



Australian Capital Territory

Statute Law Amendment Act 2003 (No 2)

A2003-56

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Purpose	2
4 Notes	2
5 Legislation amended—schs 1—3	2
6 Legislation repealed—sch 4	2
Schedule 1	
Minor amendments	3
Part 1.1	
Building and Construction Industry Training Levy Act 1999	3

2003 090B

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Contents

		Page
Schedule 2	Structural amendments	5
Part 2.1	Legislation Act 2001	5
Schedule 3	Technical amendments	36
Part 3.1	ACTEW/AGL Partnership Facilitation Act 2000	36
Part 3.2	Administration (Interstate Agreements) Act 1997	39
Part 3.3	Artificial Conception Act 1985	41
Part 3.4	Charitable Collections Act 2003	43
Part 3.5	Children and Young People Act 1999	44
Part 3.6	Confiscation of Criminal Assets Act 2003	91
Part 3.7	Criminal Code 2002	92
Part 3.8	Drugs in Sport Act 1999	92
Part 3.9	Financial Management Act 1996	95
Part 3.10	First Home Owner Grant Act 2000	96
Part 3.11	Gaming Machine Act 1987	97
Part 3.12	Health Professionals (Special Events Exemptions) Act 2000	100
Part 3.13	Long Service Leave (Contract Cleaning Industry) Act 1999	102
Part 3.14	Magistrates Court Act 1930	106
Part 3.15	Magistrates Court Rules 1932	106
Part 3.16	Prisoners (International Transfer) Act 1999	107
Part 3.17	Protection Orders Act 2001	109
Part 3.18	Public Health Act 1997	110
Part 3.19	Public Sector Management Act 1994	112
Part 3.20	Race and Sports Bookmaking Act 2001	113
Part 3.21	Racing Act 1999	113

	Page
Part 3.22	Sale of Motor Vehicles Act 1977 124
Part 3.23	Security Industry Regulations 2003 135
Part 3.24	Smoke-free Areas (Enclosed Public Places) Regulations 1994 136
Part 3.25	Spent Convictions Act 2000 136
Part 3.26	Supervised Injecting Place Trial Act 1999 141
Part 3.27	Taxation Administration Act 1999 147
Part 3.28	Taxation (Government Business Enterprises) Regulations 2003 154
Part 3.29	Victims of Crime Regulations 2000 155
Schedule 4	Repeal of redundant or obsolete legislation 156
Part 4.1	Institute for the Study of Man and Society Incorporation Act 1968 156
Part 4.2	Judgment Creditors Remedies Act 1933 157
Part 4.3	Spent Convictions Regulations 2003 157
Part 4.4	Registrable instruments that are no longer needed 157
Division 4.4.1	ACTION Authority Act 2001—disallowable instrument—s 36 158
Division 4.4.2	Independent Competition and Regulatory Commission Act 1997—disallowable instruments—s 15, s 16 158
Division 4.4.3	Legislative Assembly (Members' Staff) Act 1989—disallowable instruments—s 5, s 6, s 10, s 11 159
Division 4.4.4	Utilities Act 2000—disallowable instruments—s 61, s 65 159



Australian Capital Territory

Statute Law Amendment Act 2003 (No 2)

A2003-56

An Act to amend or repeal certain Acts and regulations for the purpose of statute law revision

The Legislative Assembly for the Australian Capital Territory enacts as follows:

2003 090B

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 Name of Act

This Act is the *Statute Law Amendment Act 2003 (No 2)*.

2 Commencement

This Act commences on the 14th day after its notification day.

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

3 Purpose

The purpose of this Act is to improve the quality of the statute law of the Territory by amending or repealing Acts and regulations for the purpose of statute law revision.

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 Legislation amended—schs 1—3

This Act amends the legislation mentioned in schedules 1 to 3.

6 Legislation repealed—sch 4

- (1) This Act repeals the legislation mentioned in schedule 4.
- (2) The *Institute for the Study of Man and Society Incorporation Act 1968* and the instruments mentioned in part 4.4 are declared to be laws to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

Schedule 1 **Minor amendments**

(see s 5)

Part 1.1 **Building and Construction Industry Training Levy Act 1999**

[1.1] New part 8

insert

Part 8 **Validation**

38 **Validation of appointment of members of board**

- (1) The people appointed by the Minister as members of the board (whether on an acting basis or otherwise) during the period beginning on 1 November 2002 and ending on 18 July 2003 are taken to be, and always to have been, members of the board for the period appointed as if the appointments had been properly—
 - (a) made; and
 - (b) notified under the Legislation Act, section 61; and
 - (c) presented to the Legislative Assembly under the Legislation Act, section 64 (1).
- (2) Without limiting subsection (1), and to remove any doubt, anything done, or purporting to have been done, by the board during the period mentioned in that subsection in exercise of the functions of the board is taken to be, and always to have been, as valid as if the appointments had been properly—
 - (a) made; and

- (b) notified under the Legislation Act, section 61; and
- (c) presented to the Legislative Assembly in accordance with the Legislation Act, section 64 (1).

40 Expiry of pt 8

This part expires the same day it commences.

Note If a law validates something that is or may otherwise be invalid, the validating effect of the law does not end merely because of the repeal of the law (see Legislation Act, s 88 (1) (b)).

Explanatory note

This amendment inserts provisions to ensure the validity of the appointments of members and actions of the Building and Construction Training Fund Board during the period 1 November 2002 to 18 July 2003. It would seem that not all of the requirements of the Legislation Act about the making, notification and presentation of appointments were satisfied for appointments made to the board during that period. In particular, when the appointments of members ended on 31 October 2002, some of the members were reappointed for 2 consecutive periods of less than 6 months. The second of these reappointments was not tabled.

To remove any ongoing doubts about the validity of appointments of members of the board, the members were reappointed by an instrument of appointment with effect from 19 July 2003 (see DI2003—190). The Legislative Standing Committee on Education was consulted about the reappointments and the instrument of appointment was presented to the Legislative Assembly on 19 August 2003.

Schedule 2 Structural amendments

(see s 5)

Part 2.1 Legislation Act 2001

[2.1] Section 2, notes

substitute

Note 1 The dictionary at the end of an Act usually defines certain terms used in the Act, and includes references (*signpost definitions*) to other terms defined elsewhere in the Act. However, in this Act the dictionary is divided into 2 parts.

Note 2 Part 1 defines terms commonly used in Acts (including this Act) and statutory instruments. For example, because of the definition ‘*month* means calendar month.’, the term ‘month’ has the defined meaning wherever the term is used in an Act or statutory instrument unless the Act or instrument provides otherwise or the contrary intention otherwise appears (see s 144 and s 155).

Note 3 Part 2 defines certain terms used in this Act. For example, the signpost definition ‘*administrator*, for part 19.5 (Service of documents)—see section 246.’ means that the term ‘administrator’ is defined in s 246 for this Act, pt 19.5. A definition in pt 2 applies to all of this Act unless the definition, or another provision of this Act, provides otherwise or the contrary intention otherwise appears (see s 155 and s 156 (1)).

Explanatory note

This amendment brings the notes into line with current drafting practice by using ‘terms’ instead of ‘words and expressions’.

[2.2] Section 43 (2), new example and notes

insert

Example 3

The *Wombat Protection Act 2003* (hypothetical) provides that the Minister may appoint a Wombat Advocate. The instrument making the appointment states that the appointment is for 5 years, but the maximum term of appointment authorised under the Act is 4 years.

The instrument is read restrictively ('read down') as if it referred to 4 years. In other words, the instrument is effective but the appointment is only valid for 4 years.

Note to example 3 The kind of interpretation indicated in example 3 is known as a distributive interpretation of the instrument.

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

Explanatory note

This amendment inserts another example to further illustrate the operation of the subsection. The amendment also inserts a standard note about examples.

[2.3] Section 43 (3), note

omit

Explanatory note

This amendment omits the note about examples, as it is now placed in section 43 (2).

[2.4] Section 47 (4)

substitute

- (4) If the relevant instrument makes provision about the matter by applying a law of another jurisdiction or an instrument, the following provisions apply:
- (a) if subsection (3) is displaced by, or under authority given by, an Act or the authorising law—the law of the other jurisdiction or instrument is applied as in force from time to time;
Note For the displacement of s (3), see s 6, examples 1 and 2.
 - (b) if subsection (3) is not so displaced and the relevant instrument does not provide that the law of the other jurisdiction or instrument is applied as in force at a particular time—the law or instrument is taken to be applied as in force when the relevant instrument is made.

Examples for s (4) (b)

- 1 The *Locust Damage Compensation Determination 2003* (a hypothetical disallowable instrument) provides for the making of claims against a compensation fund. Clause 43 states that disputes about claims must be decided in accordance with the *Commercial Arbitration Act 1984* (NSW) (the *NSW Act*) as in force from time to time. The determination is made on 1 August 2003. The Act under which the determination is made does not displace subsection (3). Therefore, even though clause 43 purports to apply the NSW Act as in force from time to time, the NSW Act as in force on 1 August 2003 is applied by the determination.
- 2 The *Locust Damage Compensation Determination 2003* (mentioned in example 1), clause 43 states that disputes about claims must be decided in accordance with the *Commercial Arbitration Act 1984* (NSW) (the *NSW Act*), but does not state that the NSW Act is to be applied as in force from time to time or at a particular time. The determination is made on 1 August 2003. The Act under which the determination is made does not displace subsection (3). Therefore, the NSW Act as in force on 1 August 2003 is applied by the determination.

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

Explanatory note

The amendment clarifies the effect of the displacement of section 47 (3) and the relationship between that subsection and this subsection.

More importantly, this amendment makes it clear that a statutory instrument may make provision about a matter by applying a law of another jurisdiction, or an instrument, as in force from time to time only if subsection (3) is displaced by (or under authority given by) an Act or, if the authorising law is a subordinate law or disallowable instrument, the authorising law itself. In other words, only an Act, or authorising law that is a subordinate law or disallowable instrument, can authorise a statutory instrument to apply a law of another jurisdiction, or an instrument, as in force from time to time.

The amendment ensures that displacement of subsection (3) remains subject to the Legislative Assembly's scrutiny and control.

[2.5] New section 65 (4A)

insert

- (4A) A disallowance under this section has effect for all purposes as if it were a repeal made by an Act.

Explanatory note

This amendment inserts a provision similar to section 68 (6) into section 65. Section 65 provides that, if the Legislative Assembly passes a resolution to disallow a subordinate law or disallowable instrument, the law or instrument is taken under section 65 to be repealed. This amendment means that a deemed repeal, once effective, will be repealed automatically under the Legislation Act, section 89. Its effect is, however, saved under the Legislation Act, section 84.

[2.6] Section 65

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections.

[2.7] Section 73 (1) (b)

after

the Act

insert

or another Act

Explanatory note

This amendment makes it clear that the commencement of an Act may be provided for in another Act.

[2.8] Section 73 (2) and (3)

omit

subordinate law, disallowable instrument or notifiable instrument

substitute

registrable instrument

Explanatory note

This amendment applies the general commencement rules of the Legislation Act, section 73 to commencement notices. The rules presently apply to all other registrable instruments.

The rules for the commencement of laws by commencement notice are dealt with in the Legislation Act, section 77. The amendment does not affect the operation of those rules.

However, the amendment will facilitate the operation of the ACT legislation register. When a registrable instrument is included on the register, the date the instrument becomes effective (or commences) is indicated to assist users of the register. The amendment confirms that the general commencement rules that apply to other registrable instruments apply also to commencement notices **as instruments**, that is, the default commencement for a commencement notice itself is the day after the day the notice is notified. (This default commencement date may or may not be the same date as the date fixed by the commencement notice for the commencement of the law that it commences).

The proposed default commencement for commencement notices is the same default commencement that already applies to the commencement of a law made by a commencement notice (see Legislation Act, s 77). The amendment does not change the law, but rather confirms the way that commencement notices have been shown on the legislation register since its establishment.

[2.9] Section 73 (4) (a)

after

the day

insert

after the day

Explanatory note

This amendment brings the default commencement for non-registrable instruments (that is, instruments not required to be notified on the ACT legislation register) into line with the default commencement for registrable instruments. Under the amendment the default commencement for a non-registrable instrument will be the day after the instrument is made (or, if it is required to be approved by an entity after making, the day after the approval day).

The law does not generally recognise parts of days. In theory, it is therefore presently possible for a non-registrable instrument to operate retrospectively by default from the time of making (or approval) back to the first moment of the day it is made (or approved). The amendment will prevent this result.

However, under other amendments made by this schedule, a non-prejudicial provision of a non-registrable instrument may commence on or before the day it is made (or approved) if the instrument clearly indicates that it is to commence retrospectively (see proposed new s 75B and existing s 76 (1)). By contrast, a prejudicial provision of a non-registrable instrument may commence on or before the day it is made (or approved) only if the Legislation Act, section 76 (2) (inserted by another amendment) is displaced by, or under authority given by, an Act.

[2.10] Section 75 (2)

omit

is taken to have commenced

substitute

commences

Explanatory note

This amendment removes unnecessary words.

[2.11] Section 75 (2) (b)

omit

are taken to have commenced

substitute

commence

Explanatory note

This amendment removes unnecessary words.

[2.12] New sections 75A and 75B

insert

75A Meaning of commences *retrospectively*

- (1) An Act or registrable instrument commences *retrospectively* if it commences on a day or at a time earlier than the day after its notification day.

Note A reference to an Act or registrable instrument includes a reference to a provision of an Act or registrable instrument (see s 7 (3) and s 12 (2)).

- (2) A statutory instrument that is not a registrable instrument commences *retrospectively* if it commences on a day or at a time earlier than the day after the day it is made or, if it is required under an Act or statutory instrument to be approved (however described) by the Executive, a Minister or any other entity, the day after the day it is approved.

75B Retrospective commencement requires clear indication

- (1) In this section:
law includes any statutory instrument.
- (2) A law must not be taken to provide for the law (or another law) to commence retrospectively unless the law clearly indicates that it is to commence retrospectively.

Example

The *XYZ Act 2003* was notified on 1 July 2003. It contains the following provision:

2 Commencement

This Act is taken to have commenced on 17 October 2001.

Section 2 clearly indicates that the Act is to commence retrospectively.

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

(3) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Explanatory note

New section 75A makes it clear what retrospective commencement means. The language of the section follows the language of the provisions of the Legislation Act about the notification of Acts and registrable instruments and the making and commencement of instruments (see esp s 73 (2) and (4)).

New section 75B states that retrospective commencement requires a clear indication, and provides an example of a clear indication. The rule in section 75B is a statutory expression of the common law presumption against retrospectivity (see Pearce, D and Geddes, R S (2001), *Statutory Interpretation in Australia*, 5th ed, Butterworths, Sydney, ch 10). The rule presently appears in section 76 (2) and is limited in its application to section 76 (s 78 (4) presently provides a similar rule for the operation of commencement notices). The rule restated in section 75B will apply to all the provisions of the Legislation Act (eg s 73 (2) (c) and (d)) and will apply whether or not the relevant law or instrument operates prejudicially.

The amendment will facilitate the operation of the ACT legislation register. To inform users of the register about what the law is at any time, the register provides information about when a law or instrument, or a particular version of a law or instrument, became effective or ceased to be effective. In the absence of a general rule about retrospective commencements like the rule presently in the Legislation Act, section 76 (2), it can be difficult to work out whether a retrospective commencement of a registrable instrument is intended or a registrable instrument is simply notified later than the time that was envisaged. If it is simply notified late, the Legislation Act, section 73 (3) will apply and the instrument will commence on the day after its notification day.

By requiring a clear indication if a retrospective commencement is intended, the amendment will enable questions of that kind to be decided more easily and with greater certainty. It will also assist in ensuring greater transparency in the operation of laws and instruments. Under the amendment a retrospective commencement with non-prejudicial operation will need to be clearly indicated in the same way as a retrospective commencement with prejudicial operation.

[2.13] Section 76 (2)

substitute

- (2) Unless this subsection is displaced by, or under authority given by, an Act, a statutory instrument may not provide that a prejudicial provision of the instrument commences retrospectively.

Example

The *Locust Damage Compensation Determination 2003* (a hypothetical disallowable instrument) sets out (among other things) the people who are eligible for compensation under a compensation fund. Previously, there was no restriction on who was eligible. The determination provides that it is taken to have commenced on 1 July 2003, but it is not notified until 15 August 2003. There is nothing in the Act under which the determination is made (or any other Act) that authorises the retrospective commencement.

