Australian Capital Territory

Statute Law Amendment Act 2002

Act 2002 No 30

Contents

		Page
1	Name of Act	2
2	Commencement	2
3	Purpose	2
4	Notes	2
5	Acts and regulations amended—schs 1-3	2
6	Acts repealed—sch 4	3

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

		Page
Schedule 1	**Minor amendments**	4
Part 1.1	**Evidence (Miscellaneous Provisions) Act 1991**	4
Part 1.2	**Health and Community Care Services Act 1996**	4
Schedule 2	**Structural amendments**	6
Part 2.1	**Legislation Act 2001**	6
Schedule 3	**Technical amendments**	10
Part 3.1	**ACTEW/AGL Partnership Facilitation Act 2000**	10
Part 3.2	**ACTION Authority Act 2001**	11
Part 3.3	**Animal Welfare Regulations 2001**	21
Part 3.4	**Architects Act 1959**	22
Part 3.5	**Auditor-General Act 1996**	23
Part 3.6	**Building Regulations Amendment SL 2001 No 21**	30
Part 3.7	**Community Title Act 2001**	30
Part 3.8	**Compensation (Fatal Injuries) Act 1968**	34
Part 3.9	**Conveyancing Act 1919**	38
Part 3.10	**Conveyancing and Law of Property Act 1898**	49
Part 3.11	**Court Security Act 2001**	54
Part 3.12	**Crimes (Forensic Procedures) Act 2000**	56
Part 3.13	**Crown Proceedings Act 1992**	58
Part 3.14	**Dangerous Goods Act 1975**	60
Part 3.15	**Dangerous Goods Regulations 1978**	78
Part 3.16	**Defamation Act 2001**	82
Part 3.17	**Dental Technicians and Dental Prosthetists Registration Act 1988**	84
Part 3.18	**Domestic Animals Act 2000**	85

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

		Page
Part 3.19	**Domestic Animals Regulations 2001**	94
Part 3.20	**Eggs (Labelling and Sale) Act 2001**	95
Part 3.21	**Electoral Act 1992**	95
Part 3.22	**Electoral Regulations 1993**	136
Part 3.23	**Electronic Transactions Act 2001**	137
Part 3.24	**Executive Documents Release Act 2001**	139
Part 3.25	**Financial Management Act 1996**	140
Part 3.26	**Financial Management Legislation Amendment Act 2001 No 45**	142
Part 3.27	**Firearms Act 1996**	142
Part 3.28	**Firearms Regulations 1997 SL 1997 No 13**	143
Part 3.29	**Fisheries Act 2000**	143
Part 3.30	**Fisheries Regulations 2001**	144
Part 3.31	**Food Act 2001**	144
Part 3.32	**Gaming Machine Act 1987**	146
Part 3.33	**Government Procurement Act 2001**	148
Part 3.34	**Government Solicitor Act 1989**	152
Part 3.35	**Guardianship and Management of Property Act 1991**	152
Part 3.36	**Health and Community Care Services Act 1996**	154
Part 3.37	**Health Professions Boards (Procedures) Act 1981**	154
Part 3.38	**Land (Planning and Environment) Act 1991**	155
Part 3.39	**Land (Planning and Environment) Regulations 1992**	208
Part 3.40	**Leases (Commercial and Retail) Act 2001**	223
Part 3.41	**Legislative Assembly (Broadcasting) Act 2001**	228
Part 3.42	**Legislative Assembly Precincts Act 2001**	229
Part 3.43	**Legislation (Consequential Amendments) Act 2001**	230
Part 3.44	**Liquor Act 1975**	231

