

2003

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mrs Vicki Dunne)

Bushfire Reconstruction Authority Bill 2003

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(Mrs Vicki Dunne)

Bushfire Reconstruction Authority Bill 2003

A Bill for

An Act to establish a Bushfire Reconstruction Authority, 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 *Bushfire Reconstruction Authority Act 2003*.

4 **2 Commencement**

5 This Act commences on a day fixed by the Chief Minister by
6 written notice.

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

9 *Note 2* A single day or time may be fixed, or different days or times may be
10 fixed, for the commencement of different provisions (see Legislation
11 Act, s 77 (1)).

12 *Note 3* If a provision has not commenced within 6 months beginning on the
13 notification day, it automatically commences on the first day after that
14 period (see Legislation Act, s 79).

15

16 **3 Dictionary**

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

18 *Note 1* The dictionary at the end of this Act defines certain words and
19 expressions used in this Act, and includes references (*signpost*
20 *definitions*) to other words and expressions defined elsewhere in this
21 Act or in other legislation.

22 For example, the signpost definition '*development*—see the *Land*
23 *(Planning and Environment) Act 1991*, section 222.' means that the
24 word 'development' is defined in that section and the definition applies
25 to this Act.

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

4 Notes

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

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

5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

6 Meaning of *bushfire emergency*

In this Act:

bushfire emergency means the period that began on 18 January 2003 and ended on 28 January 2003.

7 Meaning of *fire-affected area*

In this Act:

fire-affected area means an area, whether urban or rural, prescribed under the regulations as being affected by fire or other natural causes during the bushfire emergency.

1 **8 Meaning of *recovery period***

2 (1) In this Act:

3 *recovery period* means the period beginning on the day section 10
4 (Establishment of Bushfire Reconstruction Authority) commences
5 and ending—

6 (a) 2 years after that day; or

7 (b) if the Minister fixes an earlier day under subsection (2)—the
8 earlier day.

9 (2) The Minister may, by written notice, fix a day for the end of the
10 recovery period.

11 (3) A notice under subsection (2) is a notifiable instrument.

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

13 **9 Duration of effect of Act**

14 (1) After the end of the recovery period, the authority may exercise its
15 functions only to wind up its affairs.

16 (2) The authority ceases to exist on a day fixed by the Minister by
17 written notice that is not earlier than the end of the recovery period.

18 (3) A notice under subsection (2) is a notifiable instrument.

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

20 (4) On the day fixed for subsection (2)—

21 (a) any property that, immediately before that day, was vested in
22 the authority vests in the Territory; and

23 (b) any liabilities to which the authority was subject immediately
24 before that day become liabilities of the Territory.

- 1 (5) If the authority is a party to a contract or agreement immediately
2 before the day fixed for subsection (2), the contract or agreement
3 continues in force but has effect as if—
- 4 (a) the Territory were substituted for the authority as a party to the
5 contract or agreement; and
- 6 (b) any reference in the contract or agreement to the authority were
7 a reference to the Territory.

- 1 **Part 2** **Establishment and functions**
- 2 **Division 2.1** **General**
- 3 **10** **Establishment of Bushfire Reconstruction Authority**
- 4 (1) The Bushfire Reconstruction Authority is established.
- 5 (2) The authority—
- 6 (a) is a corporation; and
- 7 (b) may have a seal.
- 8 (3) In exercising its functions, the authority has the same capacity as an
- 9 individual.
- 10 **11** **Functions**
- 11 The authority has the following functions during the recovery
- 12 period:
- 13 (a) to assist the Territory government in deciding the desirable
- 14 extent, nature and purposes of the land use and development of
- 15 the fire-affected areas;
- 16 (b) to carry out planning for the land use and development of fire-
- 17 affected areas in accordance with any policies of the Territory
- 18 government, and recommend to the Minister general planning
- 19 and development schemes for the fire-affected areas;
- 20 (c) to undertake development in the fire-affected areas and to
- 21 supervise, control and cooperate in the undertaking of
- 22 development by other authorities and people in the fire-
- 23 affected areas;
- 24 (d) to provide, and arrange, coordinate and control the provision
- 25 of, works, services, facilities and public utilities in the fire-
- 26 affected areas;