The provision of the determination that limits who can apply for compensation is a prejudicial provision (ie it adversely affects some people's right to receive compensation) and cannot commence retrospectively. Instead, it would commence on the day after the determination's notification day (see s 73 (3)).

Explanatory note

This amendment makes it clear that a statutory instrument may not provide for the retrospective commencement of a prejudicial provision (defined by another amendment) of the instrument unless under the authority of an Act. The amendment also adds a new example to further illustrate the operation of the section.

[2.14] Section 76 (4)

substitute

(4) In this section:

non-prejudicial provision means a provision that is not a prejudicial provision.

prejudicial provision means a provision that operates to the disadvantage of a person (other than the Territory or a Territory authority or instrumentality) by—

- (a) adversely affecting the person's rights; or
- (b) imposing liabilities on the person.

Explanatory note

This amendment includes a new definition of ***prejudicial provision***. The new definition is the converse of the existing definition of ***non-prejudicial provision***, which is as follows:

'***non-prejudicial provision*** means a provision that does not operate to the disadvantage of a person (other than the Territory or a Territory authority or instrumentality) by—

- (a) adversely affecting the person's rights; or
- (b) imposing liabilities on the person.'

This amendment also substitutes a new definition of ***non-prejudicial provision***.

[2.15] New section 79 (1A)

insert

(1A) This section applies to a law unless it is displaced by, or under authority given by, an Act or, if the postponed law is a subordinate law or disallowable instrument, the postponed law.

Explanatory note

This amendment makes it clear that section 79 (which deals with the automatic commencement of postponed laws) can only be displaced under the authority of an Act or, if the postponed law is a subordinate law or disallowable instrument, the postponed law itself. In other words, section 79 cannot be displaced by a commencement notice, which would not be subject to the Legislative Assembly's scrutiny and control.

[2.16] Section 79 (3), definition of *postponed law*

omit

or provision of a law

Explanatory note

This amendment omits unnecessary words. *Law* is defined for chapter 8 (in s 72) to include a provision of a law.

[2.17] Section 79

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections.

[2.18] Section 88 (1), example for paragraph (a)

substitute

Examples for par (a)

- 1 a provision stating that an existing licence under a repealed Act is taken to be a licence of a particular kind under another Act and authorising the imposition of conditions under the other Act
- 2 a provision stating that a provision applies to certain applications made before the commencement of an amendment or only to applications made after the commencement of an amendment

Explanatory note

This amendment includes an additional example of a common transitional provision, namely, a provision dealing with the application of amendments.

[2.19] Section 89 (6)

substitute

- (6) If an instrument making, or evidencing, an appointment (including an acting appointment) is a registrable instrument, the instrument is automatically repealed—
- (a) on the day the appointment ends; or
 - (b) if the instrument makes 2 or more appointments that end on different days—on the day the last-ending appointment ends.

Explanatory note

This amendment makes it clear that, if an instrument makes 2 or more appointments that end on different days, the instrument is repealed when the last-ending appointment ends.

[2.20] New section 89 (7A)

insert

- (7A) If apart from this subsection a law or instrument would be automatically repealed on a day that is earlier than its notification day, the law or instrument is instead automatically repealed on the day after its notification day.

Explanatory note

This amendment applies to the rare case where all of the provisions of a law or instrument to which this section applies commence retrospectively. Without this amendment, the automatic repeal would happen before notification day, which is potentially confusing. This amendment means that the earliest that an automatic repeal can happen is the day after the relevant notification day.

[2.21] Section 89 (10), definition of *amending law*, new example

insert

Example for par (e)

an objects provision

Explanatory note

This amendment includes a new example to make it clear that a provision about the purposes of a law or provision includes an objects provision.

[2.22] Section 89 (10), definition of *amending provision*

substitute

amending provision, of a law, means a provision of the law that only amends or repeals a law or statutory instrument, and includes—

- (a) any other provision (for example, a schedule) of the law that only identifies the law or instrument amended or repealed; and
- (b) any other provision (for example, a part heading) of the law that only identifies (or groups) provisions that are amended or repealed.

Explanatory note

This amendment extends the provisions that are automatically repealed to include provisions that identify or group provisions that are amended or repealed. The following amendment provides an example.

[2.23] Section 89, new example

insert

Example 3 for s 89—see s (10), def *amending provision*

The *Plant Diseases Act 2003* (hypothetical), part 6 is as follows:

Part 6 Repeals and consequential amendment

42 Repeal of Plant Diseases Act 1934

The *Plant Diseases Act 1934* No 21 A1934-21 is repealed.

43 Repeal of Plant Diseases Regulations 1938

The *Plant Diseases Regulations 1938* (made on 11 February 1938) are repealed.

44 Administrative Decisions (Judicial Review) Act 1989, schedule 1, new clause 6

insert

- 6 This Act does not apply to decisions of the Minister under the *Plant Diseases Act 2003*, part 3 (Measures for the control of diseases and pests).

Under the definition of ***amending provision***, the heading to part 6, as well as the contents of part 6, are automatically repealed under section 89.

Explanatory note

This amendment inserts a new example for section 89. It illustrates the operation of the new definition of ***amending provision***. The definition was amended by the previous amendment.

[2.24] Section 89

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections.

[2.25] Section 99 (1) (b)

substitute

- (b) the year when it was enacted and its number, together with a reference (if necessary) to indicate that it is an Act.

Example of reference to indicate Act

an Act may be referred to using the word Act or the letter 'A' eg 'A1993-1' is a reference to Act No 1 of 1993

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

Explanatory note

This amendment clarifies the way in which an Act may be referred to. The example follows the practice used on the ACT legislation register to refer to Acts.

[2.26] Section 100 (1), new examples

insert

Examples of references to kind of instrument for par (b)

- 1 a subordinate law may be referred to using the letters 'SL' (eg 'SL2000-11' is a reference to subordinate law No 11 of 2000)
- 2 a disallowable instrument may be referred to using the letters 'DI' (eg 'DI1997-101' is a reference to disallowable instrument No 101 of 1997)
- 3 a notifiable instrument that is not an approved form may be referred to using the letters 'NI' (eg 'NI2002-226' is a reference to notifiable instrument No 226 of 2002)
- 4 an approved form may be referred to using the letters 'AF' (eg 'AF2003-1' is a reference to approved form No 1 of 2003)

- 5 a commencement notice may be referred to using the letters ‘CN’ (eg ‘CN2002-3’ is a reference to commencement notice No 3 of 2002)

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

Explanatory note

This amendment adds examples to section 100 (1) to illustrate how statutory instruments may be referred to. The examples follow the practice used on the ACT legislation register to refer to registrable instruments.

[2.27] New section 102 (2A)

insert

- (2A) This section is subject to section 47 (Statutory instrument may make provision by applying law or instrument).

Explanatory note

This amendment makes it clear that section 102 is subject to section 47.

[2.28] Section 102

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections.

[2.29] Section 116 (1) (l)

substitute

- (l) omits, inserts or changes a referential term; or

Explanatory note

This amendment brings the paragraph into line with current drafting practice by using ‘term’ instead of ‘expression’.

[2.30] New section 126 (2A)

insert

- (2A) A preamble or other recital to an Act or statutory instrument is part of the Act or instrument.

Explanatory note

This amendment provides that a preamble or other recital is part of an Act or statutory instrument. This is the current position in Australia (see Pearce, D and Geddes, R S (2001), *Statutory Interpretation in Australia*, 5th ed, Butterworths, Sydney, par 1.27 and par 4.39).

[2.31] Section 126

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections.

[2.32] Section 130 (a) and (b)

substitute

- (a) gives a meaning to a term; or
(b) limits or extends the meaning of a term.

Explanatory note

This amendment brings the section into line with current drafting practice by using ‘term’ instead of ‘word or expression’.

[2.33] Section 130, example 8

substitute

- 8 *excluded*—a claim is *excluded* if the claim is not brought within 1 year after the day the claimant becomes aware of the failure to account to which the claim relates.

Explanatory note

This amendment brings the example into line with current drafting practice by adding ‘the day’ after ‘after’.

[2.34] Section 130, example 9 and note 1

substitute

9 A term used in the *XYZ Act 2003* has the same meaning in this Act.

10 A term defined in the *XYZ Act 2003* has the same meaning in this Act.

Note 1 Examples 5 and 6 illustrate signpost definitions, that is, definitions that do not themselves directly define a term but point the reader to the place where the term is defined (see s 131).

Explanatory note

This amendment brings the example and note into line with current drafting practice, including using ‘term’ instead of ‘word’ and ‘expression’. The amendment also inserts new example 10, a variation of example 9.

[2.35] Section 131 (1)

substitute

- (1) In an Act or statutory instrument, a definition of a term that includes the word ‘see’ followed by a reference to a law or instrument means the term has the same meaning as the term (or, if the reference includes a reference to the definition of another term, that term) has in the law or instrument, as in force from time to time.

Explanatory note

This amendment brings the subsection into line with current drafting practice by using ‘term’ instead of ‘word or expression’.

[2.36] New section 131 (1A)

insert

- (1A) This section is subject to section 47 (Statutory instrument may make provision by applying law or instrument).

Explanatory note

This amendment makes it clear that section 131 is subject to section 47.

[2.37] Section 131

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections.

[2.38] Section 144 heading

substitute

144 Meaning of commonly-used terms

Explanatory note

This amendment brings the heading into line with current drafting practice by using ‘terms’ instead of ‘words and expressions’.

[2.39] Section 146 (1) and (2)

omit

word or expression

substitute

term

Explanatory note

This amendment brings the subsections into line with current drafting practice by using ‘term’ instead of ‘word or expression’.

[2.40] Section 148

omit

Words and expressions

substitute

Terms

Explanatory note

This amendment brings the section into line with current drafting practice by using ‘terms’ instead of ‘words and expressions’.

[2.41] Section 151 (1)

substitute

- (1) This section applies if a period of 1 day or longer is provided or allowed for a purpose by an Act or statutory instrument.

Explanatory note

This amendment makes it clear that section 151 only applies to periods of 1 day or longer, not to periods of, for example, a few hours.

[2.42] Section 156 (1), note

substitute

Note 1 See s 144 (Meaning of commonly-used terms) for the application of the definitions in this Act, dict, pt 1.

Note 2 Section 148 (Terms used in instruments have same meanings as in authorising laws) provides that terms used in a statutory instrument have the same meaning as they have in the Act or statutory instrument under which the statutory instrument is made.

Explanatory note

This amendment of the note (now note 1) is consequential on the amendment of the heading to section 144 by an earlier amendment.

New note 2 refers readers to section 148.

[2.43] Section 157

omit

word or expression

substitute

term

Explanatory note

This amendment brings the section into line with current drafting practice by using ‘term’ instead of ‘word or expression’.

[2.44] Section 164

substitute

164 References to Australian Standards etc

- (1) In an Act or statutory instrument, a reference consisting of the words ‘Australian Standard’ or ‘AS’ followed by a number is a reference to the standard so numbered published by or on behalf of Standards Australia.
- (2) In an Act or statutory instrument, a reference consisting of the words ‘Australian/New Zealand Standard’ or ‘AS/NZS’ followed by a number is a reference to the standard so numbered published jointly by or on behalf of Standards Australia and Standards New Zealand.

Examples for s 164

- 1 AS 4608-1999
- 2 AS/NZS 4906: 1994

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

Explanatory note

This amendment updates this section to deal with the abbreviation ‘AS’ and joint Australian/New Zealand Standards (or ‘AS/NZS’).

[2.45] Section 179 (1)

omit

expression

substitute

term

Explanatory note

This amendment brings the subsection into line with current drafting practice by using ‘term’ instead of ‘expression’.

[2.46] Section 182

substitute

182 Meaning of *law* in ch 17

In this chapter:

law means an Act or statutory instrument, and includes a provision of a law.

Explanatory note

This amendment includes all statutory instruments in the definition of *law* for chapter 17 (Entities and positions). This means that the provisions of the chapter will apply to entities and positions established by statutory instruments that are not subordinate laws or disallowable instruments. For example, the chapter will apply to entities and positions established by notifiable instruments, eg notifiable instruments under the *Public Sector Management Act 1994*, section 13 (Constitution of administrative units).

[2.47] Section 183 (3)

omit

or instrument

Explanatory note

This amendment is consequential on the revised definition of *law* in section 182.

[2.48] Section 185

omit

an Act or statutory instrument

substitute

a law

Explanatory note

This amendment is consequential on the revised definition of *law* in section 182.

[2.49] Section 186 (3)

omit

or instrument

Explanatory note

This amendment is consequential on the revised definition of *law* in section 182.

[2.50] New section 190 (1A)

insert

(1A) An *indictable offence* includes an indictable offence that is or may be dealt with summarily.

Explanatory note

This amendment clarifies the scope of the meaning of *indictable offence* by expressly providing that an indictable offence includes an indictable offence that is or may be dealt with summarily.

[2.51] Section 190

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections.

[2.52] Division 19.3.1 heading

substitute

Division 19.3.1 Appointments—general

Explanatory note

This amendment changes the division heading to better reflect the division's contents.

[2.53] Section 231 (2) and note

substitute

- (2) However, if the appointer delegates a function to a delegate, the delegate may not subdelegate the function.

Explanatory note

This amendment recasts subsection (2) to make it clearer, and removes the note which is turned into examples by the next amendment.

[2.54] Section 231 (3)

substitute

- (3) Subsection (2) is a determinative provision.

Examples

- 1 The *ABC Act 2003* provides that an appointer (X) may delegate X's functions to Y. The Act is silent on the subdelegation of the functions. Y may not subdelegate X's functions to Z.
- 2 The *ABC Act 2003* provides that an appointer (X) may delegate X's functions to Y, with authority for Y to subdelegate those functions. Because the Act authorises subdelegation, it expressly displaces this Act, section 231 (2) (see s 6). Y can therefore subdelegate X's functions to Z (compare s 236, which deals with the subdelegation of a power to delegate).

Note 1 See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Explanatory note

This amendment inserts examples to illustrate the operation of the section.

[2.55] Section 236

substitute

236 Power to delegate may not be delegated

- (1) The appointer may not delegate the appointer's power to delegate.
- (2) Subsection (1) is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Examples

- 1 The *ABC Act 2003* provides that an appointer (X) may delegate X's functions to Y. The Act is silent on X's power to delegate the power to delegate. X may not delegate X's power to delegate to Y.
- 2 The *ABC Act 2003* provides that an appointer (X) may delegate X's functions to Y, with authority for X to delegate X's power to delegate. Because the Act authorises the delegation of the power to delegate, it expressly displaces this Act, section 236 (1) (see s 6). X can therefore delegate X's power to delegate to Y (compare s 231, which deals with the subdelegation of a delegated function).

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

Explanatory note

This amendment removes existing subsection (2), which overlapped with existing subsection (1), and turns the note into examples to better illustrate the operation of the section.

[2.56] Section 239 (4)

omit

by

substitute

by or in relation to

Explanatory note

This amendment adds ‘or in relation to’ to make it clear that things done in relation to the delegate (eg the service of notice on the delegate) are taken to have been done in relation to the appointer (ie the notice is taken to have been served on the appointer).

[2.57] New section 310A

insert

310A Application of s 89 to registrable instrument

- (1) Section 89 (Automatic repeal of certain laws and provisions) applies to a registrable instrument, whenever it was made.
- (2) This section expires on 12 September 2004.

Explanatory note

This amendment makes it clear that the automatic repeal provisions of section 89 apply to registrable instruments whenever they were made. The amendment will ensure that, as registrable instruments are backcaptured on the ACT legislation register, clearly spent instruments will be included with the repealed instruments and will not clutter up the instruments currently in force.

[2.58] New section 316

insert

316 Delegations under Administration Act 1989

- (1) To remove any doubt, if a delegation was in force under the *Administration Act 1989* immediately before its repeal, the delegation is taken to have had effect after the repeal as if it were a delegation under this Act, section 254A (Delegation by Minister).
- (2) This section is in addition to the *Legislation Amendment Act 2002*, section 31 (2).
- (3) This section expires on 12 September 2004.

Explanatory note

The *Administration Act 1989* was repealed by the *Legislation Amendment Act 2002*, section 31 (1). Section 31 (2) provided that the *Administration Act 1989* was a law to

[2.62] Dictionary, part 1, definition of *building society*

substitute

building society means an authorised deposit-taking institution that is permitted under the *Banking Act 1959* (Cwlth) to assume or use—

- (a) the term ‘building society’; or
- (b) any other term (whether or not in English) similar in meaning.

