

NORTHERN TERRITORY OF AUSTRALIA

LAND DEVELOPMENT CORPORATION ACT 2003

As in force at 13 November 2014

Table of provisions

Part 1	Preliminary	
1	Short title	1
2	Commencement	1
3	Definitions	1
3A	Application of Criminal Code	3
Part 2	Land Development Corporation	
4	Establishment of Corporation	3
5	Composition of Corporation	3
6	Functions of Corporation	3
7	Powers of Corporation	4
8	Minister may give Corporation directions	5
9	Corporation to take commercial approach	5
10	Corporation an Agency	6
11	Corporation excluded matter under Corporations Act 2001	6
12	Delegation	6
Part 3	Advisory Board	
Division 1	Establishment and membership of Board	
13	Establishment of Advisory Board	7
14	Function of Board	7
15	Duration of appointment of ordinary member	7
16	Vacation of office of ordinary member	7
17	Termination of appointment of ordinary member	7
22	Disclosure of interests by members	8
Division 2	Procedures of Board	
23	Convening of members of Board	9
24	Meetings of Board	9
25	Procedure of Board	9
Part 4	Property, finance and reports	
26	Certain property vests in Corporation	9
27	Acquisition of estates in fee simple in Crown land by Corporation	10

28	Money of Corporation	10
29	Proper accounts to be kept etc.	10
30	Corporation to report to Minister regarding financial position of Corporation.....	11
31	Provision of financial information to Treasurer.....	12
32	Annual report of Corporation	12

Part 5 By-laws

33	Power to make by-laws	12
34	Subject matter of by-laws	12
35	Application of by-laws	13
36	Recovery of penalties imposed under by-laws	14
37	Section 57 of <i>Interpretation Act 1978</i> does not apply to by-laws	14
38	Proof of by-laws and suspension of by-laws.....	14

Part 6 Miscellaneous

39	Appointment of staff.....	14
40	Civil penalties	15
41	Validity of procedures and actions of Corporation	15
42	Protection from liability	15
43	Form and execution of documents by Corporation	16
44	Regulations.....	16

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 13 November 2014

LAND DEVELOPMENT CORPORATION ACT 2003

An Act to establish a statutory corporation to develop and manage land for use by new and existing industries in the Territory, for use for residential developments and for associated activities, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Land Development Corporation Act 2003*.

2 Commencement

This Act comes into operation on 1 July 2003.

3 Definitions

In this Act:

Board means an Advisory Board established under section 13.

Chief Executive Officer, see section 3(1) of the *Public Sector Employment and Management Act 1993*.

co-development land means:

- (a) land declared as co-development land in an agreement between the Corporation and a person who:
 - (i) owns or leases the land; or
 - (ii) is a mortgagee in possession of the land; or
 - (iii) occupies the land under a licence; or
- (b) land declared under the regulations as co-development land.

community amenities, areas or facilities includes health care facilities, child care facilities, aged care facilities, parks, open spaces, community centres, civic centres, halls, libraries, sporting facilities and transport facilities.

Corporation means the Land Development Corporation established under section 4.

Corporation land means land owned or leased by, occupied under a licence by, vested in or otherwise acquired by or under the control or management of the Corporation.

industrial businesses includes other businesses usually associated with providing goods or services to industrial businesses or persons who work at or visit industrial businesses.

land includes:

- (a) rivers, creeks, streams, watercourses, channels, lakes and lagoons on land; and
- (b) inland and coastal waters.

member, in relation to a Board, means the person appointed to be the Corporation or an ordinary member of the Board.

ordinary member means a member who is not the person appointed to be the Corporation under section 5(2).

project land means Corporation land or co-development land.

residential developments means:

- (a) developments of residential accommodation of any kind; or
- (b) developments of any of the following to the extent they are associated with developments mentioned in paragraph (a):
 - (i) community amenities, areas or facilities;
 - (ii) commercial or retail areas or facilities.

Examples for paragraph (b)

- 1 A shopping precinct on the ground floor of a large apartment building.
- 2 A free standing gymnasium and a swimming pool in a suburban development of single dwellings.

staff means the persons who are employed or engaged by the Corporation.

vehicle means any means of transport whether self propelled or not and whether used on land or sea or in the air.