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

		Page
Part 3.45	**Low-alcohol Liquor Subsidies Act 2000**	232
Part 3.46	**Magistrates Court Act 1930**	234
Part 3.47	**Major Events Security Act 2000**	237
Part 3.48	**Mediation Act 1997**	238
Part 3.49	**Mental Health (Treatment and Care) Act 1994**	240
Part 3.50	**National Environment Protection Council Act 1994**	241
Part 3.51	**Plumbers, Drainers and Gasfitters Board Act 1982**	241
Part 3.52	**Pounds Act 1928**	242
Part 3.53	**Prisoners' Interstate Leave Act 1997**	242
Part 3.54	**Prostitution Act 1992**	247
Part 3.55	**Protection Orders Act 2001**	251
Part 3.56	**Public Health Regulations 2000**	255
Part 3.57	**Public Place Names Regulations 2001**	255
Part 3.58	**Race and Sports Bookmaking Act 2001**	255
Part 3.59	**Rehabilitation of Offenders (Interim) Act 2001**	257
Part 3.60	**Rehabilitation of Offenders (Interim) Regulations 2001**	263
Part 3.61	**Residential Tenancies Act 1997**	263
Part 3.62	**Roads and Public Places Act 1937**	263
Part 3.63	**Road Transport (Alcohol and Drugs) Act 1977**	274
Part 3.64	**Road Transport (Dimensions and Mass) Act 1990**	275
Part 3.65	**Road Transport (Dimensions and Mass) Regulations 2000**	276
Part 3.66	**Road Transport (Driver Licensing) Act 1999**	277
Part 3.67	**Road Transport (Driver Licensing) Regulations 2000**	281
Part 3.68	**Road Transport (General) Act 1999**	282
Part 3.69	**Road Transport (General) Regulations 2000**	296

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

		Page
Part 3.70	**Road Transport (Public Passenger Services) Act 2001**	296
Part 3.71	**Road Transport (Public Passenger Services) Act 2001 No 62**	300
Part 3.72	**Road Transport (Safety and Traffic Management) Act 1999**	301
Part 3.73	**Road Transport (Safety and Traffic Management) Regulations 2000**	304
Part 3.74	**Road Transport (Vehicle Registration) Act 1999**	306
Part 3.75	**Road Transport (Vehicle Registration) Regulations 2000**	309
Part 3.76	**Sale of Motor Vehicles Act 1977**	310
Part 3.77	**Smoke-free Areas (Enclosed Public Places) Regulations 1994**	313
Part 3.78	**Stadiums Authority Act 2000**	313
Part 3.79	**Statute Law Amendment Act 2001 (No 2)**	324
Part 3.80	**Supreme Court Act 1933**	324
Part 3.81	**Surveyors Act 2001**	347
Part 3.82	**Tobacco Act 1927**	351
Part 3.83	**Tree Protection (Interim Scheme) Act 2001**	353
Part 3.84	**Unit Titles Act 2001**	358
Part 3.85	**Unit Titles Regulations 2001**	363
Part 3.86	**University of Canberra Act 1989**	364
Part 3.87	**Unlawful Games Act 1984**	376
Part 3.88	**Utilities (Telecommunications Installations) Act 2001**	376
Part 3.89	**Utility Networks (Public Safety) Regulations 2001**	379
Part 3.90	**Waste Minimisation Act 2001**	379
Part 3.91	**Waste Minimisation Regulations 2001**	383
Part 3.92	**Water and Sewerage Regulations 2001**	383

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

		Page
Schedule 4	**Repeal of redundant or obsolete Acts**	385
Part 4.1	**Act that is no longer needed**	385
Part 4.2	**Amending Acts without substantive provisions**	385
Part 4.3	**Amending Acts with substantive provisions**	386

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

Australian Capital Territory

Statute Law Amendment Act 2002

Act 2002 No 30

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

Notified under the Legislation Act 2001 on 16 September 2002
(see www.legislation.act.gov.au)

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

1 Name of Act

This Act is the *Statute Law Amendment Act 2002*.

2 Commencement

(1) This Act commences on the day after its notification day.

(2) However, a date or time provided by a special commencement provision for an amendment made by this Act has effect, or is taken to have had effect, as the commencement date or time of the amendment.

(3) In this section:

special commencement provision, for an amendment made by this Act, is a provision, in brackets beginning with the text 'commencement:', at the end of the amendment.

Example

An amendment followed by '(commencement: 12 July 2001)' means that the amendment is taken to have commenced on 12 July 2001.

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 2001*, s 127 (1), (4) and (5) for the legal status of notes.

5 Acts and regulations amended—schs 1-3

Schedules 1 to 3 amend the Acts and regulations mentioned in them.

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

6 Acts repealed—sch 4

(1) Schedule 4 repeals the Acts mentioned in it.

(2) The *Financial Sector Reform (ACT) Act 1999* and the *University of Canberra (Transfer) Act 1997* are declared to be laws to which the *Legislation Act 2001*, section 88 (Repeal does not end transitional or validating effect etc) applies.

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

Schedule 1 Minor amendments

(see s 5)

Part 1.1 Evidence (Miscellaneous Provisions) Act 1991

[1.1] Section 4 (b)

substitute

(b) for proceedings of a kind mentioned in section 5 (a), (b), (c) or (e) that relate to the alleged commission of a sexual offence—the complainant.