Explanatory note

This amendment brings the definition into line with current drafting practice by using ‘term’ instead of ‘expression’ and simplifies its language.

[2.63] Dictionary, part 1, definition of *credit union*

substitute

credit union means an authorised deposit-taking institution that is permitted under the *Banking Act 1959* (Cwlth) to assume or use—

- (a) the term ‘credit union’; or
- (b) any other term (whether or not in English) similar in meaning.

Explanatory note

This amendment brings the definition into line with current drafting practice by using ‘term’ instead of ‘expression’ and simplifies its language.

[2.64] Dictionary, part 1, definition of *document*

omit

includes

substitute

means any record of information, and includes

Explanatory note

This amendment brings the definition of ***document*** more closely into line with the definition of ***document*** in the *Evidence Act 1995* (Cwlth), dictionary, part 1.

[2.65] Dictionary, part 1, definition of *indictable offence*

substitute

indictable offence—see section 190.

Explanatory note

This amendment is consequential on the amendment of section 190 by an earlier amendment.

[2.66] Dictionary, part 1, new definition of *insolvent under administration*

insert

insolvent under administration means—

- (a) a person who is an undischarged bankrupt under the *Bankruptcy Act 1966* (Cwlth) or the corresponding provisions of the law of an external Territory or foreign country; or
- (b) a person for whom a debt agreement has been made under the *Bankruptcy Act 1966* (Cwlth), part 9 (Debt agreements), or the corresponding provisions of the law of an external Territory or foreign country, if the debt agreement has not ended or been terminated; or
- (c) a person who has signed a deed of arrangement or assignment under the *Bankruptcy Act 1966* (Cwlth), part 10 (Arrangements with creditors without sequestration), or the corresponding provisions of the law of an external Territory or foreign country, if the terms of the deed have not been fully complied with; or
- (d) a person whose creditors have accepted a composition under the *Bankruptcy Act 1966* (Cwlth), part 10, or the corresponding provisions of the law of an external Territory or foreign country, if a final payment has not been made under the composition.

Explanatory note

This amendment inserts a new definition of *insolvent under administration* based substantially on the definition in the *Corporations Act 2001* (Cwlth).

[2.67] Dictionary, part 1, definition of *summary offence*

substitute

summary offence—see section 190.

Explanatory note

This amendment is consequential on the amendment of section 190 by an earlier amendment.

[2.68] Dictionary, part 1, definition of *working day*

substitute

working day means a day that is not—

- (a) a Saturday or Sunday; or
- (b) a public holiday in the ACT under the *Holidays Act 1958*.

Explanatory note

This amendment brings the definition of *working day* more closely into line with the definition of *business day*, a related term.

[2.69] Dictionary, part 2, heading and note

substitute

Part 2 Terms for Legislation Act 2001 only

Note Terms that apply to all Acts and statutory instruments are set out in pt 1.

Explanatory note

This amendment brings the heading and note into line with current drafting practice by using ‘terms’ instead of ‘words and expressions’.

[2.70] Dictionary, part 2, definition of *appointee*, paragraph (a)

substitute

- (a) for division 19.3.1 (Appointments—general)—see section 207 (2); and

Explanatory note

This amendment is consequential on another amendment that changes the heading to division 19.3.1.

[2.71] Dictionary, part 2, definition of *appointer*, paragraph (a)

substitute

- (a) for division 19.3.1 (Appointments—general)—see section 205; and

Explanatory note

This amendment is consequential on another amendment that changes the heading to division 19.3.1.

[2.72] Dictionary, part 2, definition of *referential words*

substitute

referential term means a term that identifies a provision as a provision, or part of a provision, of the Act, statutory instrument or provision in which it appears.

Examples

- 1 of this Act
- 2 of this section
- 3 hereof
- 4 said

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

Explanatory note

This amendment brings the definition into line with current drafting practice by using ‘term’ instead of ‘words’.

[2.73] Dictionary, part 2, new definition of *retrospectively*

insert

retrospectively, for the commencement of legislation—see section 75A (Meaning of commences *retrospectively*).

Explanatory note

This amendment is consequential on another amendment that inserts new section 75A.

Schedule 3 **Technical amendments**

(see s 5)

Part 3.1 **ACTEW/AGL Partnership Facilitation Act 2000**

[3.1] Section 7

omit

in addition to, and not in derogation of,

substitute

additional to, and do not limit,

Explanatory note

This amendment updates language.

[3.2] Section 13 (1) (a)

after

are vested in

insert

a

Explanatory note

This amendment inserts a missing word.

[3.3] Section 14 (2)

omit

in addition to, and not in derogation of,

substitute

additional to, and does not limit,

Explanatory note

This amendment updates language.

[3.4] Section 16 (1)

substitute

- (1) The Minister, or a person appointed by the Minister, may certify in writing that an asset, right or liability mentioned in the certificate has vested under section 11 or section 13 in a person mentioned in the certificate.

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

Explanatory note

This amendment brings the subsection into line with current drafting practice. The reference to the appointment being made ‘in writing’ is omitted because the Legislation Act, section 206 provides that an appointment must be made, or evidenced, in writing. This amendment also inserts a standard note about appointments.

[3.5] Section 18 (3)

omit

in addition to, and not in derogation of,

substitute

additional to, and does not limit,

Explanatory note

This amendment updates language.

[3.6] Section 36

substitute

36 Regulation of prices, access and other matters

- (1) In this section:

commencement means 6 April 2000.

ICRC Act means the *Independent Competition and Regulatory Commission Act 1997*.

- (2) A price direction under the ICRC Act, section 20 in effect on the commencement applies to the joint venture entities as if a reference to ACTEW or AGL in the price direction were a reference to ACTEW, AGL and the joint venture entity that provides the service to which the price direction relates.
- (3) An access agreement registered under the ICRC Act, part 5 in effect on the commencement applies to the joint venture entities as if a reference to ACTEW or AGL in the agreement were a reference to ACTEW, AGL and the joint venture entity that owns, controls or operates the infrastructure facility to which the access agreement relates.
- (4) A determination under the ICRC Act, section 35 in effect on the commencement applies to the joint venture entities as if a reference to ACTEW or AGL in the determination were a reference to ACTEW, AGL and the joint venture entity that provides the service the access for which is the subject of the determination.

Explanatory note

This amendment brings the language and structure of the section more closely into line with current drafting practice.

[3.7] Dictionary, new notes

insert

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

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

- asset
- corporation
- entity
- exercise
- function

- law, of the Territory
- notifiable instrument (see s 10)
- property
- State
- the Territory.

Explanatory note

This amendment inserts standard dictionary notes.

Part 3.2 Administration (Interstate Agreements) Act 1997

[3.8] Section 1

substitute

1 Name of Act

This Act is the *Administration (Interstate Agreements) Act 1997*.

Explanatory note

This amendment brings the naming section into line with current drafting practice.

[3.9] Section 4, definitions

relocate to the dictionary

Explanatory note

This amendment relocates the definitions to a new dictionary that is inserted by another amendment.

[3.10] Section 4, remainder

substitute

4 Dictionary

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

Note 1 The dictionary at the end of this Act defines certain terms used in this Act.

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

4A 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.

Explanatory note

This amendment inserts a standard dictionary provision and a standard provision explaining the status of notes.

[3.11] New dictionary

insert

Dictionary

(see s 4)

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

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

- ACT
- Legislative Assembly
- Minister (see s 162)
- the Territory.

Explanatory note

This amendment inserts a dictionary and standard dictionary notes.

Part 3.3 Artificial Conception Act 1985

[3.12] Section 1

substitute

1 Name of Act

This Act is the *Artificial Conception Act 1985*.

Explanatory note

This amendment brings the naming section into line with current drafting practice.

[3.13] Section 2, definition of *adoptive parent*

substitute

adoptive parent—see the *Adoption Act 1993*, including especially section 4 (3).

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.14] Section 2, definitions (as amended)

relocate to the dictionary

Explanatory note

This amendment relocates the definitions to a new dictionary that is inserted by another amendment

[3.15] Section 2, remainder

substitute

2 Dictionary

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

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

For example, the signpost definition ‘*adoptive parent*—see the *Adoption Act 1993*, including especially section 4 (3).’ means that the term ‘adoptive parent’ is defined in that Act and the definition applies to this Act.

Note 3 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

2A 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.

Explanatory note

This amendment inserts a standard dictionary provision and a standard provision explaining the status of notes.

[3.16] Section 3 (2)

omit

and includes

Explanatory note

This amendment corrects a minor drafting error.

[3.17] New dictionary

insert

Dictionary

(see s 2)

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

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

- ACT
- disallowable instrument (see s 9)
- Minister (see s 162)
- notifiable instrument (see s 10)
- Supreme Court
- the Territory.

associated person, in relation to a parentage order, for division 3.4 (Access to information)—see section 19.

birth parent, of a prescribed child, for division 3.4 (Access to information)—see section 19.

husband—see section 3.

identifying information, in relation to a parentage order for division 3.4 (Access to information)—see section 19.

married woman—see section 3.

wife—see section 3.

Explanatory note

This amendment inserts a dictionary, signpost definitions (in line with current drafting practice) and standard dictionary notes.

Part 3.4 Charitable Collections Act 2003

[3.18] Section 20 (1)

omit

(a *primary offence*)

Explanatory note

This amendment omits unnecessary words.

Part 3.5 Children and Young People Act 1999

[3.19] Section 1

substitute

1 Name of Act

This Act is the *Children and Young People Act 1999*.

Explanatory note

This amendment brings the naming section into line with current drafting practice.

[3.20] Section 3

substitute

2 Dictionary

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

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

For example, the signpost definition '*drug of dependence*—see the *Drugs of Dependence Act 1989*, section 3 (1).' means that the term 'drug of dependence' is defined in that subsection and the definition applies to this Act.

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

3 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.

Explanatory note

This amendment brings the dictionary provision into line with current drafting practice and includes a standard provision explaining the status of notes.

[3.21] Section 9

omit

and powers

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, pt 1 defines *function* to include power and defines *exercise* a function to include perform the function.

[3.22] Section 17 (1), definition of *parental responsibility*

substitute

parental responsibility, for a child or young person, means all the duties, powers and responsibilities parents ordinarily have by law in relation to their children.

Note *Power* includes authority (see Legislation Act, dict, pt 1).

Explanatory note

This amendment omits an unnecessary word. The Legislation Act, dictionary, pt 1 defines *power* to include authority.

[3.23] Section 23 (3)

omit

appoint

substitute

give leave for

Explanatory note

This amendment brings the subsection into line with subsection (2), which provides that a person may only be a litigation representative for a child or young person with leave of the court.

[3.24] Section 26

omit everything before paragraph (a), substitute

26 Chief executive's functions

The chief executive has the following functions:

Explanatory note

This amendment updates a section heading consequential on the omission of subsection (2) by another amendment.

[3.25] Section 26 (2)

substitute

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*).

Explanatory note

This amendment omits a provision that is unnecessary because of the Legislation Act, section 196 (1). That section provides that a provision of a law that gives a function to an entity also gives the entity the powers necessary and convenient to exercise the function. The amendment also inserts a standard note about the power to exercise functions.

[3.26] Section 34

substitute

34 Delegation by chief executive

The chief executive may delegate the chief executive's functions under this Act or an interstate law to a public servant.

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

Explanatory note

This amendment updates the delegation provision by removing the words ‘in writing’ because the Legislation Act, section 232 provides that a delegation must be made, or evidenced, in writing.

‘Function’ is used instead of ‘power’ because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power and is the drafting term used now.

A standard note about delegations is also added.

[3.27] Section 36 (1), new notes

insert

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

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

Explanatory note

This amendment inserts standard notes about appointments.

[3.28] Section 39 heading

substitute

39 Ending of appointments

Explanatory note

This amendment updates the heading, in line with current drafting practice.

[3.29] Section 39, new note

insert

Note A person’s appointment also ends if the person resigns (see Legislation Act, s 210).

Explanatory note

This amendment inserts a standard note about resignation of an appointment.

[3.30] Section 41 (2), new notes

insert

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

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

Explanatory note

This amendment inserts standard notes about appointments.

[3.31] Section 41 (4)

omit

Explanatory note

This amendment omits an unnecessary subsection that dealt with resignation. The Legislation Act, section 210 provides that a person's appointment also ends if the person resigns.

[3.32] Section 41 (5), new note

insert

Note The official visitor's appointment also ends if the official visitor resigns (see Legislation Act, s 210).

Explanatory note

This amendment inserts a note because of the omission of section 41 (4) by another amendment.

[3.33] Section 41

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections.

[3.34] Section 48

substitute

48 Appointment of officers

- (1) The chief executive may appoint a public servant as an officer for this Act.

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

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) If, immediately before the commencement of this section, the duties of an office in the public service included exercising the functions of an officer, then, until the chief executive makes an appointment under subsection (1) in relation to the office or the duties of the office cease to include exercising the functions of an officer, a public servant for the time being exercising the duties of the office is an officer.
- (3) Subsection (2) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (4) Subsections (2) and (3) and this subsection expire 1 year after the day this section commences.

Explanatory note

This amendment removes the requirement that the chief executive must create and maintain offices. The Legislation Act, section 207 provides that an appointment may be made by naming the person appointed or by nominating the occupant of a position (however described), at a particular time or from time to time.

The amendment includes transitional arrangements that operate until new appointments are made.

Standard notes about appointments are also inserted.

[3.35] Section 51 (1) (b) (ii)

substitute

- (ii) cannot exercise the functions of the Childrens Court Magistrate for another reason.

Explanatory note

This amendment changes a reference to ‘duties’ to ‘functions’. *Function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power. *Exercise* a function is also defined there to include perform the function.

[3.36] Part 6.1 heading

substitute

Part 6.1 Interpretation for chapter 6

Explanatory note

This amendment substitutes a more specific part heading.

[3.37] Part 6.2 heading

substitute

Part 6.2 Dealing with young offenders in ACT

Explanatory note

This amendment substitutes a heading that better reflects the contents of the part.

[3.38] Division 6.2.1 heading

substitute

Division 6.2.1 General provisions for part 6.2

Explanatory note

This amendment substitutes a more specific division heading.

[3.39] Section 79 (2) (a)

substitute

- (a) unless 1 of the following adults (who is not a police officer) is present:
- (i) a person with parental responsibility for the young person;
 - (ii) a relative of the young person acceptable to the young person;
 - (iii) a lawyer acting for the young person or some other suitable person acceptable to the young person; or

Explanatory note

This amendment revises the paragraph to bring its structure into line with current drafting practice.

[3.40] Section 85 heading

substitute

85 Detention of young people generally

Explanatory note

This amendment is consequential on another amendment that inserts a new section 85A.

[3.41] Section 85 (5)

omit

Explanatory note

This amendment is consequential on another amendment that inserts a new section 85A.

[3.42] New section 85A

insert

85A Taking young person to and from court

- (1) This section applies if a young person is detained at a place and it is necessary to take the young person—
 - (a) from the place to a court; or
 - (b) from a court to the place.
- (2) The young person must not be taken with an adult under detention unless it is impracticable to avoid doing so.
- (3) The young person must not be taken to the court and placed in a room in which an adult is placed unless it is impracticable to avoid doing so.

Explanatory note

This amendment remakes section 85 (5) as section 85A to bring it structurally more closely into line with current drafting practice.

[3.43] Section 88 (2) and (3)

omit

a court

substitute

the Childrens Court

Explanatory note

This amendment changes the references to ‘a court’ to bring the subsections into line with section 88 (1). That subsection presently refers to ‘the court’ (defined in the dictionary to mean the Childrens Court). Another amendment changes the reference to ‘court’ in section 88 (1) to state the full name of the Childrens Court, in line with current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.44] Section 89 (1)

substitute

- (1) Subject to this section and section 91 (Young person may elect to be committed for trial), the Childrens Court may hear and decide a charge against a young person summarily if—
 - (a) the charge is an indictable offence; and
 - (b) the court is of the opinion that the case can properly be disposed of summarily.

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also revises the structure of the provision to bring it more closely into line with current drafting practice.

[3.45] Section 90

substitute

90 Committal for trial in certain cases

- (1) This section applies if a young person is charged before the Childrens Court with an indictable offence.
- (2) The Childrens Court must deal with the charge in accordance with the provisions of the *Magistrates Court Act 1930* relating to indictable offences if—
 - (a) the court has no power to hear and decide the charge summarily; or
 - (b) the court has the power, but decides not to hear and decide the charge summarily.

