



Andrew Barr MLA

Chief Minister
Treasurer
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Mr Jeremy Hanson CSC MLA

Chair

Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)

via email: scrutiny@parliament.act.gov.au

Dear Mr Hanson

The Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) in *Scrutiny Report No. 1* of 2 February 2021, sought clarification of the retrospective operation of DI2020-273 being the *Financial Management (Territory Authorities) Guidelines 2020 (No 2)*.

The Committee notes that the explanatory statement has no discussion on the issue of non-prejudicial retrospectivity. I thank the Committee for its consideration of DI2020-273 and provide the below comments in response, as requested.

The commencement date for the *Financial Management (Territory Authorities) Guidelines 2020 (No.2)* Disallowable Instrument DI2020-273 is retrospective to align with replacing the 'ACT Public Cemeteries Authority' with the 'Cemeteries and Crematoria Authority' as a result of the *Cemeteries and Crematoria Act 2020* which commenced on 23 August 2020. This instrument is non-prejudicial as it relates to the name change of a Territory Authority only. To avoid any doubt, a Revised Explanatory Statement will be published as an additional document on the Legislation Register and tabled in the Legislative Assembly during the March 2021 sitting period.

Attached is the Revised Explanatory Statement for your information. I trust that this response addresses the Committee's concerns.

Yours sincerely

Andrew Barr MLA
Treasurer

23 February 2021

Financial Management (Territory Authorities) Guidelines 2020 (No. 2)

Disallowable instrument DI2020–273

made under the

Financial Management Act 1996, s133 (Guideline-making power)

REVISED EXPLANATORY STATEMENT

Outline

These guidelines are issued in accordance with section 133 of the *Financial Management Act 1996* (the Act).

This instrument, the *Financial Management (Territory Authorities) Guidelines 2020* (No. 2) prescribes the entities that are territory authorities for the purposes of Part 8 of the FMA that is about financial provisions for territory authorities.

- (a) This guideline has been updated to replace the ‘ACT Public Cemeteries Authority’ with the ‘Cemeteries and Crematoria Authority’. This change is as a result of the *Cemeteries and Crematoria Act 2020* which commenced on 23 August 2020. The effect of this Act is that the ACT Public Cemeteries Authority no longer exists and provides that on commencement (23 August 2020), the *Cemeteries and Crematoria Act 2003* and all associated legislative instruments will be repealed.
- (b) The commencement date for these Guidelines is retrospective to align with the date the ‘Cemeteries and Crematoria Authority’ commenced (23 August 2020). These Guidelines are non-prejudicial for the purpose of section 76 of the *Legislation Act 2001*, providing correct recognition of the ‘Cemeteries and Crematoria Authority’ in line with the *Cemeteries and Crematoria Act 2020*.

Details of the Financial Management (Territory Authorities) Guidelines 2020

Clauses 1 and 2 are formal requirements. They refer to the name and the commencement date of the guidelines.

Clause 3 prescribes the entities that are territory authorities.

Clause 4 revokes the *Financial Management (Territory Authorities) Guidelines DI2020-182*, which is replaced by provisions made under this guideline.

End