Explanatory note

This amendment brings the language of the paragraph into line with current drafting practice and updates a cross-reference that was inadvertently missed when the Act was amended by the *Protection Orders (Consequential Amendments) Act 2001*. The amendment will ensure that the provisions of the *Evidence (Miscellaneous Provisions) Act 1991*, part 2 (which is about the giving of evidence of sexual offences by children) apply to proceedings under the *Protection Orders Act 2001*. The provisions of the part previously applied to proceedings under the *Domestic Violence Act 1986*, now named the *Domestic Violence Agencies Act 1986*, which was largely replaced by the *Protection Orders Act 2001*. The amendment is explained further in the explanatory memorandum.

Part 1.2 Health and Community Care Services Act 1996

[1.2] New section 32 (3) and (4)

insert

(3) For subsection (1), a determination may adopt a health benefits agreement (or a provision of a health benefits agreement) as in force from time to time.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or as at a particular time,

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

is taken to be a notifiable instrument if the operation of the *Legislation Act 2001*, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the *Legislation Act 2001*.

(4) In this section:

health benefits agreement means an agreement between the service or the Territory and an entity that provides health benefits to contributors of a health benefits fund conducted by the entity.

Explanatory note

This amendment provides for a determination of fees and charges to adopt the charges set out in agreements, as in force from time to time, with health benefits organisations. This approach removes the need for a determination to set out a voluminous number of charges that have been agreed with health benefits organisations and for the determination to be revised each time a charge is altered.

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

Schedule 2 Structural amendments

(see s 5)

Part 2.1 Legislation Act 2001

[2.1] Section 36 (1) (g)

substitute

(g) a matter arising under a Territory law that is part of a uniform scheme of legislation or complementary with legislation of the Commonwealth, a State or New Zealand;

Explanatory note

This amendment makes 2 minor changes to the paragraph that provides that a regulatory impact statement is not required for uniform or complementary legislation. First, this amendment adds New Zealand to the jurisdictions that can be involved. Many uniform or complementary legislative schemes now involve New Zealand as well as the Commonwealth, States and other Territories. Second, this amendment clarifies the nature of uniform legislation to which the paragraph applies. Under the existing paragraph the Territory law must be substantially uniform with legislation of another jurisdiction. This amendment changes this to require that the Territory law be part of a uniform scheme of legislation. This amendment more accurately reflects the nature of uniform legislative schemes and recognises that uniform legislative schemes do not always require a Territory law that is substantially uniform with the law of another jurisdiction. For example, the scheme may provide for a Territory law to give legislative force in the ACT to legislation enacted in another jurisdiction. The uniform credit scheme is an example of such a uniform legislative scheme.

[2.2] Section 54 (1), new note

insert

Note The *Statutory Declarations Act 1959* (Cwlth) applies to the making of statutory declarations under ACT laws (see that Act, s 5).

Explanatory note

This amendment adds a note about the legislation under which statutory declarations for ACT laws are made.

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

[2.3] Section 89 (3) and (4)

omit

on the day

substitute

immediately

(commencement: 12 September 2001)

Explanatory note

The Parliamentary Counsel's Office endeavours to republish all new laws on the legislation register on the day they commence. The office also republishes a new version of republished laws every time the law is affected by an amendment, modification or expiry. Section 89 (3) and (4) presently provides for the automatic repeal of amendment and commencement provisions *on the day after* they have commenced. Under this amendment the repeal will happen *immediately after* the provisions have fully operated. This amendment will allow the Parliamentary Counsel's Office to maintain its existing republication practices without the need to prepare an additional version of every new law on the day after the day of its commencement. This amendment is backdated to the establishment of the legislation register.

[2.4] Section 106 (1), example

substitute

Example

A reference to the '*XYZ Act 2000* (repealed)' is a reference to the *XYZ Act 2000* immediately before it was repealed.

Explanatory note

This amendment brings the example into line with current drafting practice relating to references to repealed laws.

[2.5] Section 126 (2) (b)

omit

another Act

substitute

the Act

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

Explanatory note

This amendment clarifies the operation of the section.

[2.6] Section 146 (4), new definition of *inserted*

insert

inserted, for a provision, includes inserted in substitution for another provision.

Explanatory note

This amendment makes it clear that the rules in section 146 about the meaning of ***may*** and ***must*** apply to provisions inserted in substitution for other provisions.