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current

drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also revises the structure and language of the provision to bring them more closely into line with current drafting practice.

[3.46] Section 98

substitute

98 Disposition without proceeding to conviction

- (1) This section applies if the Childrens Court is satisfied that a charge against a young person is proved but, having regard to the relevant criteria, the court is of the opinion that it should not proceed to a conviction.
- (2) The Childrens Court must, as soon as practicable but in any event within 6 months—
 - (a) dismiss the charge; or
 - (b) even though no conviction is entered, make 1 or more of the orders mentioned in section 96 (1) (a), (b), (f), (g) or (h) (which is about the disposition of young offenders).
- (3) In this section:
relevant criteria means the following:
 - (a) the welfare of the young person;
 - (b) the facts of the case;
 - (c) the seriousness of the offence;
 - (d) the circumstances in which the offence was committed;
 - (e) the age of the young person;
 - (f) the apparent maturity of the young person;
 - (g) the apparent mental capacity of the young person;
 - (h) the health of the young person.

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also brings the structure of the section more closely into line with current drafting practice.

[3.47] Section 103

substitute

103 Breach of certain orders for reparation or compensation

- (1) This section applies if—
 - (a) an order for reparation or compensation is made under section 96 (1) (f) (Disposition of young offenders) in relation to a young offender in favour of a person other than the Territory; and
 - (b) the young person in relation to whom the order is made fails to obey the order.
- (2) The Childrens Court may, at any time, by order served on the young person or on a person with parental responsibility for the young person, direct that the young person appear before the court at the time and place stated in the order.
- (3) If the young person does not appear before the Childrens Court as directed, the court may issue a warrant for the apprehension of the young person.

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also revises the structure of the section to bring it more closely into line with current drafting practice.

[3.48] Section 104 (1)

omit

a court

substitute

the Childrens Court

Explanatory note

This amendment changes a reference to ‘a court’ to bring the subsection into line with section 104 (2) and (3). Those subsections presently refer to ‘the court’ (defined in the dictionary to mean the Childrens Court). Another amendment changes the references to ‘court’ in section 104 (2) and (3) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.49] Section 105 (2) (b)

omit

this section

substitute

section 105A

Explanatory note

This amendment is consequential on another amendment to insert a new section 105A.

[3.50] Section 105 (3) and (4)

omit

Explanatory note

This amendment is consequential on another amendment to insert a new section 105A.

[3.51] New section 105A

insert

105A Issue of warrant to enter and inspect

- (1) This section applies if an information on oath is laid before a magistrate—
 - (a) alleging that there are reasonable grounds for suspecting that—
 - (i) a young person who is the subject of a probation order is living on premises other than with a person who has parental responsibility for the young person; and
 - (ii) it is necessary in the interests of the young person for the premises to be inspected and to meet and talk with the person; and
 - (b) setting out those grounds.
- (2) The magistrate may issue a search warrant authorising the supervisor of a young person, with reasonable and necessary assistance and force, to enter the premises—
 - (a) to inspect the premises; and
 - (b) to meet and talk with the young person on the premises.
- (3) However, a magistrate must not issue a warrant under this section unless—
 - (a) the informant or someone else has given to the magistrate, either orally or by affidavit, any further information the magistrate requires about the grounds on which the issue of the warrant is being sought; and
 - (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

Explanatory note

This amendment inserts a new section to remake section 105 (3) and (4) and bring their structure more closely into line with current drafting practice.

[3.52] Section 139 (2) (a)

substitute

- (a) a police officer; or

Explanatory note

This amendment changes the reference to a member of the police force to police officer, which is defined in the Legislation Act, dictionary, part 1 to mean a member or special member of the Australian Federal Police.

[3.53] Section 146 (8) (b) (ii)

substitute

- (ii) a police officer of the sending State;

Explanatory note

This amendment changes a reference to a member of the police force to police officer, in line with current drafting practice.

[3.54] Section 159 (1) (b)

substitute

- (b) a dentist; or

Explanatory note

This amendment updates a reference to ‘dentist’ which is now defined in the Legislation Act, dictionary, part 1.

[3.55] Section 163 (3) (b)

omit

a duty, function or power

substitute

a function

Explanatory note

Function is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power. *Exercise* a function is also defined there to include perform the function.

[3.56] Section 166 (1)

omit

, in writing,

Explanatory note

This amendment omits unnecessary words. The Legislation Act, section 206 provides that an appointment must be made, or evidenced, in writing.

[3.57] Section 166 (1), new notes

insert

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

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Explanatory note

This amendment inserts standard notes about appointments.

[3.58] Section 174 (3)

substitute

- (3) This division does not prevent the chief executive from taking action under another division of this part or under part 7.3 (Care and protection orders and emergency action) in relation to a child or young person.

Explanatory note

This amendment clarifies the application of section 174 (3) by changing the reference to part 7.2 to other divisions of part 7.2. Section 174 is in division 7.2.1.

[3.59] Section 175 (1)

substitute

- (1) This section applies if—
- (a) a conference has resulted in a signed agreement in relation to a child or young person; and
 - (b) the agreement proposes that parental responsibility for the child or young person—
 - (i) be transferred from a person to someone else (other than the chief executive); or
 - (ii) be shared with a person (other than the chief executive) who would not otherwise have it.

Note If a form is approved under s 416A for an agreement, the form must be used.

- (1A) The chief executive may apply to the Childrens Court to register the signed agreement.

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also revises the structure of subsection (1) to bring it more closely into line with current drafting practice.

[3.60] Section 175

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections.

[3.61] Section 192 (1) and (2)

omit

commissioner of police

substitute

chief police officer

Explanatory note

This amendment changes ‘commissioner of police’ to ‘chief police officer’ in accordance with current drafting practice. The Legislation Act, dictionary, part 1 defines *chief police officer* to be the police officer responsible to the commissioner of police for the day-to-day administration and control of police services in the ACT.

[3.62] Section 196 (3)

omit

court’s

substitute

Childrens Court’s

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.63] Section 204

omit 1st mention of

the court

substitute

the Childrens Court

Explanatory note

This amendment changes the reference to the first mention of the court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.64] Section 205 heading

substitute

205 When Childrens Court may make interim protection order

Explanatory note

This amendment updates the section heading and is consequential on the changes to references to the court to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.65] Section 205A heading

substitute

205A When Childrens Court may make final protection order

Explanatory note

This amendment updates the section heading and is consequential on the changes to references to the court to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.66] Section 214 (4)

substitute

- (4) However, the Childrens Court may extend or vary an order only if—
- (a) the effect of the extension or variation does not make the total period of the order extended or varied (including any extension, whether under subsection (3) (d) or otherwise) longer than the relevant period; or
 - (b) the court is satisfied that there are exceptional circumstances that justify the extension or variation.

- (5) In subsection (4):

relevant period means—

- (a) in relation to an assessment order or therapeutic protection order—8 weeks; or
- (b) in any other case—18 weeks.

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also revises the structure of section 214 (4), in line with current drafting practice.

[3.67] Section 221

omit

The court

substitute

The Childrens Court

Explanatory note

This amendment changes the reference to the court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current

drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.68] Section 248 (2) (c) (i)

substitute

- (i) the chief police officer; and

Explanatory note

This amendment changes ‘commissioner of police’ to ‘chief police officer’ in accordance with current drafting practice. The Legislation Act, dictionary, part 1 defines *chief police officer* to be the police officer responsible to the commissioner of police for the day-to-day administration and control of police services in the ACT.

[3.69] Section 248 (5)

substitute

- (5) If the Childrens Court gives a direction for service by a police officer, the chief police officer must, when requested to do so by the registrar, arrange for the document to be served by a police officer.

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

This amendment also changes ‘commissioner of police’ to ‘chief police officer’ in accordance with current drafting practice. The Legislation Act, dictionary, part 1 defines *chief police officer* to be the police officer responsible to the commissioner of police for the day-to-day administration and control of police services in the ACT.

[3.70] Section 260 (2) (b)

substitute

- (b) an order giving parental responsibility for the day-to-day and long-term care, welfare and development of the child or young person to the proposed carer while the order is in force.

Explanatory note

This amendment revises the language of the paragraph to bring it more closely into line with current drafting practice.

[3.71] Section 267 (1)

substitute

- (1) This section applies if, under a final care and protection order in force for a period longer than 6 months in relation to a child or young person—
- (a) the chief executive has parental responsibility for the child or young person; or
 - (b) the child or young person is subject to the supervision of the chief executive.
- (1A) The chief executive must give a report under this section to each of the following people:
- (a) the child or young person;
 - (b) each person with parental responsibility for the child or young person;
 - (c) a carer caring for the child or young person;
 - (d) the community advocate;
 - (e) the Childrens Court.

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also revises the structure of the section to bring it more closely into line with current drafting practice.

[3.72] Section 267 (5)

omit

subsection (1) (c), (d) or (e)

substitute

subsection (1A) (a), (b) or (c)

Explanatory note

This amendment is consequential on the previous amendment.

[3.73] Section 267

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections.

[3.74] Section 268 (1)

substitute

- (1) The chief executive may apply to the Childrens Court for an order waiving the need to comply with section 267 (1A) in relation to someone mentioned in section 267 (1A) (a), (b) or (c) if—
 - (a) the chief executive considers that to give the report to the person would not be in the best interests of the child or young person; or
 - (b) the person cannot be found after reasonable inquiries.

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also revises the structure of the subsection to bring it more closely into line with current drafting practice, and updates cross-references consequentially on amendments of section 267.

[3.75] Section 268 (6)

substitute

- (6) An application under subsection (1) may be heard in the absence of a party.

Explanatory note

This amendment brings the language of the subsection more closely into line with current drafting practice by substituting a plain English expression for the Latin *ex parte*.

[3.76] Section 269 (1)

substitute

- (1) The community advocate may apply to the Childrens Court for an order requiring the chief executive to give a report to a person to whom a report is required to be given under section 267 if the chief executive has not—
- (a) given the report in accordance with the section; and
 - (b) obtained an order waiving the requirement to give the report to the person.

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also revises the structure of the subsection to bring it more closely into line with current drafting practice.

[3.77] Section 269 (4)

substitute

- (4) The Childrens Court may extend the period of a final care and protection order so that it ends not more than 1 month after the day the order is made if—
- (a) the court orders the chief executive to give a report in relation to the final care and protection order; and

- (b) the final care and protection order ends within a month after the day the order is made.

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also revises the structure of the subsection, in line with current drafting practice, and brings the language of the subsection more closely into line with section 269 (3).

[3.78] Section 271 heading

substitute

271 Childrens Court's power in relation to child or young person taken into safe custody

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.79] Section 271

omit

the court

substitute

the Childrens Court

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.80] Section 273 heading

substitute

273 Childrens Court may inform itself of child's or young person's wishes

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.81] Section 273

omit

The court

substitute

The Childrens Court

Explanatory note

This amendment changes the reference to the court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.82] Section 279

substitute

279 Hearing of applications in party's absence

If someone makes an application under this part, the person may, at the same time, seek the leave of the Childrens Court to have the application heard in the absence of any other party.

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current

drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

This amendment also brings the language of the subsection more closely into line with current drafting practice by substituting a plain English expression for the Latin *ex parte*.

[3.83] Section 282

substitute

282 Joining parties—court initiated

- (1) If, in a proceeding on an application under this part, the Childrens Court is satisfied that it should make an order binding on or affecting someone who is not a party to the proceeding, the court may join that person as a party to the proceeding.
- (2) However, the court must allow the person a reasonable opportunity to make representations to the court about why the order should not be made—
 - (a) before making the order; or
 - (b) if, because of the urgency of the case it is not possible to do so before making the order—within a reasonable time after making the order.

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also revises the structure of the section to bring it more closely into line with current drafting practice.

[3.84] Section 284 (1)

omit

- (1) If the court makes

substitute

If the Childrens Court makes

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also revises the subsection to omit an unnecessary subsection number.

[3.85] Section 285 (1)

substitute

- (1) This section applies if, on application by a party to a proceeding or on its own initiative, the Childrens Court is satisfied that a party to a proceeding—

- (a) has been improperly or unnecessarily joined; or
- (b) has ceased to be a proper or necessary party.

- (1A) The Childrens Court may—

- (a) order that the party cease to be a party; and
- (b) make any other orders or directions for the conduct of the proceeding that the court considers appropriate.

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also revises the structure of the section to bring it more closely into line with current drafting practice.

[3.86] Section 285

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections.

[3.87] Section 299 (1), definition of *Childrens Court*

omit

Explanatory note

This amendment omits the definition of Childrens Court because of the amendments made by this schedule. The term ‘Childrens Court’ will be used consistently throughout the Act to refer to the ACT Childrens Court. The definition is reinserted in another amendment as a definition of State Childrens Court.

[3.88] Section 299 (1), new definition of *State Childrens Court*

insert

State Childrens Court, of a State, means the court with jurisdiction to hear and decide a child care and protection proceeding in the State at first instance.

Explanatory note

This amendment renames the Childrens Court for this chapter as the State Childrens Court. The amendment is consequential on the use of Childrens Court consistently throughout the Act to mean the ACT Childrens Court.

[3.89] Section 310

substitute

310 When Childrens Court may make order under pt 8.3

- (1) The Childrens Court may make an order (the *transfer order*) under this part transferring a child care and protection proceeding pending in the court to the State Childrens Court of a participating State if—
 - (a) the chief executive applies for the making of the order; and

- (b) the relevant interstate officer has consented to the transfer.
- (2) The proceeding is discontinued in the Childrens Court when the transfer order is registered in the State Childrens Court of the participating State in accordance with the interstate law.

Explanatory note

This amendment is consequential on the renaming of Childrens Court in relation to a State as the State Childrens Court and changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.90] Sections 311

omit

Childrens Court in

substitute

State Childrens Court of

Explanatory note

This amendment is consequential on the renaming of Childrens Court in relation to a State as the State Childrens Court.

[3.91] Section 312 heading

substitute

312 Childrens Court to have regard to certain matters

Explanatory note

This amendment updates the section heading and is consequential on the changes to references to the court to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.92] Section 312

omit

the court

substitute

the Childrens Court

Explanatory note

This amendment changes the reference to the court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.93] Sections 313 (4), 314 (1) and 316 (1)

omit

Childrens Court in

substitute

State Childrens Court of

Explanatory note

These amendments are consequential on the renaming of Childrens Court in relation to a State as the State Childrens Court.

[3.94] Section 318 (1)

substitute

- (1) An application for revocation of the registration of a document filed under section 315 (Filing and registration of interstate documents) may be made to the Childrens Court by—
 - (a) the chief executive; or
 - (b) the child or young person concerned; or
 - (c) someone with parental responsibility for the child or young person concerned; or

- (d) a party to the proceeding in the State Childrens Court in the sending State in which the decision to transfer the order or proceeding was made.

Explanatory note

This amendment is consequential on the renaming of Childrens Court in relation to a State as the State Childrens Court.

This amendment also changes the reference to the court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.95] Section 318 (3) and (4)

substitute

- (3) The Childrens Court may revoke the registration of a document filed under section 315 only if satisfied that it was inappropriately registered because, under the interstate law—
- (a) the decision of the interstate officer or the order of the State Childrens Court of the sending State to transfer the order or proceeding was subject to appeal or review, or a stay, at the time of registration; or
 - (b) the time for beginning an appeal or seeking a review had not ended.
- (4) The registrar of the Childrens Court must send each document filed under section 315 to the State Childrens Court of the sending State if the registration of the document is revoked.

Explanatory note

This amendment is consequential on the renaming of Childrens Court in relation to a State as the State Childrens Court.

This amendment also changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also brings the language of the subsections more closely into line with current drafting practice.

[3.96] Section 320

substitute

320 Transfer of Childrens Court file

The registrar of the Childrens Court must send all documents filed in the court in relation to a child care and protection proceeding, and an extract from any part of the register that relates to a child care and protection proceeding, to the State Childrens Court of a participating State if, under this chapter—

- (a) the child care and protection order or proceeding is transferred to the State Childrens Court; and
- (b) the transfer decision or order is not subject to appeal or review or a stay; and
- (c) the time for beginning an appeal or seeking a review has ended.

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also changes references to the Childrens Court in a participating State to the State Childrens Court. In addition, the amendment brings the language of the section more closely into line with current drafting practice.