(e) to give the Territory government, through the Minister, advice about—

(i) the expenditure of public and private money for development and construction in the fire-affected areas; and

(ii) the coordination of that expenditure; and

(iii) other matters related to the functions of the authority;

(f) to carry out activities incidental to its other functions.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

12 Government agencies to assist the authority

All administrative units and Territory authorities must give the authority any assistance in carrying out its functions that is reasonably practical.

13 Specific powers

The authority has the following powers, subject to any regulations made for this section:

(a) to control and administer land vested in the authority or placed under its control;

(b) to make contracts, including contracts for carrying out building or other work for other bodies or individuals;

(c) to use agents;

(d) to purchase or take on hire, and to dispose of or let out, plant, machinery, equipment or other goods;

1 (e) to make arrangements with individuals and bodies to ensure
2 that there are sufficient building and workforce resources
3 available for development in fire-affected areas;

4 (f) to charge fees for work done, or for anything else done or
5 provided, by the authority.

6 **14 Special attention to bushfire protection**

7 In the exercise of its functions, the authority must give particular
8 attention to the extent to which, and the way in which, buildings and
9 services in the fire-affected areas should be made capable of
10 resisting damage by bushfire.

11 **15 Community consultation**

12 (1) The authority must, as far as practicable, ensure that the views of
13 residents and affected entities in the ACT are actively sought and
14 substantially taken into consideration in making decisions about the
15 exercise of its functions.

16 (2) To comply with subsection (1), the authority may establish
17 committees, conduct inquiries and do anything else it considers
18 desirable to consult with residents and affected entities in the ACT
19 about the proposed exercise of the authority's functions.

20 **Division 2.2 Planning and development**

21 **16 Proposals, and objections to proposals, for planning and**
22 **development schemes**

23 (1) The authority may prepare proposals for general planning and
24 development schemes for the development of the fire-affected areas.

25 (2) The authority must make the proposals available for inspection by
26 the public for a period of at least 1 month.

- 1 (3) When any proposals are available for public inspection under
2 subsection (2), a person who has an interest in land in the
3 fire-affected areas that is affected by those proposals may object to
4 the proposals.
- 5 (4) An objection under subsection (3) must—
- 6 (a) be in writing; and
- 7 (b) set out the reasons for the objection; and
- 8 (c) be given to the authority.
- 9 (5) The authority may, by written notice to the person making an
10 objection, give the person an opportunity to make submissions to the
11 authority, either orally or in writing, in relation to the objection,
12 within a period stated by the authority in the notice.
- 13 (6) After the period within which a person may make submissions
14 under subsection (5) in relation to an objection, the authority may
15 change the proposals to which the objection was made in any way
16 that it considers appropriate and may recommend to the Minister
17 that the proposals, or the proposals as changed, be adopted.

18 **17 Approved planning and development schemes**

- 19 (1) The Minister may approve a general planning and development
20 scheme (an *approved scheme*) after considering any
21 recommendations of the authority under section 16.
- 22 (2) An approved scheme is a notifiable instrument.
- 23 *Note* A notifiable instrument must be notified under the Legislation Act.
- 24 (3) The authority must exercise its functions in relation to development
25 in accordance with any relevant approved scheme.
- 26 (4) All administrative units and Territory authorities must comply with
27 an approved scheme.

- 1 (5) If the Territory plan is inconsistent with an approved scheme, the
2 plan is taken to be amended to the extent necessary to be consistent
3 with the scheme.