[2.7] Section 246, definition of *home address*

omit

under the law

substitute

under a law

Explanatory note

This amendment corrects a minor typographical error.

[2.8] Dictionary, part 1, new definitions

insert

custodial escort means a person appointed as an escort under the *Custodial Escorts Act 1998*, section 4.

director of corrective services means the Director of Corrective Services under the *Periodic Detention Act 1995*.

quarter means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October in any year.

remand centre means an area declared under the *Remand Centres Act 1976* to be a remand centre or a temporary remand centre.

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

remand centre administrator means the Administrator under the *Remand Centres Act 1976*, section 6.

sentence administration board means the Sentence Administration Board under the *Rehabilitation of Offenders (Interim) Act 2001*.

Explanatory note

The dictionary, part 1 contains definitions of entities, officials, things and concepts that are used from time to time in ACT laws. Once a term is defined in the dictionary, part 1 it applies to all ACT laws and does not need to be repeated in individual laws.

[2.9] Dictionary, part 1, definition of *under*

substitute

under, in relation to an Act or statutory instrument or a provision of an Act or statutory instrument, includes the following:

(a) by;

(b) by virtue of;

(c) for or for the purposes of;

(d) in accordance with;

(e) in pursuance of;

(f) pursuant to;

(g) within the meaning of.

Explanatory note

This amendment adds paragraphs (b), (e) and (f) to cover other phrases that are equivalent to the word ***under*** in most legislative contexts and brings the definition into line with current drafting practice.

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

Schedule 3 Technical amendments

(see s 5)

Part 3.1 ACTEW/AGL Partnership Facilitation Act 2000

[3.1] Section 25 (2) (a)

omit

the discharge by ACTEW of any of its powers or functions as employer, other than a power or function

substitute

the exercise by ACTEW of any of its functions as employer, other than a function

Explanatory note

This amendment updates language. ***Exercise*** a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function and ***function*** is defined to include power. These are the drafting terms that are now used in relation to functions and powers.

[3.2] Section 32 (2)

omit

is guilty of

insert

commits

Explanatory note

This amendment brings language into line with current drafting practice.

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

[3.3] Section 34 (1)

omit

perform

substitute

exercise

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

Part 3.2 ACTION Authority Act 2001

[3.4] 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 words and expressions used in this Act, and includes references (***signpost definitions***) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition '***relevant person***, for division 5.1 (Conduct of persons associated with the authority—see section 30.' means that the term 'relevant person' is defined in that section and the definition applies to that division.

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 2001*, 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 2001*, s 127 (1), (4) and (5) for the legal status of notes.

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

Explanatory note

This amendment adds standard dictionary and notes provisions. A new dictionary is inserted by another amendment.

[3.5] Section 5 (g) and (h)

substitute

(g) to exercise any other function given to it under this Act or another Territory law; and

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

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see *Legislation Act 2001*, s 196 and dict, pt 1, def of ***entity***).

Explanatory note

This amendment brings the paragraphs into line with current drafting practice and adds a standard note about necessary and convenient powers related to a function. This amendment is consequential on the omission of section 6 by another amendment.

[3.6] Section 6

omit

Explanatory note

This section is no longer necessary because of the *Legislation Act 2001*, section 196 (1). That subsection 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.

[3.7] Section 9 (2) (b)

omit

performs

substitute

exercises

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

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

[3.8] Section 10

substitute

10 Constitution of board

(1) The board consists of the directors.

(2) The directors of the authority are—

(a) the appointed directors; and

(b) the chief executive.

(3) However, the board consists of only the appointed directors when it is considering or deciding—

(a) the appointment, or the ending of the appointment, of the chief executive; or

(b) the chief executive's conditions of appointment.

Explanatory note

This amendment brings the section into line with current drafting practice and omits section 10 (4) which is no longer necessary because of the *Legislation Act 2001*, section 199 (4). That subsection provides that the exercise of a function of a body is not affected only because of vacancies in the body's membership.

[3.9] Section 11 (1), new notes

insert

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see *Legislation Act 2001*, div 19.3.3).

Explanatory note

This amendment adds a standard note about appointments.

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

[3.10] Section 11 (3)

substitute

(3) An appointment must not be for a term 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 2001*, s 208 and dict, pt 1, def of ***appoint***).

Explanatory note

This amendment brings the subsection into line with current drafting practice and adds a standard note about reappointment.

[3.11] Section 13

omit

discharge of his or her functions

substitute

exercise of a function

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.12] Section 14, heading

substitute

14 Ending of appointment of director

Explanatory note

This amendment brings the section's heading into line with current drafting practice.