[3.97] Sections 322 and 323

substitute

322 Deciding transferred proceeding

In deciding a child care and protection proceeding transferred to the Childrens Court under an interstate law, the court—

- (a) is not bound by a finding of fact made in the proceeding in the State Childrens Court of the sending State before its transfer; and

- (b) may have regard to the transcript of, or evidence presented in, the proceeding mentioned in paragraph (a).

323 Disclosure of information

- (1) The chief executive may disclose to an interstate officer information that has come to the chief executive's notice in the exercise of functions under this Act if the chief executive considers it necessary to disclose the information to allow the interstate officer to exercise functions under a child welfare law or an interstate law.

Note **Function** includes authority, duty and power (see Legislation Act, dict, pt 1).

- (2) This section has effect despite any other provision of this Act.

Explanatory note

This amendment changes the reference in section 322 to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to. The amendment also changes references to Childrens Court to the State Childrens Court.

In addition, the amendment omits unnecessary words from section 323 and brings the language of the section more closely into line with current drafting practice.

The Legislation Act, dictionary, part 1 defines **function** to include power and defines **exercise** a function to include perform the function.

[3.98] Section 330 (i) (ii)

substitute

- (ii) a private hospital; or

Explanatory note

This amendment omits a reference to regulations that have been repealed.

[3.99] Section 353 (3)

substitute

- (3) In any proceeding in a court, evidence may be given about the grounds contained in a report for the belief that this chapter or a condition of a licence is being contravened.
- (3A) However, the following evidence is admissible in a proceeding only if the court in which the proceeding is brought gives leave for the evidence to be given or if the person who made the report (the *reporter*) consents in writing to the admission of the evidence:
- (a) evidence that a particular matter is contained in a report;
 - (b) evidence that identifies the reporter or is likely to lead to the identification of the reporter.

Explanatory note

This amendment brings the structure of the section more closely into line with current drafting practice and clarifies the meaning of a reference to the court.

[3.100] Section 353 (6) (b)

substitute

- (b) in relation to a charge or allegation made in a proceeding against someone in the exercise of his or her functions under this Act; or

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines *function* to include authority, duty and power and defines *exercise* a function to include perform the function.

[3.101] Section 353

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections.

[3.102] Sections 367, 370 (1), 371 (1) and 372

omit

this part

substitute

this chapter

Explanatory note

These amendments correct incorrect provision references.

[3.103] Section 378 heading

substitute

378 Ch 10 subject to certain provisions of Education Act 1937

Explanatory note

This amendment corrects an incorrect provision reference.

[3.104] Section 378

omit

This part

substitute

This chapter

Explanatory note

This amendment corrects an incorrect provision reference.

[3.105] Section 379

omit

this part

substitute

this chapter

Explanatory note

This amendment corrects an incorrect provision reference.

[3.106] Section 380 (1) (a)

omit

part 6.2 (Within the Territory)

substitute

part 6.2 (Dealing with young offenders in ACT)

Explanatory note

This amendment is consequential on the amendment of the heading to part 6.2 by an earlier amendment.

[3.107] Sections 380 (5) and 382

omit

this part

substitute

this chapter

Explanatory note

These amendments correct incorrect provision references.

[3.108] Section 385 (2)

omit

or a judge sitting in chambers

Explanatory note

This amendment omits an outdated reference to a judge sitting in chambers. The distinction between court and chambers has been abolished in the ACT (see *Supreme Court Act 1933*, s 21).

[3.109] Section 386 (b)

omit

court

substitute

court hearing the charge

Explanatory note

This amendment clarifies a reference to the court.

[3.110] Section 405

omit

duty or

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines *function* to include duty and defines *exercise* a function to include perform the function.

[3.111] Section 407 (2) (a)

substitute

- (a) an act done or omitted to be done honestly and without negligence by the person in the exercise, or purported exercise, of a function under or in relation to this Act; or

Explanatory note

This amendment updates language and omits unnecessary words. The Legislation Act, dictionary, part 1 defines *function* to include duty and defines *exercise* a function to include perform the function.

[3.112] Section 412

omit

The Minister

substitute

- (1) The Minister

Explanatory note

This amendment is consequential on the insertion of new section 412 (2) by another amendment.

[3.113] New section 412 (2)

insert

- (2) A declaration is a notifiable instrument.

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

Explanatory note

This amendment makes the declaration that a place is an attendance centre, an institution or a shelter an instrument that must be publicly notified under the Legislation Act.

[3.114] Section 413 (2)

substitute

- (2) If the chief police officer, or a police officer authorised by the chief police officer, believes on reasonable grounds that someone has suffered loss because of an act or offence by the child or young person, the officer may give the person the name, age and address of the child or young person and particulars of the act or offence.

Explanatory note

This amendment changes references to the ‘commissioner of police’ to the ‘chief police officer’ and updates language. The Legislation Act, dictionary, part 1 defines *chief police officer* to be the police officer responsible to the commissioner of police for the day-to-day administration and control of police services in the ACT.

[3.115] Section 413 (3)

omit

court

substitute

court that disposed of the charge

Explanatory note

This amendment clarifies a reference to the court.

[3.116] Section 417 (2) (a) and (b)

omit

for or with respect to

substitute

in relation to

Explanatory note

These amendments revise language in accordance with current drafting practice. The Legislation Act, dictionary, part 1, defines *in relation to* to include 'for or with respect to'.

[3.117] Section 418

omit

The Minister

substitute

(1) The Minister

Explanatory note

This amendment is consequential on the next amendment.

[3.118] New section 418 (2)

insert

(2) This section expires on 10 May 2004.

Explanatory note

This amendment includes an expiry for a section with transitional effect, bringing it into line with current drafting practice.

[3.119] Dictionary, heading

substitute

Dictionary

(see s 2)

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

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

- ACT
- administrative appeals tribunal
- chief executive (see s 163)
- disallowable instrument (see s 9)
- Executive
- individual
- lawyer
- mental health tribunal
- Minister (see s 162)
- notifiable instrument (see s 10)
- penalty unit (see s 133)
- police officer
- State
- the Territory
- working day.

Explanatory note

This amendment updates the cross-reference to the dictionary section and inserts standard dictionary notes.

[3.120] Dictionary, definition of *body*

substitute

body includes an agency or organisation.

Explanatory note

This amendment brings the language of the definition more closely into line with current drafting practice.

[3.121] Dictionary, definition of *Childrens Court*

substitute

Childrens Court—see section 53.

Explanatory note

This amendment is consequential on an amendment to section 299 omitting the definition of *Childrens Court*.

[3.122] Dictionary, definition of *court*

omit

Explanatory note

This amendment omits the definition of *court* in line with the current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

[3.123] Dictionary, definition of *mental health tribunal*

omit

Explanatory note

This amendment omits a definition of a term now defined in the Legislation Act, dictionary, part 1.

[3.124] Dictionary, new definition of *State Childrens Court*

insert

State Childrens Court, for chapter 8—see section 299.

Explanatory note

This amendment inserts a signpost definition for *State Childrens Court* in accordance with current drafting practice.

[3.125] Dictionary, definition of *working day*

omit

Explanatory note

This amendment omits a definition of a term now defined in the Legislation Act, dictionary, part 1.

[3.126] Further amendments, mentions of *court*

omit

court

substitute

Childrens Court

in the following provisions:

- section 23 (1) (b), (2) and (3)
- section 24 (1) (1st mention)
- sections 24 (2) (b) (i), (3) and (4) and 25 (1)
- section 25 (2) (1st mention)
- sections 54 (1) and 56 (2)
- section 57 (1st mention)
- section 59
- section 60 (1) (1st mention)
- section 60 (2) (b)
- section 60 (3) (1st mention)
- section 60 (4) (1st mention)

- section 61 (1st mention)
- sections 62 and 69 (1)
- section 69 (2) (1st mention)
- section 69 (3) (1st mention)
- section 75 (1) (1st mention)
- section 75 (2) (1st mention)
- section 75 (3) (1st mention)
- section 75 (4)
- section 75 (6) (1st mention)
- section 75 (8) (1st mention)
- sections 83 (1) (c) and 87
- section 88 (1) (1st mention)
- section 89 (3) (1st mention)
- section 91
- section 95 (1) (1st mention)
- section 95 (2) and (3)
- section 95 (4) (1st mention)
- section 95 (6)
- section 96 (1) (1st mention)
- section 97
- section 99 (1) (1st mention)
- section 99 (2)
- section 100 (1st mention)
- section 101 (1) and (2)
- section 101 (3) (1st mention)
- sections 102 (1) and (2), 104 (2), (3) and (4), 106 (3) and (6) and 107 (6)
- section 109 (1) (1st mention)
- section 109 (2) (1st mention)
- section 109 (3) and (4)
- section 109 (5) (1st mention)

- sections 109 (6), 110 (3) and (6), 111 (6) and 114
- section 116 (2) (1st mention)
- section 116 (3) (1st mention)
- section 116 (4) (1st mention)
- section 116 (5) (a)
- section 117 (1) (1st mention)
- section 117 (2) (d)
- section 117 (3) (1st mention)
- section 117 (4)
- section 117 (5) (1st mention)
- section 118 (1) (a) and (2)
- section 118 (3) (1st mention)
- sections 118 (4) and 124 (1)
- section 124 (2) (1st mention)
- sections 124 (3) and 125 (1) and (2)
- section 127 (1st mention)
- section 128 (3)
- section 128 (4) (1st mention)
- sections 135 (1) (d) and (4) (d), 148 (1), 153 (1), 154
- section 163 (3) (a) (1st and last mention)
- sections 176, 177, 178 (3), 187 (2) (b) and (3), 193, 196 (1) and (2) and 199 (1)
- section 199 (2) (1st mention)
- sections 199 (3), 201 (2), 202 and 203
- section 205 (1) (1st mention)
- section 205 (2) and example
- section 205A (1)
- section 205A (2) (1st mention)
- sections 206 (2) and (4) and 207 (2)
- section 207 (3) (1st mention)
- sections 211, 212, 214 (2) and 214 (3) (b)

- section 215
- section 217 (2) (1st mention)
- section 218
- section 220 (b) (1st mention)
- section 225 (1) (b)
- section 225 (2) (1st mention)
- section 226 (1) (c)
- section 228 (1) (1st mention)
- sections 231 and 235 (1)
- section 235 (2) (1st mention)
- section 236 (1)
- section 236 (2) (1st mention)
- sections 236 (3) and 239
- section 240 (1) (1st mention)
- section 246 (1) and (3) (e) (ii) and (h)
- section 248 (2) (1st mention)
- section 248 (3) (1st mention)
- section 248 (4) (1st mention)
- sections 249 and 251
- section 252 (1) (1st mention)
- sections 252 (2), (3) and (4), 253, 254, 255, 258, 259 (3), 260 (1) and 261
- section 263 (1) (1st mention)
- section 263 (2)
- section 263 (3) (1st mention)
- section 263 (4) (a)
- section 264 (1) (1st mention)
- sections 264 (2), (3), (4) and (5) and 265 (1)
- section 265 (2) (1st mention)
- section 265 (3) (1st mention)
- sections 268 (3) and (5)

- section 269 (3) (1st mention)
- section 270 (4)
- section 270 (5) (1st mention)
- section 272 (1st mention)
- sections 274
- section 277 (1st mention)
- section 278
- section 280 (1) (d) (i)
- section 281 (1st mention)
- sections 283, 285 (2) and 286
- section 287 (1) (1st mention)
- section 287 (2), (3) and (4)
- section 288 (2) (1st mention)
- section 289 (1) (1st mention)
- sections 289 (2), 290 and 291 (1) and (2)
- section 292 (1) (1st mention)
- section 292 (2) (1st mention)
- section 292 (3) (1st mention)
- section 292 (5) (1st mention)
- section 293 (1)
- section 293 (2) (1st mention)
- section 294 (1st mention)
- sections 295 (1), 296 (1) and 304
- section 306 (1) (1st mention)
- sections 306 (2), (3), (4) and (5) (b), 307 and 308
- section 313 (1) (1st mention)
- section 315
- section 317 (1) (1st mention)
- section 317 (2) (1st mention)
- sections 317 (3), 319 (1), 321 and 380 (1)

Explanatory note

This amendment changes the reference to court (defined in the dictionary to mean the Childrens Court) to state the full name of the Childrens Court in line with current drafting practice of using a name for the court that allows the reader to easily identify which court is being referred to.

Part 3.6 Confiscation of Criminal Assets Act 2003

**[3.127] Section 80, definition of *benefits*, paragraphs (a)
and (b)**

substitute

- (a) tainted property, except tainted property that was used, or was intended by the offender to be used, in relation to the commission of an offence, and property derived by anyone from that property; or
- (b) artistic profits allowed under section 81 (3) in relation to the offence; or

Explanatory note

This amendment substitutes the disjunctive ‘or’ for the conjunctive ‘and’ at the end of each of the paragraphs of a ‘means’ definition in accordance with current drafting practice. Each paragraph of the definition clearly provides an alternative (rather than cumulative) meaning of the defined term.

Part 3.7 Criminal Code 2002

[3.128] Section 10

omit

In this Act:

substitute

(1) In this Act:

Explanatory note

This amendment is consequential on the next amendment.

[3.129] New section 10 (2)

insert

(2) This section expires on the default application date.

Explanatory note

This amendment is in line with current drafting practice of providing for the expiry of transitional provisions when they are spent.

Part 3.8 Drugs in Sport Act 1999

[3.130] Title

omit

confer functions and powers on

substitute

give functions to

Explanatory note

This amendment brings the language of the long title more closely into line with current drafting practice. **Function** is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power.

[3.131] Section 3, definitions

relocate to the dictionary

Explanatory note

This amendment relocates the definitions to a new dictionary that is inserted by another amendment.

[3.132] Section 3, remainder

substitute

2 Dictionary

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

Note 1 The dictionary at the end of this Act defines certain terms used in this Act.

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

Explanatory note

This amendment inserts a standard dictionary provision.

[3.133] Section 6 heading

substitute

6 Giving of functions to ASDA

Explanatory note

This amendment brings the language of the section's heading into line with current drafting practice. *Function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power.

[3.134] Section 6 (1)

omit

and powers

Explanatory note

This amendment omits unnecessary words. **Function** is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power.

[3.135] Section 6 (2)

omit

, functions and powers

substitute

and functions

Explanatory note

This amendment omits unnecessary words. **Function** is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power.

[3.136] Section 6 (4) (b)

substitute

(b) section 8 (Agreement with ASDA about exercise of functions under Act).

Explanatory note

This amendment is consequential on the amendment of the heading to section 8 by the next amendment.

[3.137] Section 8

substitute

8 Agreement with ASDA about exercise of functions under Act

(1) The Minister may enter into an agreement with ASDA about the exercise of its functions under this Act.

- (2) The agreement may provide that ASDA must exercise its functions under this Act as provided under the agreement.

Explanatory note

This amendment brings the language of the section more closely into line with current drafting practice. *Function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power.

[3.138] New dictionary

insert

Dictionary

(see s 2)

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

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

- ACT
- Commonwealth
- Executive
- exercise
- Federal Court
- function.

Explanatory note

This amendment inserts a dictionary and standard dictionary notes.

Part 3.9 Financial Management Act 1996

[3.139] Section 67 (1)

after

may

insert

, in writing,

Explanatory note

The Legislation Act defines an instrument as any writing or other document. The insertion of ‘in writing’ ensures that financial management guidelines fall within that definition (see Legislation Act, s 14 (1)) and will be disallowable instruments as envisaged by the *Financial Management Act 1996*, section 67 (2).

Part 3.10 First Home Owner Grant Act 2000

[3.140] Section 3, note 1

omit

For example, the signpost definition ‘*identity card*—see the *Taxation Administration Act 1999*, section 3 (1)’ means that the term ‘identity card’ is defined in section 3 (1) of that Act and the definition applies to this Act.

substitute

For example, the signpost definition ‘*identity card*—see the *Taxation Administration Act 1999*, dictionary.’ means that the term ‘identity card’ is defined in that dictionary and the definition applies to this Act.

Explanatory note

This amendment updates a reference consequential on another amendment to insert a dictionary in the *Taxation Administration Act 1999*.

[3.141] Dictionary, definition of *identity card*

substitute

identity card—see the *Taxation Administration Act 1999*, dictionary.

Explanatory note

This amendment updates a reference consequential on another amendment to insert a dictionary in the *Taxation Administration Act 1999*.

Part 3.11 Gaming Machine Act 1987

[3.142] Section 4, definition of *bar-room*

substitute

bar-room—see the *Liquor Act 1975*, dictionary.

Explanatory note

This amendment updates a cross-reference.