4 **18 Development programs**

- 5 (1) The authority must give the Minister—
6 (a) programs for development in the fire affected areas in
7 particular periods; and
8 (b) a program for a particular period when directed to do so by the
9 Minister.
10 (2) A program must be in a form approved by the Minister and must
11 indicate the objectives that the authority considers should be
12 achieved during the period concerned, and the nature and extent of
13 public and private investment.

14 **19 Territory land under control of authority**

- 15 (1) The Minister may, by written direction, place under the control of
16 the authority any land in a fire-affected area that is the property of
17 the Territory and is not included in a lease granted to any other
18 person.
19 (2) A direction under subsection (1) is a disallowable instrument.
20 *Note* A disallowable instrument must be notified, and presented to the
21 Legislative Assembly, under the Legislation Act.
22 (3) In relation to any land controlled by the authority under this
23 section—
24 (a) the authority may, subject to this section, occupy and manage
25 the land and carry out any works on, and make any use of, the
26 land in the exercise of its functions as it considers appropriate;
27 and
28 (b) the authority must not dispose of the land by sale or lease; and

- 1 (c) the land may not be disposed of by the Territory, by sale or
2 lease, without the authority's consent;
- 3 (4) When the management or use of any land that has been placed under
4 the control of the authority under this section is no longer required
5 by the authority, the authority must surrender the control of the land
6 to the Territory.
- 7 (5) The Minister may, by written notice to the authority, revoke a
8 direction under subsection (1).
- 9 (6) A notice of revocation under subsection (5) is a notifiable
10 instrument.
- 11 *Note* A notifiable instrument must be notified under the Legislation Act.

12 **20 Approval to undertake development**

- 13 (1) A person commits an offence if, in a fire-affected area and on or
14 after a date declared in writing by the Minister, the person begins,
15 continues or completes a development consisting of the erection,
16 alteration or demolition of a building, or the performance of any
17 related works.
- 18 Maximum penalty: 50 penalty units.
- 19 (2) Subsection (1) does not apply if the person begins, continues or
20 completes a development mentioned in the subsection—
- 21 (a) with the approval of the authority; and
- 22 (b) in accordance with any conditions to which the approval is
23 subject.
- 24 (3) A declaration under subsection (1) is a notifiable instrument.
- 25 *Note* A notifiable instrument must be notified under the Legislation Act.
- 26 (4) An offence against subsection (1) is a strict liability offence.
- 27 (5) The Territory or a Territory authority must not, without reasonable
28 excuse, fail to comply with subsection (1).

- 1 (6) For the guidance of persons seeking approval under this section, the
2 authority may approve building codes or other rules, not
3 inconsistent with any regulations under this Act, with effect as
4 amended from time to time.
- 5 (7) A building code or rule approved under subsection (6) is a
6 disallowable instrument.
- 7 *Note* A disallowable instrument must be notified, and presented to the
8 Legislative Assembly, under the Legislation Act.
- 9 (8) A development undertaken in accordance with an approval may be
10 undertaken despite any Territory law that would otherwise prevent
11 it.
- 12 (9) The Supreme Court may, on the application of the authority, grant
13 injunctions, including mandatory and interlocutory injunctions, for
14 securing compliance with this section, or arising out of any failure
15 to comply with, this section.
- 16 (10) This section is subject to any regulations—
- 17 (a) regulating or restricting the power of the authority to give or
18 refuse approvals, including regulations about building
19 standards and requirements; or
- 20 (b) exempting people, buildings, land, developments or work from
21 the operation of this section.

22 **21 Powers of entry**

- 23 (1) The authority may only enter, or perform work on, land not owned
24 or controlled by the authority, the Territory or another Territory
25 authority if authorised under—
- 26 (a) this section or the regulations; or
- 27 (b) any other Territory law; or
- 28 (c) an agreement with any person.