3A Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 3A

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 2 Land Development Corporation

4 Establishment of Corporation

- (1) The Land Development Corporation is established.
- (2) The Corporation:
 - (a) is a corporation sole;
 - (b) has a common seal; and
 - (c) is capable, in its corporate name, of acquiring, holding and disposing of real (including leasehold) and personal property and of suing and being sued.
- (3) All courts, judges and persons acting judicially are to take judicial notice of the common seal of the Corporation affixed to a document and are to assume that it was duly affixed.

5 Composition of Corporation

- (1) The Corporation consists of a Chief Executive Officer.
- (2) The Minister must, in writing, appoint a Chief Executive Officer to be the Corporation.

6 Functions of Corporation

The functions of the Corporation are:

- (a) to develop and promote project land for use by industrial businesses; and
- (b) to develop and promote project land for use for residential developments; and

- (c) to undertake residential developments on project land; and
- (d) to provide services, facilities and general assistance to facilitate:
 - (i) the establishment and conduct of industry on project land; and
 - (ii) the use of project land for residential developments; and
- (e) to carry out or facilitate other activities associated with the development, management or use of project land.

7 Powers of Corporation

- (1) Subject to this Act or an instrument of a legislative or administrative character made under this Act, the Corporation has power to do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of its functions.
- (2) In particular, the Corporation has power to:
 - (a) negotiate and enter into contracts, agreements, schemes and arrangements; and
 - (aa) form partnerships and enter into joint ventures and other arrangements for sharing profits; and
 - (ab) borrow money or raise money otherwise than by borrowing (including from outside the Territory or Australia); and
 - (b) purchase, lease or otherwise acquire and hold real or personal property; and
 - (c) sell, grant leases of or otherwise dispose of real or personal property; and
 - (d) acquire, hold and dispose of rights, privileges, permits, licences and authorities; and
 - (e) occupy, use, control and manage land or a building; and
 - (f) erect buildings and construct wharves, roads, railways, pipelines, bridges or other facilities; and
 - (fa) erect and construct community amenities, areas or facilities; and
 - (g) purchase, lease or hire plant, machinery, equipment or other things for the purpose of conducting its functions; and

- (h) impose and collect fees and charges for or in respect of use of Corporation land or a facility on that land; and
 - (i) accept, hold and enforce undertakings, indemnities, bonds or securities protecting it against loss; and
 - (j) regulate and prohibit the conduct of persons on its land and set the conditions on which persons may enter or be excluded from a part or parts of Corporation land; and
 - (k) regulate and prohibit the presence, use and removal of vehicles and animals on Corporation land or a part of the land; and
 - (l) employ or engage staff, engage consultants and appoint agents and attorneys; and
 - (m) charge for work, services, goods and information done, supplied or published by the Corporation and for admission on to Corporation land; and
 - (n) perform any other functions imposed on it under this Act.
- (3) The Corporation may exercise a power involving it doing either of the following only if it has the written approval of the Treasurer to do so:
- (a) forming a partnership, or entering into a joint venture or other arrangement for sharing profits;
 - (b) borrowing money or raising money otherwise than by borrowing.

8 Minister may give Corporation directions

- (1) In performing its functions and exercising its powers, the Corporation is subject to the directions of the Minister.
- (2) The Minister must lay before the Legislative Assembly a copy of a direction given under subsection (1) within 6 sitting days of the Assembly after giving the direction.
- (3) A copy of a direction given under subsection (1) in a financial year is to be included in the Corporation's report for the year prepared under section 32.

9 Corporation to take commercial approach

- (1) Subject to this Act, the Corporation must act in a commercial manner.

- (2) The Minister may direct the Corporation under section 8 to act in a manner other than a commercial manner.
- (3) If the Minister directs the Corporation to act in a manner that is not commercial, the Minister must specify in the direction the manner in which the Corporation must act.