[3.13] Section 14 (1)

omit

terminate

substitute

end

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

Explanatory note

End is the drafting term that is now used in relation to appointments.

[3.14] Section 14 (1) (f) (i)

substitute

(i) punishable by imprisonment for 1 year or more; or

Explanatory note

This amendment brings the language of the subparagraph into line with current drafting practice.

[3.15] Section 14 (1), new note

insert

Note An appointed director's appointment also ends if the director resigns (see *Legislation Act 2001*, s 210).

Explanatory note

This amendment adds a standard note about resignation from an appointment.

[3.16] Section 14 (2)

substitute

(2) The Minister may end the appointment of an appointed director if the board tells the Minister in writing that it has resolved, by a majority of at least 2/3 of the directors, to recommend to the Minister that the director's appointment be ended.

Explanatory note

This amendment updates language by changing the references to the termination of an appointment to the ending of an appointment. ***End*** is the drafting term that is now used in relation to appointments.

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

[3.17] Section 15 (1)

omit

pecuniary

substitute

financial

Explanatory note

This amendment updates language.

[3.18] Section 16

substitute

16 Calling meetings of board

(1) The chairperson or, if the chairperson cannot do so, the deputy chairperson—

(a) may at any time call a meeting of the board; and

(b) must call a meeting of the board if asked by the Minister or, in writing, by at least 2 directors.

(2) A person who calls a meeting of the board must give the other directors reasonable notice of the time and place of the meeting.

Explanatory note

This amendment updates language and simplifies the section in accordance with current drafting practice.

[3.19] Division 3.1, heading

omit

Explanatory note

This amendment simplifies the structure of part 3 consequential on the relocation of section 22 by another amendment.

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

[3.20] Section 19

substitute

19 Appointment of chief executive

(1) The authority must appoint a person as the chief executive of the authority.

Note For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

(2) The chief executive's conditions of appointment are the conditions agreed to between the authority and the chief executive.

(3) However, the authority may enter into an agreement mentioned in subsection (2) only after consultation between the Minister and the board.

(4) Despite any agreement under subsection (2), the authority may end the appointment of a chief executive without compensation if the chief executive contravenes section 20 (2) or division 5.1 (Conduct of persons associated with the authority).

Note The chief executive's appointment also ends if the chief executive resigns (see *Legislation Act 2001*, s 210).

Explanatory note

This amendment brings the section into line with current drafting practice and omits section 19 (2) which is no longer necessary because of the *Legislation Act 2001*, section 209 (1). That subsection provides that a power of appointment includes the power to make acting appointments during vacancies and when the person holding the position cannot exercise the functions of the position.

[3.21] Section 20, heading

substitute

20 Functions of chief executive

Explanatory note

This amendment is consequential on the omission of the division headings of part 3 by other amendments.

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

[3.22] Section 20 (2)

omit

performing

substitute

exercising

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.23] Division 3.2, heading

omit

Explanatory note

This amendment simplifies the structure of part 3 consequential on the relocation of section 22 by another amendment.

[3.24] Section 22 (3)

omit

on account

substitute

because

Explanatory note

This amendment updates language.

[3.25] Section 22 (as amended)

renumber as section 36AA and relocate after section 36

Explanatory note

This amendment relocates the section to a more appropriate place in the Act (the part that deals with transitional matters). The section will expire on 31 December 2003 when the transitional part expires but section 40 will preserve any ongoing operation of the section.

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

[3.26] Section 25 (1)

substitute

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

Explanatory note

This amendment brings the subsection into line with current drafting practice by updating language. ***Exercise*** a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.27] Section 25 (3)

substitute

(3) The Minister must present a copy of a direction to the Legislative Assembly within 6 sitting days after the day the Minister makes it.

Explanatory note

This amendment brings the subsection into line with current drafting practice by updating language. ***Present*** is the drafting term that is now used in relation to the tabling of documents in the Legislative Assembly.

[3.28] Section 26 (3)

substitute

(3) The Minister must present a copy of each business plan given to the Minister under subsection (2) to the Legislative Assembly within 6 sitting days after the day the Minister receives it.

Explanatory note

This amendment brings the subsection into line with current drafting practice by updating language. ***Present*** is the drafting term that is now used in relation to the tabling of documents in the Legislative Assembly.