- 1 (2) For the purposes of public health or safety, the authority may, by its
2 authorised employees, agents or contractors, enter on land
3 mentioned in subsection (1)—
- 4 (a) to demolish dangerous or damaged buildings, remove debris,
5 goods and materials, and perform any related work, on that
6 land; or
- 7 (b) to do work on that land in the exercise of its functions in
8 relation to other land.
- 9 (3) The authority is liable to pay any reasonable compensation decided
10 by agreement or by a court of competent jurisdiction for loss or
11 damage resulting from the exercise of its powers under this section.
- 12 (4) A person commits an offence if the person intentionally obstructs or
13 hinders the authority or anyone else in the exercise of powers under
14 this section.
- 15 Maximum penalty: 50 penalty units, imprisonment for 6 months or
16 both.

17 **22 Directions about occupation of dangerous land**

- 18 (1) The authority may, by written notice giving reasons, direct everyone
19 to leave, or prohibit everyone from entering, any premises in a fire-
20 affected area that are, in the authority's opinion, in a dangerous
21 condition or unfit for occupation.
- 22 (2) A direction under subsection (1) must be displayed prominently at
23 the premises concerned.
- 24 (3) A person authorised in writing by the authority may, by written
25 notice to a person giving reasons, direct the person to leave, or
26 prohibit the person from entering, any premises in a fire-affected
27 area that are, in the opinion of the person giving the direction, in a
28 dangerous condition or unfit for occupation.

- 1 (4) A person commits an offence if the person contravenes a direction
2 applying to the person that is displayed, or given to the person, in
3 accordance with this section.
- 4 Maximum penalty: 50 penalty units, imprisonment for 6 months or
5 both.
- 6 (5) An offence against subsection (4) is a strict liability offence.
- 7 (6) However, a person is not required to comply with a direction given
8 to the person under subsection (3) if, at the request of the person, the
9 person giving the direction fails to produce the authorisation
10 mentioned in that subsection.

1 **Part 3** **Board of management**

2 **Division 3.1** **Directors**

3 **23** **Establishment of board**

4 A board of management (the *board*) is established for the authority.

5 **24** **Function of the board**

6 (1) The board has general responsibility for the policies and
7 management of the authority.

8 (2) Without limiting subsection (1), the board is required to—

9 (a) decide the strategies and policies to be followed by the
10 authority; and

11 (b) ensure that the authority exercises its functions in a proper,
12 effective and efficient way.

13 **25** **Constitution of board**

14 (1) The board consists of the directors.

15 (2) The Chief Minister may appoint a person to be director of the
16 authority.

17 *Note 1* For the making of appointments (including acting appointments), see
18 Legislation Act, pt 19.3.

19 *Note 2* Certain Ministerial appointments require consultation with an Assembly
20 committee and are disallowable (see Legislation Act, div 19.3.3).

21 (3) The number of directors must be not less than 4 and no more than 6.

22 (4) Of the directors—

23 (a) at least 1 must be appointed to represent the interests of people
24 who suffered injury or property damage during the bushfire
25 emergency because of fire or other natural causes; and

1 (b) at least 1 must have expertise or experience in reconstruction
2 following natural disasters; and

3 (c) at least 1 must have expertise or experience in the construction
4 industry.

5 (5) An appointment must not be for a term longer than 3 years.

6 *Note* A person may be reappointed to a position if the person is eligible to be
7 appointed to the position (see Legislation Act, s 208 and dict, pt 1, def
8 *appoint*).

9 **26 Chairperson and deputy chairperson**

10 (1) The Chief Minister must appoint a director to be the chairperson of
11 the board.

12 (2) The directors must elect one of their number to be the deputy
13 chairperson of the board.

14 **27 Honesty and diligence**

15 In the exercise of a function as a director, a director must exercise
16 the degree of honesty, care and diligence that is required to be
17 exercised by a director of a company in relation to the affairs of the
18 company.

