NI2004-170.

8 **18** **Continuation of ACTIA**

- 9 (1) To remove any doubt, the Australian Capital Territory Insurance  
10 Authority (*ACTIA*) established under the *Insurance Authority*  
11 *Act 2000* is, for all purposes, continued under this Act.
- 12 (2) In particular, the assets and liabilities of, or a proceeding begun by  
13 or against, ACTIA is an asset or liability of, and a proceeding begun  
14 by or against, the authority under this Act.
- 15 (3) The Legislation Act, section 88 (1) (Repeal does not end effect of  
16 transitional laws etc) applies to this section.

17 **19** **References to repealed Act**

18 In any Act, statutory instrument or document, a reference to the  
19 *Insurance Authority Act 2000*, in relation to anything to which this  
20 Act applies, is a reference to this Act.

21 **20** **Modification of pt 5's operation**

22 A regulation may modify the operation of this part to make  
23 provision in relation to any matter that, in the Executive's opinion,  
24 is not, or is not adequately, dealt with in this part.

**Part 5** Consequential and transitional matters

Section 21

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1 **21 Expiry of pt 5**

2 This part expires 1 year after the day it commences.

3 **22 Dangerous Substances Act 2004, section 47C (b) and (c)**

4 *substitute*

5 (b) anyone else appointed by the Minister.

6 **23 Taxation (Government Business Enterprises) Regulation**  
7 **2003, section 4**

8 *omit*

9 • ACT Insurance Authority

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## 1 Dictionary

2 (see s 3)

3 *Note 1* The Legislation Act contains definitions and other provisions relevant to  
4 this Act.

5 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 6 • administrative unit
- 7 • chief executive (see s 163)
- 8 • entity
- 9 • Minister (see s 162)
- 10 • the Territory
- 11 • Treasurer.

12 *authority* means the Australian Capital Territory Insurance  
13 Authority.

14 *insurance* includes reinsurance and coinsurance.

15 *insurance management guideline* means a guideline made under  
16 section 14.

17 *territory entity*—see section 6.

18 *territory risk*—see section 5.

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## Endnotes

### 1 Presentation speech

Presentation speech made in the Legislative Assembly on 2005.

### 2 Notification

Notified under the Legislation Act on 2005.

### 3 Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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