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

[3.29] Part 6, heading

substitute

Part 6 Transitional provisions

Explanatory note

This amendment retitles the part in accordance with current drafting practice.

[3.30] Section 40 (1)

substitute

(1) This part, and the definition of ***commencement day*** in the dictionary, expire on 31 December 2003.

Explanatory note

This amendment provides for the omission of a definition that will become spent on the omission of the transitional provisions.

[3.31] New dictionary

insert

Dictionary

(see s 2)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- appoint
- chief executive
- contravene
- exercise
- function.

appointed director means a person appointed to be a director of the authority under section 11 (1).

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

authority means the ACTION Authority established under section 4 (1).

board means the board of management of the authority established under section 8.

chief executive means a person appointed as the chief executive under section 19.

commencement day means 1 January 2002.

director means a director of the authority.

relevant person, for division 5.1 (Conduct of persons associated with the authority)—see section 30.

Explanatory note

This amendment adds a dictionary consequential on the omission of the definition section (section 3) by another amendment. The definitions have been updated, and a new signpost definition of ***relevant person*** added, in accordance with current drafting practice.

Part 3.3 Animal Welfare Regulations 2001

[3.32] Regulation 8 (5)

omit

regulation

substitute

subregulation

Explanatory note

This amendment corrects a reference to a provision name.

Au

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

Part 3.4 Architects Act 1959

[3.33] Section 17 (6) and (7)

omit

Explanatory note

Section 17 (6) vests jurisdiction in the Supreme Court to hear appeals under the section. This provision is unnecessary because the *Legislation Act 2001*, section 176 provides that, if a law authorises a proceeding to be brought in a court for a matter, the law vests the court with jurisdiction in the matter.

Section 17 (7) seeks to remove the Supreme Court's power to review a decision of the board under section 26 in relation to an application for registration by a person who has been removed from the register for disciplinary reasons. It conflicts with the Self-Government Act, section 48A which gives the Supreme Court all original and appellate jurisdiction that is necessary for the administration of justice in the Territory.

The omission of section 17 (7) will apply the right under section 17 (2) to seek a statement of reasons to a decision made under section 26. However, this is no more than the right given by the *Administrative Decisions (Judicial Review) Act 1989*, section 13.

[3.34] Section 25 (5)

omit

Explanatory note

This amendment omits a provision that vests jurisdiction in the Supreme Court to hear appeals under the section. It is unnecessary because the *Legislation Act 2001*, section 176 provides that, if a law authorises a proceeding to be brought in a court for a matter, the law vests the court with jurisdiction in the matter.

[3.35] Section 37

substitute

37 Witness fees and travelling expenses

(1) This section applies to a person (the ***witness***) who attends a hearing of the board to give evidence (whether voluntarily or under a summons).

(2) The witness is entitled to receive the fees and travelling expenses that the presiding member directs in accordance with the scale and

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

conditions applying to people who attend as witnesses before the Supreme Court.

Note For the Supreme Court scale, see *Supreme Court Rules*, sch 4, pt 4.8.

(3) The fees and expenses are payable by—

(a) if the witness attended at the request of the chairperson or deputy chairperson or a public servant—the Territory; or

(b) in any other case—the person who requested the attendance of the witness.

Explanatory note

This amendment does not make a substantive change in the entitlements of a witness. The existing section adopts the scale in the *Public Works Committee Regulations 1969* (Cwlth), schedule 2 which applies the High Court scale. The *Supreme Court Rules* (see schedule 4, part 4.8) is, in substance, the same as the High Court scale. The linking of the entitlements to the Supreme Court reflects the Territory's self-governing status.

Part 3.5 Auditor-General Act 1996

[3.36] Section 1

substitute

1 Name of Act

This Act is the *Auditor-General Act 1996.*

Explanatory note

This amendment brings the naming provision of the Act into line with current drafting practice.

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

[3.37] Section 3 (1), definitions of *subsidiary* and *Territory owned corporation*

omit

Explanatory note

The definition of ***Territory owned corporation*** is unnecessary because the term is defined in the *Legislation Act 2001*, dictionary, part 1. The definition of ***subsidiary*** is included as a signpost definition in a new dictionary inserted made by another amendment.

[3.38] Section 3 (1), remaining definitions

relocate to the dictionary

Explanatory note

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

[3.39] 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 words and expressions used in this Act, and includes references (***signpost definitions***) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition '***subsidiary***, of a Territory owned corporation—see the *Territory Owned Corporations Act 1990*, section 3 (1).' means that the term 'subsidiary' 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 2001*, s 155 and s 156 (1)).