[3.143] Section 4, definitions (as amended)

relocate to the dictionary

Explanatory note

This amendment relocates the definitions to a new dictionary that is inserted by another amendment.

[3.144] Section 4, remainder

substitute

3 Dictionary

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

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

For example, the signpost definition '*bar-room*—see the *Liquor Act 1975*, dictionary.' means that the term 'bar-room' is defined in that dictionary and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see 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.

Explanatory note

This amendment inserts a standard dictionary provision and a standard provision explaining the status of notes.

[3.145] Section 30CA (2)

omit

30C (g)

substitute

30C (1) (f)

Explanatory note

This amendment updates a cross-reference that was not updated following the amendment of section 30C by the *Gaming Machine Amendment Act 2000*, section 7 and the subsequent renumbering of paragraphs in the next republication.

[3.146] Section 30CA (3)

omit

the commencement of the *Gaming Machine (Amendment) Act 1993*,
section 18

substitute

1 November 1993

Explanatory note

This amendment substitutes the actual date of commencement of the *Gaming Machine (Amendment) Act 1993*, section 18.

[3.147] Section 59 (2)

substitute

(2) A return must be in writing.

Note If a form is approved under the *Gambling and Racing Control Act 1999*, s 53D for a return, the form must be used.

Explanatory note

This amendment makes it clear that the return is in a form approved for a gaming law under the *Gambling and Racing Control Act 1999*, s 53D rather than independently under the *Gaming Machine Act 1987*.

[3.148] New dictionary

insert

Dictionary

(see s 3)

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

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

- ACT
- Commonwealth
- Corporations Act
- disallowable instrument (see s 9)
- Executive
- financial year
- Legislative Assembly
- month
- the Territory.

Explanatory note

This amendment inserts a dictionary and standard dictionary notes.

Part 3.12 Health Professionals (Special Events Exemptions) Act 2000

[3.149] Section 3, definition of *restricted substance*, paragraph (a)

omit

schedule 4;

substitute

schedule 4; or

Explanatory note

This amendment inserts an ‘or’ at the end of a paragraph in accordance with current drafting practice.

[3.150] Section 3, definition of *special event*

substitute

special event means an event that is declared to be a special event under section 5 (1).

Explanatory note

This amendment converts the definition from a signpost definition in accordance with current drafting practice.

[3.151] Section 3, definition of *supply*

substitute

supply—see the *Poisons and Drugs Act 1978*, dictionary.

Explanatory note

This amendment adds ‘dictionary’ to the end of the definition, in line with current drafting practice, so that the definition can be more easily located.

[3.152] Section 3, definitions (as amended)

relocate to the dictionary

Explanatory note

This amendment relocates the definitions to a new dictionary that is inserted by another amendment.

[3.153] Section 3, remainder

substitute

2 Dictionary

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

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

For example, the signpost definition ‘*drugs and poisons standard*—see the *Poisons and Drugs Act 1978*, dictionary.’ means that the term ‘drugs and poisons standard’ is defined in that dictionary and the definition applies to this Act.

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

Explanatory note

This amendment inserts a standard dictionary provision.

[3.154] New dictionary

insert

Dictionary

(see s 2)

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

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

- ACT
- dental prosthetist

- dental technician
- dentist
- doctor
- Minister (see s 162)
- notifiable instrument (see s 10)
- nurse
- penalty unit (see s 133)
- pharmacist.

Explanatory note

This amendment inserts a dictionary and standard dictionary notes.

Part 3.13 Long Service Leave (Contract Cleaning Industry) Act 1999

[3.155] New section 2A

insert

2A 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.

Explanatory note

This amendment inserts a standard provision about notes.

[3.156] Section 9

substitute

9 Delegation by board

The board may delegate the board's functions to a public servant.

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

Explanatory note

This amendment updates the delegation provision by removing the words ‘in writing’ because the Legislation Act, section 232 provides that a delegation must be made, or evidenced, in writing. Also, the reference to the ‘common seal’ of the board is unnecessary because the signature of a person authorised by the board for the purpose of making a delegation is taken to be the signature of the board (see Legislation Act, section 199 (2)).

Function is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power.

A standard note about delegations is also added.

[3.157] Section 11

substitute

11 Term of appointment of members

A member is appointed for a term of not longer than 5 years.

Explanatory note

This amendment remakes the section to omit an unnecessary subsection and note. The Legislation Act, section 206 (2) provides if a law provides for a maximum term of appointment, the instrument of appointment must state the period for which the appointment is made.

[3.158] Section 13 heading

substitute

13 Ending of appointment

Explanatory note

This amendment updates the heading in line with current drafting practice.

[3.159] Section 13, new note

insert

Note A person’s appointment also ends if the person resigns (see Legislation Act, s 210).

Explanatory note

This amendment updates the section by inserting a standard note about resignation. The Legislation Act, section 210 provides that a person's appointment also ends if the person resigns.

[3.160] Sections 19 and 20

substitute

19 Long Service Leave Registrar

- (1) The chief executive must appoint a public servant as Long Service Leave Registrar.

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

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) The registrar has the functions given under this Act or another Territory law.
- (3) Until the chief executive makes an appointment under subsection (1), the registrar is the public servant for the time being exercising the duties of the public service office the duties of which include exercising the functions of the registrar.
- (4) Subsection (3) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (5) Subsections (3) and (4) and this subsection expire 1 year after the day this section commences.

20 Deputy Long Service Leave Registrar

- (1) The chief executive must appoint a public servant as Deputy Long Service Leave Registrar.

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

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) The deputy registrar may exercise any function of the registrar, subject to any direction of the registrar.
- (3) Until the chief executive makes an appointment under subsection (1), the deputy registrar is the public servant for the time being exercising the duties of the public service office the duties of which include exercising the functions of the deputy registrar.
- (4) Subsection (3) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (5) Subsections (3) and (4) and this subsection expire 1 year after the day this section commences.

Explanatory note

This amendment remakes the sections and removes the requirement that the chief executive must create and maintain offices for a registrar and deputy registrar in the public service. The Legislation Act, section 207 provides that an appointment may be made by naming the person appointed or by nominating the occupant of a position (however described), at a particular time or from time to time.

The amendment includes transitional arrangements that operate until new appointments are made.

The amendment also inserts standard notes about appointments in each of the sections.

Part 3.14 Magistrates Court Act 1930

[3.161] Section 1

substitute

1 Name of Act

This Act is the *Magistrates Court Act 1930*.

Explanatory note

This amendment brings the naming section into line with current drafting practice.

[3.162] Section 116H (1) (a), (2) (a) and (3)

omit

116A (3)

substitute

116AA (1)

Explanatory note

This amendment updates a cross-reference.

Part 3.15 Magistrates Court Rules 1932

[3.163] Part 6

substitute

Part 6 Australian register of judgments

31 Entry of Australian judgments in register

A judgment required to be registered in the court under the *Service and Execution of Process Act 1992* (Cwlth), section 105

(Enforcement of judgments) must be entered in the Australian register of judgments kept by the registrar.

Explanatory note

This amendment updates part 6 of the rules to bring it into line with the *Service and Execution of Process Act 1992* (Cwlth), section 105 (Enforcement of judgments).

[3.164] Part 11

omit

Explanatory note

This amendment omits a redundant part. All former New South Wales Acts in force in the ACT have been fully assimilated into ACT law (see Legislation Act, dict, pt 1, def *former NSW Act*).

Part 3.16 Prisoners (International Transfer) Act 1999

[3.165] Section 4, definition of *function*

omit

Explanatory note

This amendment omits a redundant definition. *Function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty or power.

[3.166] Section 4, definitions (as amended)

relocate to the dictionary

Explanatory note

This amendment relocates the definitions to a new dictionary that is inserted by another amendment

[3.167] Section 4, remainder

substitute

4 Dictionary

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

Note 1 The dictionary at the end of this Act defines certain terms used in this Act.

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

4A Terms defined in Commonwealth Act

A term defined in the Commonwealth Act has the same meaning in this Act.

4B 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.

Explanatory note

This amendment inserts a standard dictionary provision, remakes an interpretative provision in accordance with current drafting practice and inserts a standard notes provision.

[3.168] Section 5 heading

substitute

5 Minister's functions

Explanatory note

This amendment updates the heading in line with current drafting practice.

[3.169] Section 6 heading

substitute

6 Functions of prison officers, police officers and others

Explanatory note

This amendment updates the heading in line with current drafting practice.

[3.170] New dictionary

insert

Dictionary

(see s 4)

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

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

- ACT
- Australia
- Commonwealth
- Executive
- Federal Court
- function
- Minister (see s 162)
- State
- the Territory.

Explanatory note

This amendment inserts a dictionary and standard dictionary notes.

Part 3.17 Protection Orders Act 2001

[3.171] Section 32 (1) (b)

omit

section 205 (When may the court make a protection order?)

substitute

section 205 (When Childrens Court may make interim protection order)

Explanatory note

This amendment is consequential on the amendment of the heading to the *Children and Young People Act 1999*, section 205 by an earlier amendment.

Part 3.18 Public Health Act 1997

[3.172] Section 101 (2) (a) and (b)

substitute

- (a) commences—
 - (i) on the day after its notification day; or
 - (ii) if a later commencement day is stated in the declaration—on the day stated; and
- (b) remains in force—
 - (i) for a stated period of not longer than 6 months; or
 - (ii) if no period is stated in the declaration—for 6 months beginning on its notification day.

Explanatory note

This amendment restructures paragraphs, and provides for the declaration to commence on the day after it is notified on the legislation register (or later), in line with the commencement rules for registrable instruments in the Legislation Act, section 73.

This amendment also provides for a declaration to automatically remain in force for 6 months if the declaration does not state a period for which it is to remain in force. The amendment will provide for greater administrative certainty.

[3.173] Section 121 (3) (b)

substitute

- (b) for a public health officer—his or her authorisation under section 12A (1) and identity card; or

Explanatory note

This amendment updates a cross-reference and makes the language more precise.

[3.174] Section 121 (4), definition of *authorised person*, paragraph (b)

omit

14 (2)

substitute

12A (1)

Explanatory note

This amendment updates a cross-reference.

[3.175] Dictionary, definitions of *occupier*

substitute

occupier—

- (a) for this Act (other than part 5)—of a place, includes—
- (i) an owner of the place; and
 - (ii) a person in charge of the place; and
 - (iii) a person authorised to be present at the place as an agent of an occupier, owner or person in charge of the place; and
- (b) for part 5 (Inspection and analysis)—see section 75.

Explanatory note

This amendment combines the 2 definitions of *occupier*.

Part 3.19 **Public Sector Management Act 1994**

[3.176] Section 3, definition of *Territory instrumentality*, paragraph (e)

omit

subsection (2)

substitute

section 3A

Explanatory note

This amendment updates a cross-reference.

[3.177] Schedule 3, amendment 3.19, new section 57A (1) (a)

omit

employers

substitute

employees

Explanatory note

This amendment corrects a minor drafting error.

Part 3.20 Race and Sports Bookmaking Act 2001

[3.178] Dictionary, definition of *controlling body*

substitute

controlling body—see the *Racing Act 1999*, dictionary.

Explanatory note

This amendment updates a reference consequential on another amendment to insert a dictionary in the *Racing Act 1999*.

Part 3.21 Racing Act 1999

[3.179] Section 1

substitute

1 Name of Act

This Act is the *Racing Act 1999*.

Explanatory note

This amendment brings the naming section into line with current drafting practice.

[3.180] Section 3, definitions

relocate to the dictionary

Explanatory note

This amendment relocates the definitions to a new dictionary that is inserted by another amendment

[3.181] Section 3, remainder

substitute

2 Dictionary

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

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

For example, the signpost definition '*licensed racecourse*—section 5.' means that the term 'licensed racecourse' is defined in that section and the definition applies to this Act.

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

3 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.

Explanatory note

This amendment inserts a standard dictionary provision and a standard provision explaining the status of notes.

[3.182] Section 5 (2)

omit

Explanatory note

This amendment omits a spent provision in line with current drafting practice. The omission does not end the transitional effect of section 5 (2) (see Legislation Act, s 88 (1)).

[3.183] Section 5

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections

[3.184] Section 16 (3)

substitute

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*).

Explanatory note

This amendment omits a provision that is unnecessary because of the Legislation Act, section 196 (1). That section provides that a provision of a law that gives a function to an entity also gives the entity the powers necessary and convenient to exercise the function. The amendment also inserts a standard note about the power to exercise functions.

[3.185] Section 17

substitute

17 Delegation by racing club

The racing club may delegate its functions under this Act to a member, officer or employee of the racing club.

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

Explanatory note

This amendment updates the delegation provision, as follows:

- the word ‘any’ (of the club’s functions) is omitted because the Legislation Act, section 234 provides that the delegation instrument may provide that the delegation has effect in stated circumstances or subject to stated conditions, limitations or directions or that all of the function, or a stated part of the function, is delegated;
- the word ‘powers’ is omitted because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now;
- the words ‘except this power of delegation’ are omitted because the Legislation Act, section 236 provides that the person who can delegate cannot delegate the power to delegate unless the legislation creating the power to delegate states that it can be;

- the words ‘A delegation under this section may be revoked at any time’ are unnecessary because the Legislation Act, section 237 provides that the person who has delegated can amend or revoke the delegation in whole or part;
- the words ‘and does not derogate from the power of the racing club to act itself in any matter’ are unnecessary because the Legislation Act, section 240 provides that the person who has delegated a function can exercise the delegated function.

This amendment also inserts a standard note about delegations.

[3.186] Section 22 (3)

substitute

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*).

Explanatory note

This amendment omits a provision that is unnecessary because of the Legislation Act, section 196 (1). That section provides that a provision of a law that gives a function to an entity also gives the entity the powers necessary and convenient to exercise the function. The amendment also inserts a standard note about the power to exercise functions

[3.187] Section 23

substitute

23 Delegation by harness club

The harness club may delegate its functions under this Act to a member, officer or employee of the harness club.

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

Explanatory note

This amendment updates the delegation provision, as follows:

- the word ‘any’ (of the club’s functions) is omitted because the Legislation Act, section 234 provides that the delegation instrument may provide that the delegation has effect in stated circumstances or subject to stated conditions, limitations or directions or that all of the function, or a stated part of the function, is delegated;

- the word ‘powers’ is omitted because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now;
- the words ‘except this power of delegation’ are omitted because the Legislation Act, section 236 provides that the person who can delegate cannot delegate the power to delegate unless the legislation creating the power to delegate states that it can be;
- the words ‘A delegation under this section may be revoked at any time’ are unnecessary because the Legislation Act, section 237 provides that the person who has delegated can amend or revoke the delegation in whole or part;
- the words ‘and does not derogate from the power of the harness club to act itself in any matter’ are unnecessary because the Legislation Act, section 240 provides that the person who has delegated a function can exercise the delegated function.

This amendment also inserts a standard note about delegations.

[3.188] Section 28 (3)

substitute

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*).

Explanatory note

This amendment omits a provision that is unnecessary because of the Legislation Act, section 196 (1). That section provides that a provision of a law that gives a function to an entity also gives the entity the powers necessary and convenient to exercise the function. The amendment also inserts a standard note about the power to exercise functions.

[3.189] Section 29

substitute

29 Delegation by greyhound club

The greyhound club may delegate its functions under this Act to a member, officer or employee of the greyhound club.

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

Explanatory note

This amendment updates the delegation provision, as follows:

- the word ‘any’ (of the club’s functions) is omitted because the Legislation Act, section 234 provides that the delegation instrument may provide that the delegation has effect in stated circumstances or subject to stated conditions, limitations or directions or that all of the function, or a stated part of the function, is delegated;
- the word ‘powers’ is omitted because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now;
- the words ‘except this power of delegation’ are omitted because the Legislation Act, section 236 provides that the person who can delegate cannot delegate the power to delegate unless the legislation creating the power to delegate states that it can be;
- the words ‘A delegation under this section may be revoked at any time’ are unnecessary because the Legislation Act, section 237 provides that the person who has delegated can amend or revoke the delegation in whole or part;
- the words ‘and does not derogate from the power of the greyhound club to act itself in any matter’ are unnecessary because the Legislation Act, section 240 provides that the person who has delegated a function can exercise the delegated function.

This amendment also inserts a standard note about delegations.

[3.190] Section 39 (b)

substitute

- (b) to exercise the functions given to the tribunal by this Act or another Act.

Explanatory note

This amendment brings the paragraph into line with current drafting practice. The Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function, and is the drafting term used now.