10 Corporation an Agency

- (1) The Corporation is an Agency for the purposes of the *Public Sector Employment and Management Act 1993* and the *Financial Management Act 1995*.
- (2) Subsection (1) applies whether or not the Corporation is nominated in the Administrative Arrangements Order as an Agency for the purposes of either the *Public Sector Employment and Management Act 1993* or the *Financial Management Act 1995* or for the purposes of both of those Acts.
- (3) The person appointed to be the Corporation under section 5:
 - (a) is the Chief Executive Officer of the Corporation; and
 - (b) is the accountable officer within the meaning of the *Financial Management Act 1995* of the Corporation.

11 Corporation excluded matter under Corporations Act 2001

The Corporation is declared to be an excluded matter for the purposes of section 5F of the Corporations Act 2001 in relation to the whole of the Corporations legislation.

12 Delegation

- (1) The Corporation may, in writing, delegate to a person or body any of its powers or functions under this Act, other than this power of delegation.
- (2) If the Corporation delegates to a body and there is a change in the membership of the body, the delegation continues in force as a delegation of the power or function to the body as newly constituted unless the Corporation expressly revokes or varies the instrument of delegation.

Part 3 Advisory Board

Division 1 Establishment and membership of Board

13 Establishment of Advisory Board

- (1) The Minister may establish an Advisory Board to perform the functions mentioned in section 14.
- (2) A Board consists of the person appointed to be the Corporation and not more than 4 ordinary members appointed by the Minister.

14 Function of Board

The function of a Board is to advise the Corporation on any matter relating to the activities of the Corporation that the Minister or the Corporation refers to the Board.

15 Duration of appointment of ordinary member

- (1) An ordinary member holds office for the period specified in the instrument of appointment of the member.
- (2) An ordinary member is eligible for re-appointment.

16 Vacation of office of ordinary member

A person ceases to be an ordinary member if:

- (a) the person's term of office expires and the person is not re-appointed; or
- (b) the person resigns by giving written notice to the Minister.

17 Termination of appointment of ordinary member

- (1) The Minister may terminate the appointment of an ordinary member on the grounds of inability, inefficiency, misbehaviour or physical or mental incapacity.
- (2) The Minister must terminate the appointment of an ordinary member if the member knowingly contravenes section 22.

- (3) An ordinary member's appointment terminates on either of the following occurring:
 - (a) the member becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of the member's remuneration for their benefit;
 - (b) the member is found guilty:
 - (i) by a court in the Territory of an offence punishable by imprisonment for 12 months or more; or
 - (ii) by a court outside the Territory of an offence which, if committed against a law in force in the Territory, would be an offence punishable by imprisonment for 12 months or more.
- (4) A termination of an appointment under subsection (1) or (2) must be in writing and a copy must be given to the member.

22 Disclosure of interests by members

- (1) If a member has a direct or indirect interest in a matter being considered, or about to be considered, by a Board, the member must disclose the nature of the interest to a meeting of the Board as soon as practicable after the relevant facts come to the member's knowledge.
- (2) The disclosure is to be recorded in the Board's minutes.
- (3) Subject to a resolution of the Board to the contrary, a member who has made a disclosure under subsection (1):
 - (a) must not, while the member has the interest, take part in any deliberation or decision of the Board relating to the matter in which the member has the interest; and
 - (b) is to be disregarded for the purpose of constituting the quorum of the Board for the purpose of any deliberation or decision of the Board relating to the matter in which the member has the interest.
- (4) The resolution of the Board to the contrary is to be deliberated and voted on in the absence of the member.

Division 2 Procedures of Board**23 Convening of members of Board**

- (1) The members of a Board must meet as often as is necessary to perform its functions.
- (2) The Minister may, in writing, direct a Board to meet.

24 Meetings of Board

- (1) The person appointed to be the Corporation or, in that person's absence, the ordinary member elected by the ordinary members present from amongst their number, must preside at a meeting of a Board.
- (2) Each member present at a meeting has one vote.
- (3) Questions arising at a meeting of the Board are to be determined by a majority of the votes of the members present and, in the event of an equality of votes, the person presiding over the meeting has a casting vote.
- (4) At a meeting of the Board, the number of members that is equal to half of the members plus one constitutes a quorum.

25 Procedure of Board

- (1) Unless otherwise prescribed, the procedures of the Board are to be determined by a Board.
- (2) The Board must keep a record of all its meetings and other proceedings.