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

3 Application of words and expressions used in Financial Management Act

A word or expression defined in the Financial Management Act has the same meaning in this Act.

3A Notes

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

Note See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment adds standard dictionary and notes provisions in accordance with current drafting practice and adds the substance of section 3 (2) as new section 3. A new dictionary is inserted by another amendment.

[3.40] Section 10

omit

conferred on

substitute

given to

Explanatory note

Given is the drafting term that is now used in relation to functions.

[3.41] Section 12 (3)

substitute

(3) In this section:

ecologically sustainable development means the effective integration of economic and environmental considerations in decision-making processes achievable through implementation of the following principles:

(a) the precautionary principle;

(b) the inter-generational equity principle;

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

(c) conservation of biological diversity and ecological integrity;

(d) improved valuation and pricing of environmental resources.

the inter-generational equity principle means that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

the precautionary principle means that, if there is a threat of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

Explanatory note

This amendment breaks a definition up into several definitions in line with current drafting practice.

[3.42] Section 17 (7)

substitute

(7) In this section:

Speaker, for a report given to the Deputy Speaker or clerk under section 4 (Reports to be given to Speaker), means the Deputy Speaker or clerk, as the case requires.

Explanatory note

This amendment recasts the definition to bring the form of the definition into line with current drafting practice.

[3.43] Section 21

omit

Unless the contrary intention appears, the provisions of the

substitute

The

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

Explanatory note

This amendment omits words that are no longer necessary because of the *Legislation Act 2001*, section 155 (see also s 130, especially example 4).

[3.44] Section 26

substitute

26 Delegation

The auditor-general may delegate the auditor-general's functions under this Act to—

(a) a member of the staff assisting the auditor-general; or

(b) a person engaged by the auditor-general under section 24 (Contractors).

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

Explanatory note

This amendment updates the delegation provision, as follows:

- the words 'in writing' have been omitted because the *Legislation Act 2001*, section 232 provides that a delegation must be made, or evidenced, in writing;
- the words 'all or any' (of the auditor-general's functions) have been omitted because the *Legislation Act 2001*, 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.

This amendment also adds a standard note about delegations.

[3.45] Schedule 1, clause 1 (1), new note

insert

Note For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Explanatory note

This amendment adds a standard note about appointments.

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

[3.46] Schedule 1, clause 2

omit

Explanatory note

This amendment omits provisions giving the auditor-general an entitlement to remuneration etc under the *Remuneration Tribunal Act 1995*. This is specifically provided for in that Act, section 10 (1) (h).

[3.47] Schedule 1, clause 6

substitute

6 Acting auditor-general

Before the Executive appoints a person to act as auditor-general, the Minister must consult the presiding member of the public accounts committee about the proposed appointment.

Explanatory note

This amendment recasts clause 6 (2) in accordance with current drafting practice and omits the following unnecessary provisions:

- clause 6 (1) because the *Legislation Act 2001*, section 209 (1) provides that a power to make an appointment includes the power to appoint a person to act in the position during a vacancy, whether or not an appointment had previously been made and during any periods when the person holding the position cannot exercise the functions of the position;
- clause 6 (3) because the *Legislation Act 2001*, section 221 (1) provides that, if a person acts in a position because it is vacant, the person may not act in the position for more than 1 year after the position became vacant;
- clause 6 (4) because the *Legislation Act 2001*, section 225 provides that an acting appointment, or anything done under an acting appointment, is not invalid only because of a defect or irregularity in the appointment.

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

[3.48] New dictionary

insert

Dictionary

(see s 2)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- appointment
- Executive
- function
- Speaker
- Territory owned corporation.

subsidiary, of a Territory owned corporation—see the *Territory Owned Corporations Act 1990*, section 3 (1).

Explanatory note

This amendment adds a new dictionary. The definition of ***subsidiary*** was previously located in section 3 (1).

[3.49] Further amendments, mentions of *performance*

omit

performance

substitute

exercise

in

- section 9
- section 14 (1)
- section 15 (1)
- section 17 (1)

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

- section 24 (1)
- sections 32 and 33
- section 34 (1).

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

Part 3.6 Building Regulations Amendment SL 2001 No 21

[3.50] Regulation 1

substitute

1 Commencement

These regulations commence on the day they are notified in the Gazette.