[3.191] Section 43 (3)

substitute

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*).

Explanatory note

This amendment omits a provision that is unnecessary because of the Legislation Act, section 196 (1). That section provides that a provision of a law that gives a function to an

entity also gives the entity the powers necessary and convenient to exercise the function. The amendment also inserts a standard note about the power to exercise functions.

[3.192] Section 52 (a)

substitute

(a) by a lawyer; or

Explanatory note

This amendment replaces a reference to ‘legal practitioner’ with ‘lawyer’, in line with current drafting practice. *Lawyer* is defined in the Legislation Act, dictionary, part 1.

[3.193] Section 62

substitute

62 Immunity from liability

A member of the tribunal is not civilly liable for an act or omission done honestly in the exercise, or purported exercise, of a function under this Act.

Explanatory note

This amendment updates language and brings the section into line with current drafting practice. In particular—

- ‘performance’ is omitted, because *exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions; and
- ‘powers’ is omitted, because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now.

[3.194] Schedule 1, clause 1 (1), new notes

insert

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

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

Explanatory note

This amendment inserts standard notes about appointments.

[3.195] Schedule 1, clause 1 (2)

omit

legal practitioners

substitute

lawyers

Explanatory note

This amendment replaces a reference to ‘legal practitioners’ with ‘lawyers’, in line with current drafting practice. *Lawyer* is defined in the Legislation Act, dictionary, part 1.

[3.196] Schedule 1, clause 1 (4)

substitute

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

Explanatory note

This amendment omits a provision that is unnecessary because of the Legislation Act, section 208. That section provides that a person may be reappointed to a position if the person is eligible to be appointed to the position. This amendment also inserts a standard note about section 208.

[3.197] Schedule 1, clause 2 (4)

omit

Explanatory note

This amendment omits a provision that is unnecessary because of the Legislation Act, section 225. That section states that an acting appointment is not affected by a defect etc.

[3.198] Schedule 1, clauses 3, 4 and 5

substitute

3 Term of office

A member of the tribunal must be appointed for a term not longer than 3 years.

4 Ending of appointment

- (1) The Minister must end the appointment of a member of the tribunal if the member—
 - (a) ceases to be eligible for membership in the relevant capacity; or
 - (b) 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 remuneration for their benefit; or
 - (c) fails to disclose an interest as required by clause 7.
- (2) The Minister may end the appointment of a member of the tribunal for misbehaviour or physical or mental incapacity.

Note A person's appointment also ends if the person resigns (see Legislation Act, s 210).

Explanatory note

This amendment updates the clauses and omits unnecessary provisions.

New clause 3 does not include the words 'specified in the instrument of appointment'. This is because the Legislation Act, section 206 (2) states that, if a law provides for a

maximum period of appointment, the period of appointment must be stated in the instrument of appointment.

New clause 4 is remade in an updated form. The existing clause 4 (1) (a) dealt with resignation. This is unnecessary, because the Legislation Act, section 210 provides that a person's appointment also ends if the person resigns. A standard note to this effect is inserted in the clause.

Existing clause 5 is unnecessary because the entitlements of members of the tribunal are subject to determinations of the Remuneration Tribunal under the *Remuneration Tribunal Act 1995*.

[3.199] Schedule 2, clause 1, new notes

insert

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

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

Explanatory note

This amendment inserts standard notes about appointments.

[3.200] Schedule 2, clauses 2, 3 and 4

substitute

2 Term of office

An assessor must be appointed for a term not longer than 3 years.

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

3 Ending of appointments

- (1) The Minister must end the appointment of an assessor if the assessor fails to disclose an interest as required by clause 5.

- (2) The Minister may end the appointment of an assessor for misbehaviour or physical or mental incapacity.

Note A person's appointment also ends if the person resigns (see Legislation Act, s 210).

Explanatory note

This amendment updates the clauses and omits unnecessary provisions.

New clause 2 does not include the words 'specified in the instrument of appointment, and is eligible for re-appointment'. This is because the Legislation Act, section 206 (2) states that, if a law provides for a maximum period of appointment, the period of appointment must be stated in the instrument of appointment. The Legislation Act, section 208 provides that a person may be reappointed to a position if the person is eligible to be appointed to the position. A standard note about section 208 is also inserted.

Existing clause 3 (1) (a) deals with resignation. This is unnecessary, because the Legislation Act, section 210 provides that a person's appointment also ends if the person resigns. A standard note to this effect is inserted in the clause.

The existing clause 4 (1) (a) dealt with resignation. This is unnecessary, because the Legislation Act, section 210 provides that a person's appointment also ends if the person resigns. A standard note to this effect is inserted in the clause.

Existing clause 4 is unnecessary because the entitlements of assessors are subject to determinations of the Remuneration Tribunal under the *Remuneration Tribunal Act 1995*.

[3.201] New dictionary

insert

Dictionary

(see s 2)

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

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

- Legislative Assembly
- Minister (see s 162)
- penalty unit (see s 133).

Explanatory note

This amendment inserts a dictionary and standard dictionary notes.

Part 3.22 Sale of Motor Vehicles Act 1977

[3.202] Sections 5 and 5A

substitute

5 Registrar of Motor Vehicles

- (1) The chief executive must appoint a public servant as Registrar of Motor Vehicles.

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

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (2) Until the chief executive makes an appointment under subsection (1), the registrar is the public servant for the time being exercising the duties of the public service office the duties of which include exercising the functions of the registrar.
- (3) Subsection (2) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (4) Subsections (2) and (3) and this subsection expire 1 year after the day this section commences.

5A Deputy Registrar of Motor Vehicles

- (1) The chief executive must appoint a public servant as Deputy Registrar of Motor Vehicles.

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

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (2) The deputy registrar may exercise any function of the registrar, subject to any direction of the registrar.
- (3) Until the chief executive makes an appointment under subsection (1), the deputy registrar is the public servant for the time being exercising the duties of the public service office the duties of which include exercising the functions of the deputy registrar.
- (4) Subsection (3) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (5) Subsections (3) and (4) and this subsection expire 1 year after the day this section commences.

Explanatory note

This amendment removes the requirement that the chief executive must create and maintain offices for the registrar and deputy registrar in the public service. The Legislation Act, section 207 provides that an appointment may be made by naming the person appointed or by nominating the occupant of a position (however described), at a particular time or from time to time.

The amendment includes transitional arrangements that operate until new appointments are made.

The amendment also inserts standard notes about appointments in each of the sections.

[3.203] Section 5B

substitute

5B Inspectors

- (1) The chief executive may appoint a public servant as an inspector for this Act.

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

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) The following are also inspectors:
- (a) the registrar;
 - (b) the deputy registrar;
 - (c) a police officer of or above the rank of sergeant;
 - (d) a police officer below the rank of sergeant nominated in writing by the chief police officer for this Act.
- (3) If, immediately before the commencement of this section, the duties of an office in the public service included exercising the functions of an inspector, then, until the chief executive makes an appointment under subsection (1) in relation to the office or the duties of the office cease to include exercising the functions of an inspector, a public servant for the time being exercising the duties of the office is an inspector.
- (4) Subsection (3) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (5) Subsections (3) and (4) and this subsection expire 1 year after the day this section commences.

Explanatory note

This amendment removes the requirement that the chief executive must create and maintain offices for inspectors in the public service. The Legislation Act, section 207 provides that an appointment may be made by naming the person appointed or by nominating the occupant of a position (however described), at a particular time or from time to time.

This amendment also—

- removes the reference in existing subsection (3) (now new s (2)) to ‘a public servant for the time being exercising the functions of a public service office’ (ie an acting inspector) as a consequence of the amendment described above and because the Legislation Act, section 220 provides that a person acting in a position has, subject to the instrument making or evidencing the appointment, all the functions of the occupant of the position; and
- changes the reference in existing subsection (3) to a member of the police force to police officer, which is defined in the Legislation Act, dictionary, part 1 to mean a member or special member of the Australian Federal Police.

The amendment includes transitional arrangements that operate until new appointments are made.

Standard notes about appointments are also inserted.

[3.204] Section 10 (1) (c) (iii) and 11 (1) (d)

omit

resided

substitute

lived

Explanatory note

These amendments update language.

[3.205] Section 11 (2)

omit everything after paragraph (a), substitute

- (b) if paragraph (a) does not apply—a copy of the corporation’s accounts for the period beginning on the day of its incorporation and ending no more than 1 month immediately before the day it applies for the grant of the licence.
- (3) The accounts mentioned in subsection (2) must have been audited by a qualified accountant.

Explanatory note

This amendment restructures the subsection in line with current drafting practice.

[3.206] Section 11 (3) and (4)

substitute

- (4) An application under subsection (1) must be notified in accordance with section 11B (Notification of application).
- (5) In this section:

accounts—see the Corporations Act, section 9 (Dictionary), definition of *financial records*.

accounts in relation to a period (the *first period*) includes accounts for each of 2 periods whose total length corresponds to the length of the first period.

Explanatory note

This amendment restructures the subsections to bring them more closely into line with current drafting practice, including turning existing subsection (3) (an interpretation provision) into the definitions contained in new subsection (5).

The amendment also updates the definition of *accounts*. That term is not defined in the Corporations Act, so the defined term *financial records* is used for the definition of accounts.

[3.207] Section 11A (2) (d)

omit

certificate, diploma or testamur

substitute

degree, diploma or certificate

Explanatory note

This amendment updates language.

[3.208] Section 18

substitute

18 Telling people about Act's requirements

(1) If a person gives information to a licensee in relation to any matter that a licensee must enter in a dealings register, the licensee must tell the person about the requirements of section 17.

(2) In this section:

licensee includes someone acting for the licensee.

Explanatory note

This amendment updates the structure and language of the section.

[3.209] Section 24 (1), definition of *defect notice*

omit

, being a notice

Explanatory note

This amendment updates language.

[3.210] Section 27 (7)

omit

in good faith

substitute

honestly

Explanatory note

This amendment updates language.

[3.211] Section 32A, new definition of *NSW Act*

insert

NSW Act means the *Registration of Interests in Goods Act 1986* (NSW).

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.212] Section 32A, definition of *the NSW Act*

omit

Explanatory note

This amendment is consequential on the previous amendment.

[3.213] Section 51 (1)

omit

refuse or

Explanatory note

This amendment updates language. The Legislation Act, dictionary, part 1 defines *fail* to include refuse.

[3.214] Section 51 (2)

omit

refusing or

Explanatory note

This amendment updates language. The Legislation Act, dictionary, part 1 defines *fail* to include refuse.

[3.215] Section 54

substitute

54 Protection of registrar and deputy registrar

The registrar and deputy registrar are not civilly or criminally liable for an act done honestly by them in, or in relation to, an inquiry.

Explanatory note

This amendment brings the section more closely into line with current drafting practice and updates language.

[3.216] Section 60 (1)

omit

pecuniary

substitute

financial

Explanatory note

This amendment updates language.

[3.217] Section 71 (4)

relocate as section 71 (7)

Explanatory note

This amendment relocates the subsection to bring the order of subsections into line with current drafting practice.

[3.218] Section 71 (5)

omit

Explanatory note

This amendment omits a subsection as a consequence of other amendments that renumber and relocate section 71's subsections.

[3.219] Section 71 (6)

renumber as section 71 (4)

Explanatory note

This amendment renumbers the subsection consequentially on another amendment.

[3.220] Section 71 (7)

omit

- (7) In making a decision under subsection (6)

substitute

- (5) In making a decision under subsection (4)

Explanatory note

This amendment renumbers the subsection consequentially on another amendment and updates a cross-reference.

[3.221] Section 71 (8)

omit

- (8) Subsection (7)

substitute

- (6) Subsection (5)

Explanatory note

This amendment renumbers the subsection consequentially on another amendment and updates a cross-reference.

[3.222] New section 71 (8)

insert

- (8) An executive officer of a corporation is taken to have committed a disqualifying act if the executive officer was an executive officer of a corporation when the corporation committed the disqualifying act.

Explanatory note

This amendment brings the language of existing subsection (5) more closely into line with current drafting practice and relocates the subsection consequentially on another amendment.

[3.223] Section 87

omit

Explanatory note

This amendment omits an unnecessary provision. The Legislation Act, part 19.5 now deals comprehensively with service of documents.

[3.224] Section 89A (2) (c) (iii)

omit

resided

substitute

lived

Explanatory note

This amendment updates language.

[3.225] Section 89A (6)

omit

cause to be served on

substitute

give

Explanatory note

This amendment updates language.

[3.226] Dictionary, new notes

insert

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

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

- ACT
- administrative appeals tribunal
- chief executive (see s 163)
- corporation
- disallowable instrument (see s 9)
- Executive
- individual
- lawyer
- Minister (see s 162)
- notifiable instrument (see s 10)
- penalty unit (see s 133)
- police officer
- State
- the Territory.

Explanatory note

This amendment inserts standard dictionary notes.

[3.227] Dictionary, definition of *executive officer*

omit

means the person

substitute

means a person

Explanatory note

This amendment brings the definition into line with current drafting practice.

**Part 3.23 Security Industry Regulations
2003**

**[3.228] Regulation 6 (3), definition of *custodial officer*,
paragraph (h)**

omit

section 6 (Powers and functions of prison officers, police officers
and others)

substitute

section 6 (Functions of prison officers, police officers and others)

Explanatory note

This amendment is consequential on the amendment of the heading to the *Prisoners (International Transfer) Act 1999*, section 6 by an earlier amendment.

Part 3.24 **Smoke-free Areas (Enclosed Public Places) Regulations 1994**

[3.229] Regulation 4 (1) and (2)

omit

section 14 (3)

substitute

section 16 (3)

Explanatory note

This amendment updates a cross-reference.

Part 3.25 **Spent Convictions Act 2000**

[3.230] Section 3 (2), note

omit

s 7 (k)

substitute

s 7 (1) (o)

Explanatory note

This amendment updates a cross-reference.

[3.231] Section 4

substitute

4 Dictionary

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

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

For example, the signpost definition ‘*conviction*—see section 6.’ means that the term ‘conviction’ is defined in that section and the definition applies to this Act.

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

Explanatory note

This amendment brings the section and notes into line with current drafting practice.

[3.232] Section 6, examples 3 and 4

substitute

3 The court dismisses the charge under the *Children and Young People Act 1999*, section 98 (2) (a).

4 The court makes an order mentioned in the *Children and Young People Act 1999*, section 98 (2) (b).

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

Explanatory note

This amendment is consequential on the restructure of the *Children and Young People Act 1999*, section 98 by an earlier amendment. It also adds an example note in accordance with current drafting practice.

[3.233] Section 12 (2)

omit

section 98 (i)

substitute

section 98 (2) (a)

Explanatory note

This amendment is consequential on the restructure of the *Children and Young People Act 1999*, section 98 by an earlier amendment.

[3.234] Section 12 (5), (6) and (7)

omit

98 (j)

substitute

98 (2) (b)

Explanatory note

This amendment is consequential on the restructure of the *Children and Young People Act 1999*, section 98 by an earlier amendment.

[3.235] Section 13 (2)

omit

crime-free period

substitute

crime-free period

Explanatory note

This amendment brings the term, which is a defined term, into line with current drafting practice.

[3.236] Dictionary, new notes

insert

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

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

- administrative unit
- entity
- exercise
- function
- law, of the Territory
- penalty unit (see s 133)
- State
- Territory authority
- the Territory.

Explanatory note

This amendment inserts standard dictionary notes.

[3.237] Dictionary, definition of *ACT offence*, note

omit

Explanatory note

This amendment omits a note made redundant by the insertion of standard dictionary notes by another amendment.

[3.238] Dictionary, definition of *casino*

omit

Explanatory note

This amendment omits a redundant definition. The uses of the term in section 19 (1) (b) (iv) and (6) are clear from their context.

[3.239] Dictionary, definition of *correctional agency*

omit

Explanatory note

This amendment omits a definition made redundant by the insertion of a new definition of *prison officer* by another amendment.

[3.240] Dictionary, definition of *function*

omit

Explanatory note

This amendment omits the definition of a term that is defined in the Legislation Act, dictionary, part 1 and which is mentioned in the standard dictionary notes inserted by another amendment.

**[3.241] Dictionary, definition of *law enforcement agency*,
paragraph (f)**

substitute

- (f) the CrimTrac Agency, established under the *Public Service Act 1999* (Cwlth), section 65 (Establishment etc. of Executive Agencies);

Explanatory note

This amendment omits a reference to the abolished National Exchange of Police Information and substitutes a reference to the corresponding new agency.