19 **28 Ending of appointment of director**

20 (1) The Chief Minister must end the appointment of a director if the
21 director—

22 (a) becomes bankrupt, applies to take the benefit of any law for the
23 relief of bankrupt or insolvent debtors, compounds with
24 creditors or makes an assignment of remuneration for their
25 benefit; or

26 (b) is absent, except with the board's leave, from 3 consecutive
27 meetings of the board; or

28 (c) contravenes section 27 (Honesty and diligence) or division 6.1
29 (Conduct of people associated with authority); or

- 1 (d) contravenes section 29 (Disclosure of interests by directors)
2 without reasonable excuse; or
- 3 (e) is sentenced, in Australia or elsewhere, to imprisonment for at
4 least 1 year; or
- 5 (f) is convicted, in Australia or elsewhere, of an offence—
- 6 (i) punishable by imprisonment for 1 year or more; or
- 7 (ii) that involves fraud or arises out of the promotion,
8 formation or management of a corporation.
- 9 *Note* A director's appointment also ends if the director resigns (see
10 Legislation Act, s 210).
- 11 (2) The Chief Minister may end the appointment of a director if the
12 board tells the Chief Minister in writing that it has resolved, by a
13 majority of at least $\frac{2}{3}$ of the directors, to recommend to the Chief
14 Minister that the director's appointment be ended.
- 15 (3) The board may only pass a resolution mentioned in subsection (2)
16 if—
- 17 (a) at least 21 days written notice of the intention to consider the
18 proposed resolution has been given to the director concerned;
19 and
- 20 (b) the director has been given an opportunity to make
21 submissions and present documents to a meeting of the board;
22 and
- 23 (c) if the member has taken advantage of the opportunity
24 mentioned in paragraph (b)—a summary of his or her
25 arguments is recorded in the board's minutes and a copy of any
26 documents presented is incorporated in the minutes.

1 **29 Disclosure of interests by directors**

2 (1) A director who has a relevant interest in an issue being considered,
3 or about to be considered, by the board must, as soon as practicable
4 after the relevant facts have come to the director's knowledge,
5 disclose the nature of the interest at a meeting of the board.

6 (2) The disclosure must be recorded in the board's minutes and, unless
7 the board otherwise decides, the director must not—

8 (a) be present when the board considers the issue; or

9 (b) take part in a decision of the board on the issue.

10 (3) Any other director who also has a relevant interest in the issue must
11 not—

12 (a) be present when the board is considering its decision under
13 subsection (2); or

14 (b) take part in the decision.

15 (4) For this section:

16 *relevant interest*, in an issue, means—

17 (a) a direct or indirect financial interest in the issue; or

18 (b) a direct or indirect interest of any other kind if the interest
19 could conflict with the proper exercise of the director's
20 functions in relation to the board's consideration of the issue.

21 **30 Reporting of disclosed interests to Minister**

22 (1) Within 14 days after the day a disclosure of an interest is made
23 under section 29 (1), the chairperson must report to the Minister in
24 writing about—

25 (a) the disclosure; and

26 (b) the nature of the interest disclosed; and

27 (c) any decision by the board under section 29 (2).

- 1 (2) Not later than 31 July in each year the chairperson must give to the
2 Minister, a statement setting out the information given to the
3 Minister in reports under subsection (1) that relate to disclosures
4 made during the previous financial year.
- 5 (3) The Minister must give a copy of the statement to the relevant
6 committee of the Legislative Assembly within 14 days after the day
7 the Minister receives the statement.

8 **Division 3.2 Procedures**

9 **31 Calling meetings of board**

- 10 (1) The chairperson or, if the chairperson cannot do so, the deputy
11 chairperson—
- 12 (a) may at any time call a meeting of the board; and
- 13 (b) must call a meeting of the board if asked by the Minister or if
14 asked, in writing, by at least 2 directors.
- 15 (2) A person who calls a meeting of the board must give the other
16 directors reasonable notice of the time and place of the meeting.