Part 4 Property, finance and reports**26 Certain property vests in Corporation**

- (1) On the commencement of this Act, all estates and interests in property, real and personal, and rights held by the Trade Development Zone Authority within the meaning of the *Trade Development Zone Act 1985* immediately before the commencement of this Act vest in the Corporation, subject to any liabilities, charges, obligations, conditions, terms or trusts affecting the estates or interests.

- (2) On the commencement of this Act, all levies, fees, charges, interest, debts or money payable to and recoverable by the Trade Development Zone Authority become payable to and recoverable by the Corporation.

27 Acquisition of estates in fee simple in Crown land by Corporation

- (1) The Corporation may be granted an estate in fee simple in Crown land, or a lease of Crown land, under the *Crown Lands Act 1992*.
- (2) If the Corporation is granted land in accordance with subsection (1), the Minister must give notice of the grant by notice in the *Gazette*.

28 Money of Corporation

- (1) The money of the Corporation consists of:
- (a) money that is appropriated for its purposes;
 - (b) money received as grants;
 - (c) money received in performing its functions and exercising its powers; and
 - (d) any other money that from time to time becomes available for use by the Corporation.
- (2) The money of the Corporation is only to be applied for the purposes of the Corporation.

29 Proper accounts to be kept etc.

The Corporation must ensure that:

- (a) proper accounts and records of the transactions and affairs of the Corporation are kept;
- (b) there are adequate controls over the incurring of liabilities of the Corporation;
- (c) all payments out of the money of the Corporation are correctly made and properly authorised; and
- (d) adequate control is maintained over the property of or in the custody, control and management of the Corporation.

30 Corporation to report to Minister regarding financial position of Corporation

- (1) If the Corporation:
- (a) considers that a matter is affecting its operations in such a way that hinders, prevents or otherwise adversely affects to a significant degree its performance of its functions or its financial position; or
 - (b) expects a matter to affect its operations in such a way that will hinder, prevent or otherwise adversely affect to a significant degree its performance of its functions or its financial position,
- the Corporation must, as soon as practicable after becoming aware of the matter, inform the Minister in writing of:
- (c) the matter;
 - (d) the reasons why it considers that the matter is affecting, or will affect, its performance or its financial position; and
 - (e) the effect the matter is having, or the likely effect the matter will have, on its performance or its financial position.
- (2) The Corporation must, in writing, report to the Minister in respect of each financial year or other reporting period determined by the Minister about its financial performance during that period and its expected financial performance during the next 2 reporting periods.
- (3) The report under subsection (2) is to at least:
- (a) specify the financial performance targets of the Corporation for the reporting period, identify the targets the Corporation achieved and the targets it exceeded, identify the targets it did not achieve and specify the reasons why it did not achieve them;
 - (b) detail the financial performance objectives of the Corporation for the next 2 reporting periods and include details of:
 - (i) the projected nature and scope of its activities for those periods, including material contracts and terms and conditions of any lease or sale or purchase of real property;
 - (ii) its financial projections for those periods; and
 - (iii) the likely financial risks for the Corporation and its strategies to minimise the risks; and

- (c) contain any other information the Minister requires.
- (4) The Corporation must give the report under subsection (2) to the Minister within 3 months after the end of the reporting period it refers to.

31 Provision of financial information to Treasurer

- (1) The Treasurer may at any time request the Corporation to provide the Treasurer with the information that the Treasurer considers will enable him or her to accurately assess the financial affairs of the Corporation.
- (2) The Corporation must comply with the Treasurer's request.

32 Annual report of Corporation

- (1) At the end of each financial year the Corporation must prepare a report on the administration of this Act and the operations of the Corporation during the financial year.
- (2) The report is to include a copy of any directions and reasons for directions given to the Corporation, and any objections to the directions made by the Corporation, under section 8 during the financial year.
- (3) The Corporation must forward a copy of the report to the Minister by 30 November following the end of the financial year.
- (4) The Minister must lay a copy of the report before the Legislative Assembly within 6 sitting days of the Legislative Assembly after receiving the report.

Part 5 By-laws

33 Power to make by-laws

- (1) The Corporation may make by-laws relating to the management of Corporation land.
- (2) The Corporation may not make a by-law that is inconsistent with this Act, or any other Act or any regulations, or that is unlawful.