**[3.242] Dictionary, definition of *law enforcement agency*,
paragraphs (i) and (j)**

substitute

- (i) the Attorney-General for the Territory, the Commonwealth, a State or another Territory;
- (j) people employed in a government department of the Commonwealth, a State or another Territory and whose primary functions are the beginning or conduct of proceedings for offences;

Explanatory note

This amendment improves syntax and updates language in accordance with current drafting practice.

[3.243] Dictionary, definition of *prison officer*

substitute

prison officer includes a person employed in an entity responsible under the law of the Territory, or of the Commonwealth, a State or a foreign country, for providing correctional services for offenders.

Explanatory note

This amendment subsumes the substance of the definition of *correctional agency*, which is omitted by another amendment.

[3.244] Dictionary, definition of *public authority*, note

omit

Explanatory note

This amendment omits a note made redundant by the insertion of standard dictionary notes by another amendment.

Part 3.26 Supervised Injecting Place Trial Act 1999

[3.245] Section 3, definitions

relocate to the dictionary

Explanatory note

This amendment relocates the definitions to a new dictionary that is inserted by another amendment

[3.246] Section 3, remainder

substitute

2 Dictionary

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

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

For example, the signpost definition '*drug of dependence*—see the Drugs of Dependence Act, section 3 (1).' means that the term 'drug of dependence' is defined in that section and the definition applies to this Act.

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

3 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.

Explanatory note

This amendment inserts a standard dictionary provision and a standard provision explaining the status of notes.

[3.247] Section 5 (1A)

omit

Explanatory note

This amendment omits a spent provision.

[3.248] Section 19

substitute

19 Committee's functions

The functions of the advisory committee are—

- (a) to make written recommendations to the Minister about the matters mentioned in section 29 (1) (Minister must consult committee); and
- (b) to exercise other functions given to the advisory committee by this Act or another Territory law.

Note 1 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*).

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

Explanatory note

This amendment updates language and omits a provision that is unnecessary (s 19 (2)) because of the Legislation Act, section 196 (1). That section provides that a provision of a law that gives a function to an entity also gives the entity the powers necessary and convenient to exercise the function.

The amendment also inserts a standard note about the power to exercise functions.

[3.249] Section 20 (3)

substitute

- (3) Each member of the advisory committee is appointed by the Minister for a term of not longer than 3 years.

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

Note 2 A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

Explanatory note

This amendment updates language and brings the subsection into line with current drafting practice, as follows:

- the reference to the appointment being ‘by instrument’ is omitted because the Legislation Act, section 206 provides that an appointment must be made, or evidenced, in writing; and
- the words ‘may be re-appointed’ are not included. This is because the Legislation Act, section 208 provides that a person may be reappointed to a position if the person is eligible to be appointed to the position.

The amendment also inserts standard notes about appointments and section 208.

[3.250] Section 20 (4)

substitute

- (4) A member holds office on the terms (if any) in relation to matters not provided for by this Act that are stated in the instrument of appointment.

Explanatory note

The reference in existing subsection (4) to a member holding office for the term stated in the instrument of appointment is omitted. This is because the Legislation Act, section 206 (2) states that, if a law provides for a maximum period of appointment, the period of appointment must be stated in the instrument of appointment.

[3.251] Section 20 (5)

omit

Explanatory note

This amendment omits an unnecessary subsection. The Legislation Act, section 199 (4) provides that the exercise of a function by a body is not affected only because of a vacancy in the body’s membership.

[3.252] Section 21

omit

in writing

Explanatory note

The reference to the appointment being made ‘in writing’ is omitted because the Legislation Act, section 206 provides that an appointment must be made, or evidenced, in writing.

[3.253] Sections 22 and 23

substitute

22 Ending of appointments

- (1) The Minister may end the appointment of a member for misbehaviour or physical or mental incapacity.
- (2) The Minister must end the appointment of a member if the member—
 - (a) 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 remuneration for their benefit; or
 - (b) is absent for 3 consecutive meetings without leave; or
 - (c) is convicted in Australia or elsewhere of an offence punishable by imprisonment for 1 year or longer.

Note A person’s appointment also ends if the person resigns (see Legislation Act, s 210).

Explanatory note

This amendment updates language and brings section 22 into line with current drafting practice. Section 23 is unnecessary, because the Legislation Act, section 210 provides that a person’s appointment also ends if the person resigns. A standard note to this effect is inserted in the section.

[3.254] Section 29 (1) (d)

substitute

- (d) the terms on which people under 18 years old may attend the facility; and

Explanatory note

This amendment updates language and brings the paragraph into line with current drafting practice.

[3.255] New dictionary

insert

Dictionary

(see s 2)

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

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

- Attorney-General
- DPP
- Executive
- Legislative Assembly
- Minister (see s 162)
- notifiable instrument (see s 10)
- penalty unit (see s 133)
- regulations.

Explanatory note

This amendment inserts a dictionary and standard dictionary notes.

Part 3.27 Taxation Administration Act 1999

[3.256] Section 3, definition of *corporation*

substitute

corporation—see the Corporations Act, section 57A.

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.257] Section 3, definition of *function*

omit

Explanatory note

This amendment omits a redundant definition. *Function* is defined in the Legislation Act, dict, pt 1 to include authority, duty or power.

[3.258] Section 3, definition of *tax officer*

omit

Explanatory note

This amendment omits the definition. A new definition of *tax officer* is inserted in the dictionary by the amendment that inserts the new dictionary.

[3.259] Section 3, definitions (as amended)

relocate to the dictionary

Explanatory note

This amendment relocates the definitions to a new dictionary that is inserted by another amendment

[3.260] Section 3, remainder

substitute

2 Dictionary

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

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

For example, the signpost definition ‘*group*—see section 112.’ means that the term ‘group’ is defined in that section and the definition applies to this Act.

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

Explanatory note

This amendment inserts a standard dictionary provision.

[3.261] Section 4 (i) and (j)

substitute

(i) an Act declared under the regulations to be a tax law.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

Explanatory note

This amendment omits paragraph (j) (that referred to a regulation under any of the Acts mentioned in the other paragraphs of section 4). Paragraph (j) is no longer necessary because the Legislation Act, section 104 provides that a reference to an Act includes a reference to the statutory instruments made or in force under the Act.

The amendment also inserts a standard note about section 104.

[3.262] Section 8 (3), definition of *tax avoidance scheme*, paragraph (a)

omit

manner

substitute

way

Explanatory note

This amendment updates language.

[3.263] Section 8 (3)

relocate as section 8 (6)

Explanatory note

This amendment relocates a subsection that contains definitions to the end of the section, in line with current drafting practice.

[3.264] Section 8

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections.

[3.265] Section 22 (3)

substitute

(3) In subsection (1):

Territory includes an officer, Minister and Territory authority.

Explanatory note

This amendment brings the subsection into line with current drafting practice.

[3.266] Section 23 (3)

substitute

(3) In this section:

ground of invalidity means—

- (a) the ground of invalidity of a tax law; or
- (b) the ground of mistake (whether law or a fact) about the validity or invalidity of a tax law; or
- (c) any other restitutionary ground relating to the validity or invalidity of a tax law.

non-legislative change of the law means a change of the law or of legal principles, or a change in what is generally perceived to be the state of the law or legal principles, but does not include a change made by legislation.

Territory includes an officer, Minister and Territory authority.

Explanatory note

This amendment brings the structure and language of the subsection more closely into line with current drafting practice.

[3.267] Section 34 (b)

omit

refuses or

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines ***fail*** to include refuse.

[3.268] Section 34, note

substitute

Note 1 The Legislation Act, dict, pt 1 defines *fail* to include refuse.

Note 2 The following table contains a summary of the effect of s 31 to s 34:

Explanatory note

This amendment inserts a note to remind readers about the extended meaning of *fail*.

[3.269] Section 67 (1) to (3)

omit

or refuse

Explanatory note

This amendment updates language. The Legislation Act, dictionary, part 1 defines *fail* to include refuse.

[3.270] Section 78

omit

any function or power of the commissioner

substitute

the commissioner's functions

Explanatory note

This amendment updates the delegation provision, as follows:

- the word 'any' (of the commissioner's functions) is omitted because the Legislation Act, section 234 provides that the delegation instrument may provide that the delegation has effect in stated circumstances or subject to stated conditions, limitations or directions or that all of the function, or a stated part of the function, is delegated;
- the word 'power' is omitted because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now.

[3.271] Section 78, new note

insert

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

Explanatory note

This amendment inserts a standard note about delegations.

[3.272] Section 81

omit

in good faith

substitute

honestly

Explanatory note

This amendment updates language.

[3.273] Section 82 (4)

omit

refuse or

Explanatory note

This amendment updates language. The Legislation Act, dictionary, part 1 defines *fail* to include refuse.

[3.274] Section 84 (2)

substitute

- (2) The powers given by this section are additional to, and do not limit, any other powers given under a law.

Explanatory note

This amendment updates language.

[3.275] Section 88 (2)

omit

refuse or

Explanatory note

This amendment updates language. The Legislation Act, dictionary, part 1 defines *fail* to include refuse.

[3.276] Section 130

omit

Explanatory note

This amendment omits a provision that is unnecessary. The matter is adequately dealt with by the *Evidence Act 1995* (Cwlth), part 4.3 (Facilitation of proof).

[3.277] New dictionary

insert

Dictionary

(see s 2)

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

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

- ACT
- Commonwealth
- Executive
- individual
- Magistrates Court
- penalty unit (see s 133)
- State
- Supreme Court
- Legislative Assembly
- Minister (see s 162)
- the Territory.

tax officer—

- (a) for this Act, means—
- (i) the commissioner; or
 - (ii) an authorised officer; or
 - (iii) anyone else engaged (whether as an officer or employee or otherwise) in the administration or enforcement of a tax law; and
- (b) for division 9.4 (Secrecy)—see section 94.

Explanatory note

This amendment inserts a dictionary, a new definition of *tax officer* that includes its meaning for division 9.4 (in line with current drafting practice), and standard dictionary notes.

Part 3.28 Taxation (Government Business Enterprises) Regulations 2003

[3.278] Regulation 4

omit

- Canberra Tourism and Events Corporation

substitute

- Australian Capital Tourism Corporation

Explanatory note

This amendment updates a reference to a body.

Part 3.29 **Victims of Crime Regulations** **2000**

[3.279] Regulation 8 (4), notes

substitute

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

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

Note 4 A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

Explanatory note

This amendment updates the standard notes about appointments.

Schedule 4 **Repeal of redundant or obsolete legislation**

(see s 6)

Part 4.1 **Institute for the Study of Man and Society Incorporation Act 1968**

Explanatory note

This part repeals an Act that is no longer needed.

The *Institute for the Study of Man and Society Incorporation Act 1968* provided for the incorporation of the institute known as The Institute for the Study of Man and Society.

The institute was set up by an organisation called Australian Frontier (itself established by the Australian Council of Churches as an independent body) to promote the understanding and study of society. Incorporation of the institute was part of the preparatory work for the institute undertaken in the late 1960s and early 1970s. Other preparatory work included defining the objects, structure and methods of the institute, identifying the buildings and resources needed and fundraising. Land was granted to the institute by the National Capital Development Commission for the construction of buildings for the institute.

Though enough funds were raised for the building, there were insufficient funds for ongoing costs. As the Reverend Frank Engel states in his book *21 years of Australian Frontier* (published in 1988 by Australian Frontier) ‘in spite of the generous support of a number of individuals, groups and companies, it was not surprising, indeed it was inevitable, that in 1974 the Australian Frontier Commission had to decide that the time had come to abandon the plan for an Institute in Canberra and to surrender the choice site to the National Capital Development Commission’ (p 73).

As the institute ‘never became a reality’ (Engel *op cit*), the Act has no ongoing operation and can be repealed. Its previous operation is saved by this Act, section 6 (2) (Legislation repealed—sch 4).

Institute for the Study of Man and Society Incorporation Act 1968
A1968-35

Part 4.2 **Judgment Creditors Remedies Act 1933**

Explanatory note

This part repeals an Act that is no longer needed.

The *Judgment Creditors Remedies Act 1933* deals with the enforcement of High Court judgments. It provides that a person in whose favour a High Court judgment is given is entitled to the same remedies for enforcement against a judgment debtor's ACT property or a judgment debtor resident or present in the ACT that a person in whose favour an ACT Supreme Court judgment is given.

The Act is no longer necessary because the Commonwealth has legislated in the *Judiciary Act 1903* (Cwlth), section 77M (Enforcement of judgments) to the same effect.

Judgment Creditors Remedies Act 1933 A1933-8

Part 4.3 **Spent Convictions Regulations 2003**

Explanatory note

This part repeals regulations that are no longer needed.

The *Spent Convictions Regulations 2003* are made obsolete by an amendment in this Act, schedule 3 of the *Spent Convictions Act 2000*, dictionary, definition of *law enforcement agency*, paragraph (f).

Spent Convictions Regulations 2003 SL2003-15

Part 4.4 **Registrable instruments that are no longer needed**

Explanatory note

This part repeals registrable instruments that are spent. Any ongoing effect of the instruments is preserved by section 6.

Registrable instruments made since 12 September 2001 are required to be notified on the ACT legislation register. To assist users of the register to find the current law more easily, registrable instruments are divided in the register between current and repealed instruments, as is the case with Acts. To avoid unnecessary clutter in the current

instruments on the register, the Legislation Act, section 89 provides for the automatic repeal of certain instruments once they are spent. However, not all spent instruments are automatically repealed, for example, if the instrument contains a substantive provision. Accordingly, this part of the schedule repeals some spent instruments made since 12 September 2001.

The Parliamentary Counsel's Office has started a process of including in the legislation register registrable instruments made before 12 September 2001. The office is giving priority in the current financial year to including all earlier disallowable instruments on the register. An amendment to the Legislation Act in schedule 2 will make it clear that the automatic repeal provisions apply to registrable instruments whenever they were made. This will enable many earlier spent registrable instruments to be included in the repealed, rather than the current, part of the register as they are backcaptured. Accordingly, this part of the schedule also provides for the repeal of the 'backcaptured instruments' identified so far as being spent.

Division 4.4.1 **ACTION Authority Act 2001—
disallowable instrument—s 36**

- *Transfer of Employees to ACTION Authority* DI2002-3

Division 4.4.2 **Independent Competition and
Regulatory Commission Act
1997—disallowable instruments—
s 15, s 16**

- *Reference for an investigation under section 15 and specified requirements in relation to investigation under section 16* DI2001-65
- *Reference for investigation under section 15 and specified requirements in relation to investigation under section 16* DI2001-69
- *Reference for investigation under section 15 and specified requirements in relation to investigation under section 16* DI2001-291
- *Industry reference for investigation into full retail contestability for electricity* DI2001-346

- *Independent Competition and Regulatory Commission Reference for Investigation* DI2002-11
- *Independent Competition and Regulatory Commission (Reference for Investigation) 2002 (No 2)* DI2002-185
- *Independent Competition and Regulatory Commission (Reference for Investigation) Determination 2002 (No 3)* DI2002-227

Division 4.4.3 Legislative Assembly (Members' Staff) Act 1989—disallowable instruments—s 5, s 6, s 10, s 11

- *Terms and conditions of employment of staff of office-holders pursuant to section 6 (2)* DI2001-161
- *Arrangements under sub-section 10 (2) for the employment of staff by members* DI2001-169
- *Arrangements under sub-section 5 (2) for the employment of staff by the Speaker* DI2001-170
- *Terms and conditions of employment of staff of members pursuant to section 11 (2) 2002 (No 2)* DI2002-209
- *Terms and conditions of employment of staff of the Speaker pursuant to section 6 (2) 2002 (No 2)* DI2002-210
- *Terms and conditions of employment of staff of office-holders pursuant to section 6 (2) 2002 (No 2)* DI2002-211

Division 4.4.4 Utilities Act 2000—disallowable instruments—s 61, s 65

- *Utilities (Dam Safety Code) Variation Determination 2003* DI2003-27
- *Utilities (Emergency Planning Code) Determination 2003* DI2003-32
- *Utilities (Variation of Franchise Customer Electricity Metering Code) Approval 2003 (No 1)* DI2003-256

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 23 October 2003.

2 Notification

Notified under the Legislation Act on 5 December 2003.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Statute Law Amendment Bill 2003 (No 2) which was passed by the Legislative Assembly on 27 November 2003.

Clerk of the Legislative Assembly

© Australian Capital Territory 2003