17 **32 Procedure at meetings**

- 18 (1) The chairperson must preside at all meetings of the board at which
19 he or she is present.
- 20 (2) If the chairperson is not present at a meeting, the deputy chairperson
21 must preside.
- 22 (3) If the chairperson and the deputy chairperson are both absent from a
23 meeting, the directors present must elect a director to preside.
- 24 (4) Subject to any decision of the board, the procedures to be followed
25 in connection with a meeting are as the presiding director decides.

- 1 (5) If all the directors agree, a meeting may be held by means of a
2 method of communication, or a combination of methods of
3 communication, that enables all participants to hear what another
4 participant says without being in each other's presence.
- 5 (6) A director who takes part in a meeting conducted under
6 subsection (5) is taken, for all purposes, to be present at the meeting.
- 7 (7) Questions arising at a meeting may be decided by a majority of the
8 votes of the directors present and voting.
- 9 (8) The presiding director has a deciding vote and, if the votes are
10 equal, a casting vote.
- 11 (9) The board must keep minutes of its proceedings in writing or in
12 such other form as the board decides.

13 **33 Quorum**

14 A majority of the directors is a quorum for a meeting.

Part 4 **Chief executive officer, staff
and consultants**

Division 4.1 **Chief executive officer**

34 **Appointment of chief executive officer**

- (1) The board must appoint a person to be the chief executive officer.

Note For the making of appointments (including acting appointments), see
Legislation Act, div 18.3.

- (2) The chief executive officer's conditions of appointment are the conditions agreed between the board and the chief executive officer, subject to any determination under the *Remuneration Tribunal Act 1995*.

- (3) The board may enter into an agreement mentioned in subsection (2) only after consulting the Minister.

- (4) The board may end the chief executive officer's appointment only after consulting the Minister.

35 **Functions of chief executive officer**

- (1) The chief executive officer must manage the authority's affairs on behalf of the board.

- (2) The chief executive officer also has any other function given to the chief executive officer by the board.

- (3) The chief executive officer must exercise the chief executive officer's functions in accordance with any direction given by the board.

1 **Division 4.2** **Staff and consultants**

2 **36** **Staff**

3 The staff of the board are employed under the *Public Sector*
4 *Management Act 1994*.

5 *Note* The *Public Sector Management Act 1994*, s 24 provides that the chief
6 executive officer of an instrumentality has all the powers of a chief
7 executive under the Act in relation to staff members who are public
8 servants. Under that Act, s 3, def **chief executive officer**, the chief
9 executive officer of an instrumentality is the person who has
10 responsibility for managing its affairs.

11 **37** **Consultants**

12 (1) The board may engage consultants.

13 (2) However, the board must not enter into a contract of employment
14 under this section.

Part 5 Accountability and finance

38 Requests for information

The authority must provide the Minister with all the information about the affairs of the authority that the Minister asks for.

39 Notification of significant events

The authority must, as soon as practicable, tell the Minister of any significant event that affects, or seems likely to affect—

- (a) the value of the authority; or
- (b) a significant part of its assets; or
- (c) the performance of the authority as a whole; or
- (d) the discharge of a significant activity of the authority.

40 Ministerial directions—general

(1) The Minister may give written directions to the authority in relation to the exercise of its functions.

(2) Before giving a direction the Minister must—

- (a) tell the authority of the effect of the proposed direction; and
- (b) give the authority a reasonable opportunity to comment on the proposed direction; and
- (c) consider any comments made by the authority.

(3) On receiving a direction, the authority must comply with it.

(4) The Minister must—

- (a) present a copy of a direction to the Legislative Assembly within 6 sitting days after the day the Minister makes it; and

1 (b) if the copy would not be presented to the Legislative Assembly
2 under paragraph (a) within 14 days after the day the Minister
3 makes it—give a copy of the direction to members of the
4 Legislative Assembly within the 14 days.

5 (5) If subsection (4) is not complied with, the direction is taken to have
6 been revoked at the end of the period within which the copy of the
7 direction should have been presented or given to members.

8 (6) A direction is a notifiable instrument.