34 Subject matter of by-laws

- (1) The by-laws may provide for the following:
 - (a) the regulation or prohibition of access to or use of Corporation land or buildings on the land of the Corporation;

- (b) the regulation or prohibition of the conduct of persons on Corporation land or in a building on the land;
 - (c) the regulation or prohibition of the presence or use of vehicles or animals on Corporation land or in a building on the land and provide for the removal, impounding or disposal of such vehicles or animals;
 - (d) the regulation of vehicular or pedestrian traffic on Corporation land;
 - (e) the parking of vehicles or the erection, form of or markings on traffic signs or directions on Corporation land;
 - (f) the security or general facility of the Corporation land;
 - (g) penalties not exceeding 2 penalty units for offences against the by-laws.
- (2) A by-law may provide for matters of regulation or prohibition, either absolutely or conditionally or in relation to a class of acts, matters or things or a situation or other circumstance.
- (3) A by-law may:
- (a) authorise a member of the staff or other person to do an act or thing (including the giving of directions by a member of the staff or other person); or
 - (b) provide that an act or thing is to be done with the approval of a member of the staff or other person.

35 Application of by-laws

- (1) A by-law may apply to:
- (a) the whole or a specified part of the Corporation land; or
 - (b) a specified class of persons or circumstances.
- (2) The Corporation may, in the manner prescribed by the Regulations, suspend the operation of a by-law:
- (a) for a specified period;
 - (b) on the whole or a specified part of the land of the Corporation;
or
 - (c) in relation to a specified class of persons or circumstances.

36 Recovery of penalties imposed under by-laws

- (1) If a penalty is imposed on a person as a result of a prosecution for an offence committed against a by-law, or a penalty is payable under an infringement notice in lieu of prosecution of an offence committed or allegedly committed against a by-law, the penalty may be recovered by the Corporation as a debt due and payable to the Corporation by the person on whom it is imposed.
- (2) Subsection (1) does not affect the operation of the *Fines and Penalties (Recovery) Act 2001*.

37 Section 57 of Interpretation Act 1978 does not apply to by-laws

Section 57 of the *Interpretation Act 1978* does not apply to the by-laws.

38 Proof of by-laws and suspension of by-laws

- (1) In any proceedings, the production of:
 - (a) a copy of a by-law purporting to be a true copy of the by-law on which the Corporation's common seal is affixed and which is certified as a true copy of the by-law and signed by a person authorised by the Corporation to do so; and
 - (b) the *Gazette* in which notification of the making of the by-law is published,

is conclusive evidence of the by-law having been made and the contents of the by-law.

- (2) In any proceedings, the production of a copy of the notice (if any) required by the Regulations to be given in relation to the suspension of a by-law purporting to be a true copy of the notice on which the Corporation's common seal is affixed, and which is certified as a true copy of the notice and signed by a person authorised by the Corporation to do so, is conclusive evidence of the suspension of the by-law.

Part 6 Miscellaneous**39 Appointment of staff**

In addition to employees employed under the *Public Sector Employment and Management Act 1993*, the Corporation may, on the terms and conditions it considers appropriate, employ any other persons it considers necessary for the purposes of the Corporation.

40 Civil penalties

- (1) An agreement to which the Corporation is a party may provide that, if a party other than the Corporation is in breach of an obligation under the agreement, that party is required to pay to the Corporation by way of a civil penalty for the breach the amount determined in accordance with the agreement.
- (2) The agreement may also provide that the amount of the civil penalty is to increase over the period during which the obligation continues by a further amount determined in accordance with the agreement.
- (3) A civil penalty payable under this section is a debt due to the Corporation by the party concerned despite the following:
 - (a) that neither the Corporation or any other person (whether a party to the agreement or not) suffered damage as a result of the breach;
 - (b) that the amount of the civil penalty is unrelated to the extent of any damage that the Corporation or any other person (whether a party to the agreement or not) may have suffered as a result of the breach.

41 Validity of procedures and actions of Corporation

A procedure of the Corporation, or an act or thing done by a delegate of the Corporation, is not invalid by reason only of any of the following:

- (a) a defect in the appointment of a person to be the Corporation;
- (b) a defect in a delegation by the Corporation.

42 Protection from liability

- (1) This section applies to a person who is or has been:
 - (a) a person appointed to be the Corporation; or
 - (b) a member of the staff.
- (2) The person is not civilly or criminally liable for an act done, or omitted to be done, by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.

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- (3) In addition, the person is not civilly or criminally liable for an act done, or omitted to be done, by the Corporation in the exercise or purported exercise, or the performance or purported performance of a function, under this Act.
 - (4) Subsections (2) and (3) do not affect any liability the Territory would, apart from those subsections, have for the act or omission.

43 Form and execution of documents by Corporation

- (1) A deed, instrument, contract or agreement relating to any property or matter that, if made or executed by an individual, would by law be required to be in writing under seal may be made on behalf of the Corporation in writing under its common seal.
- (2) An instrument, contract or agreement relating to any property or matter that, if made by or between individuals, would be required to be in writing signed by the parties to it may be made or entered into on behalf of the Corporation in writing by a person acting under the authority, express or implied, of the Corporation.
- (3) A contract relating to any property or matter that, if made between individuals, would by law be valid, although made or entered into by parole only and not reduced to writing, may be made on behalf of the Corporation by a person acting under the authority, express or implied, of the Corporation.
- (4) A contract entered into, or an instrument, contract or agreement signed, in relation to any property or obligation of the Corporation is taken to have been entered into or signed by the Corporation if it is entered into or signed by a person acting under the authority, express or implied, of the Corporation.

44 Regulations

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The Regulations may provide for the following:
 - (a) the use or custody of the common seal of the Corporation;
 - (b) the manner of holding or adjourning meetings of a Board;

- (c) the manner in which the Corporation may suspend the operation of a by-law;
- (d) matters of liability, evidence or procedure relating to the commission or prosecution of offences against the by-laws;
- (e) penalties not exceeding 100 penalty units or, if the offender is a body corporate, 500 penalty units for offences against the Regulations;
- (f) the payment of a prescribed amount instead of a penalty that may otherwise be imposed for an offence against the by-laws or the Regulations and the service of a notice relating to payment of the amount on a person alleged to have committed the offence and the particulars to be included in the notice;
- (g) the designation of an offence against the Regulations or the by-laws as a regulatory offence.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Land Development Corporation Act 2003 (Act No. 31, 2003)***

Assent date	27 June 2003
Commenced	1 July 2003 (s 2)

Statute Law Revision Act 2005 (Act No. 44, 2005)

Assent date	14 December 2005
Commenced	14 December 2005

Land Development Corporation Amendment Act 2009 (Act No. 22, 2009)

Assent date	25 June 2009
Commenced	1 July 2009 (s 2)

Land Development Corporation Amendment Act 2014 (Act No. 33, 2014)

Assent date	13 November 2014
Commenced	13 November 2014

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22 of 2018) to: ss 1, 3, 10, 26, 27, 36, 37 and 39.

4 LIST OF AMENDMENTS

lt	amd No. 22, 2009, s 4
s 3	amd No. 22, 2009, s 5; No. 33, 2014, s 3
s 3A	ins No. 33, 2014, s 4
s 5	amd No. 22, 2009, s 8
s 6	sub No. 22, 2009, s 6
	amd No. 33, 2014, s 5
s 7	amd No. 22, 2009, s 7

ENDNOTES

s 10	amd No. 22, 2009, s 8
ss 13 – 14	sub No. 33, 2014, s 6
s 15	amd No. 22, 2009, s 8
	sub No. 33, 2014, s 6
s 16	sub No. 33, 2014, s 6
s 17	amd No. 44, 2005, s 35
	sub No. 33, 2014, s 6
ss 18 – 21	rep No. 33, 2014, s 6
s 22	amd No. 33, 2014, s 7
s 23	amd No. 33, 2014, s 8
s 24	amd No. 33, 2014, s 9
s 25	amd No. 33, 2014, s 10
ss 33 – 34	amd No. 22, 2009, s 8
s 35	amd No. 22, 2009, s 8; No. 33, 2014, s 11
ss 36 – 38	amd No. 22, 2009, s 8
s 44	amd No. 33, 2014, s 12