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

10 **41 Ministerial directions—cost of compliance**

11 (1) The Territory is liable to reimburse the authority for the net
12 reasonable expense of complying with a direction under section 40.

13 (2) The net reasonable expense of complying with a direction is—

14 (a) if the direction requires the authority to do something that, but
15 for the direction, it would not have done—the reasonable cost
16 of, and the estimated revenue foregone in, complying with the
17 direction; or

18 (b) if the direction requires the authority to perform an activity in a
19 way that is different from the way the authority had intended to
20 perform it—the additional cost incurred, and the estimated
21 revenue foregone, in performing the activity in accordance
22 with the direction; or

23 (c) if the direction requires the authority to refrain from
24 performing an activity—the difference (if any) between any
25 estimated foregone revenue and the savings resulting from the
26 nonperformance of the activity.

27 (3) An amount is not payable under subsection (2) unless it is agreed to
28 by the Minister and the authority.

42 Business plans

- (1) The Minister may ask the authority in writing to prepare and give to him or her a business plan made up to a date stated in the direction (the *stated date*).
- (2) If the Minister makes a request under subsection (1), the authority must give to the Minister a business plan that includes the following:
- (a) a profit and loss account for the period from the beginning of the financial year to the stated date;
 - (b) a cash flow statement for that period;
 - (c) a statement of assets and liabilities at the stated date;
 - (d) estimated profit and loss accounts and cash flow statements for each of the next 3 financial years;
 - (e) a statement of estimated assets and liabilities at the end of each of the next 3 financial years;
 - (f) a copy of the statement of intent for the current financial year provided under the *Financial Management Act 1996*, section 58 (1);
 - (g) a description of the business and corporate strategies adopted by the authority;
 - (h) a description of any significant action that the authority has taken or intends to take in order to achieve the estimates set out in the statements under paragraphs (d) and (e);
 - (i) an explanation of any significant variation disclosed by the business plan from—
 - (i) estimates given by the authority for the current or a future financial year in a previous report; or
 - (ii) strategies or policies, whether adopted or contemplated, of which advice had been given in a previous report.

Section 43

- 1 (3) In subsection (2) (i):
- 2 *previous report*, in relation to an explanation of a variation, means a
- 3 business plan, information given to the Minister or the Treasurer, or
- 4 a statement of intent, given before the variation.
- 5 (4) The Minister must—
- 6 (a) present a copy of each business plan to the Legislative
- 7 Assembly within 6 sitting days after the day the Minister
- 8 receives it; and
- 9 (b) if the copy would not be presented to the Legislative Assembly
- 10 under paragraph (a) within 14 days after the day the Minister
- 11 receives it—give a copy of the business plan to members of the
- 12 Legislative Assembly within the 14 days.

43 Compliance with business plans

- 14 (1) This section applies to a financial year if the authority has
- 15 previously given to the Minister a business plan containing
- 16 estimates for the financial year.
- 17 (2) As soon as practicable after 31 December and 30 June in a financial
- 18 year to which this section applies, the authority must give to the
- 19 Minister a written assessment of its performance, for the 6-month
- 20 period ending on those dates, in relation to the estimates contained
- 21 in the latest business plan given to the Minister for that period.
- 22 (3) A report under subsection (2) must be prepared in a form that
- 23 facilitates a comparison between the business plan estimates
- 24 applicable to the period and the outcomes of operations of the
- 25 authority during the period.

1 **44 Dividends**

- 2 (1) If there are profits available for doing so, the Treasurer, after
3 consultation with the board, may direct the authority to declare a
4 dividend for a financial year of the amount directed by the
5 Treasurer.
- 6 (2) The authority must pay to the Territory, within 1 month after
7 receiving a direction under subsection (1), a dividend in accordance
8 with the direction.
- 9 (3) For this section, available profits are—
- 10 (a) the profits for the financial year to which the Treasurer's
11 direction relates; and
- 12 (b) any profits for any previous financial year that have not
13 previously been taken into account in deciding whether a
14 dividend should be declared.
- 15 (4) In this section:
- 16 *profit* includes the net proceeds of the sale of assets.

17 **45 Reports for Treasurer**

- 18 (1) The authority must give to the Treasurer the reports that the
19 Treasurer requires, in addition to any other reports that the authority
20 is required by a Territory law to make.
- 21 (2) A report under this section must be prepared in the form, and be
22 based on accounting or other policies or practices, required by the
23 Treasurer.
- 24 (3) The Treasurer must—
- 25 (a) present a copy of a report under this section to the Legislative
26 Assembly within 6 sitting days after the day the Treasurer
27 receives it; and
- 28 (b) if the copy would not be presented to the Legislative Assembly
29 under paragraph (a) within 14 days after the day the Treasurer

1 receives it—give a copy of the report to members of the
2 Legislative Assembly within the 14 days.

3 **46 Six-monthly reports to Legislative Assembly committee**

- 4 (1) Six months after the day section 10 (Establishment of Bushfire
5 Reconstruction Authority) commences, and every 6 months after
6 that, the authority must give the Minister a report on—
7 (a) the financial performance of the authority for the previous
8 6 months; and
9 (b) the authority's progress on reconstruction in the fire-affected
10 areas during the previous 6 months, and in carrying out the
11 other functions exercised by the authority.
12 (2) The Minister must give a copy of the report to the relevant
13 committee of the Legislative Assembly within 14 days after the day
14 the Minister receives the report.

Part 6 **Miscellaneous**

Division 6.1 **Conduct of people associated with authority**

47 **Meaning of *relevant person* for div 6.1**

In this division:

relevant person means—

- (a) a director; or
- (b) an employee of the authority; or
- (c) a person performing services for the authority.

48 **Improper use of position**

A relevant person commits an offence if the person intentionally makes improper use of his or her position as a relevant person to gain, directly or indirectly, an advantage for himself or herself or anyone else or to cause detriment to the authority.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

49 **Improper use of information**

A relevant person or former relevant person commits an offence if the person intentionally makes improper use of information acquired because of his or her position as a relevant person to gain, directly or indirectly, an advantage for himself or herself or anyone else or to cause detriment to the authority.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

1 **Division 6.2 General**

2 **50 Power to bind authority**

3 Anything done on behalf of the authority by the board or the chief
4 executive officer is taken to have been done by the authority.

5 **51 Annual report**

6 A report or information prepared by the authority for the *Annual*
7 *Reports (Government Agencies) Act 1995*, section 8 must include,
8 for the reporting period—

9 (a) a copy of any direction given by the Minister under section 40
10 during the period; and

11 (b) a statement by the authority about action taken during the
12 period to give effect to any direction given by the Minister
13 under that section, whether during that period or an earlier one.

14 **52 Regulation-making power**

15 The Executive may make regulations for this Act.

16 *Note* Regulations must be notified, and presented to the Legislative
17 Assembly, under the Legislation Act.

Dictionary

(see s 3)

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

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- body
- change
- corporation
- document
- entity
- exercise
- function
- liability
- person
- property
- Territory
- Territory law
- Territory plan.

authority means the Bushfire Reconstruction Authority established by section 10.

board—see section 23.

building includes a structure.

bushfire emergency—see section 6.

development—see the *Land (Planning and Environment) Act 1991*, section 222.

fire-affected area—see section 7.

recovery period—see section 8.

- 1 ***relevant committee*** means—
- 2 (a) a standing committee of the Legislative Assembly nominated
- 3 by the Speaker for this Act; or
- 4 (b) if no nomination under paragraph (a) is in force—the standing
- 5 committee of the Legislative Assembly responsible for public
- 6 accounts.
- 7 ***relevant person***, for division 6.1 (Conduct of people associated with
- 8 authority)—see section 47.