(commencement: 12 July 2001)

Explanatory note

The commencement provision of these regulations provided that the regulations 'commence on the commencement of the *Building Amendment Act 2001'*. That Act commenced on 1 July 2001 (that is, the day that Act was notified in the Gazette). However, the regulations were not notified in the Gazette until 12 July 2001.

The backdating of this amendment makes it clear that the regulations validly commenced on the day they were notified in the Gazette. This result is consistent with the provision now made by the *Legislation Act 2001*, section 73 (3) (which is about the commencement of laws).

Part 3.7 Community Title Act 2001

[3.51] Section 13 (2) (a)

omit

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

development statement

substitute

management statement

Explanatory note

This amendment brings the language of the paragraph into line with language used elsewhere in the Act (see especially section 7).

[3.52] Section 27 (1) and (2)

substitute

(1) In this section:

interested person means each of the following:

(a) the developer of the community title scheme;

(b) the body corporate;

(c) an owner or prospective owner of a lot of scheme land;

(d) the registrar-general;

(e) anyone else who has, in the Supreme Court's opinion, a proper interest in the scheme.

(2) The Supreme Court may, on application by an interested person, order that a community title scheme be amended if satisfied that it is impossible or impracticable to finish the scheme as proposed in the master plan and management statement.

Explanatory note

This amendment brings the location and form of the definition into line with current drafting practice.

[3.53] Section 28 (2)

omit everything before paragraph (a), substitute

(2) In this section:

interested person means each of the following:

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

Explanatory note

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

[3.54] Division 8.2, heading

substitute

Division 8.2 Functions of bodies corporate

Explanatory note

This amendment brings the division heading into line with current drafting practice.

[3.55] Section 35, heading

substitute

35 Functions of body corporate

Explanatory note

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

[3.56] Section 35 (1)

omit

and duties

Explanatory note

Function is defined in the *Legislation Act 2001*, dictionary, part 1 to include authority, duty and power.

[3.57] Section 44 (1), new notes

insert

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Note 3 For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

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

Explanatory note

This amendment adds standard notes about appointments and delegations.

[3.58] Section 53 (1), new note

insert

Note For how documents may be served, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.59] Section 61 (5), new note

insert

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

Explanatory note

This amendment adds a standard note about delegations.

[3.60] Section 97 (2), new note

insert

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

Explanatory note

This amendment adds a standard note about approved forms.

[3.61] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- administrative appeals tribunal
- function
- Supreme Court
- Territory owned corporation

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

- the Territory.

Explanatory note

This amendment adds standard dictionary notes.

Part 3.8 Compensation (Fatal Injuries) Act 1968

[3.62] Section 2

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 words and expressions used in this Act, and includes references (***signpost definitions***) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition '***member***, of a deceased person's family—see section 3.' means that the term 'member' is defined in that section.

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 2001*, 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 2001*, s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment adds standard dictionary and notes provisions. A new dictionary is inserted by another amendment.

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

[3.63] Section 3 (d)

substitute

(d) a person who, immediately before the death, was acting in place of a parent of the deceased person;

Explanatory note

This amendment updates language.

[3.64] Section 3 (h)

substitute

(h) a person who, although not legally married to the deceased person, was immediately before the death of the deceased person living with the deceased person as wife or husband on a genuine domestic basis.

Explanatory note

This amendment updates language.

[3.65] Section 7

omit

notwithstanding the death of the person injured and irrespective of whether

substitute

despite the death of the person injured and whether or not

Explanatory note

This amendment updates language.

[3.66] Section 10 (4)

omit

prior to

substitute

before

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

Explanatory note

This amendment updates language.

[3.67] Section 10 (6) (c) (i)

omit

in lieu of

substitute

instead of

Explanatory note

This amendment updates language.

[3.68] Section 13 (2)

substitute

(2) A person other than the personal representative of the deceased person may bring an action under this Act only if the action is for the benefit of the members of the deceased person's family who sustained damage because of the deceased person's death.

(3) This Act applies to the action, with any necessary changes, as if it were an action by the deceased person's personal representative.

Explanatory note

This amendment modernises the language of the provision and recasts it in accordance with current drafting practice.

[3.69] Section 15 (1)

omit

motion

substitute

initiative

Explanatory note

This amendment updates language.

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

[3.70] Section 15 (2)

omit

barrister or solicitor, or both

substitute

lawyer

Explanatory note

This amendment updates language. ***Lawyer*** is defined in the *Legislation Act 2001*, dictionary, part 1 to mean any kind of legal practitioner.

[3.71] Section 15 (4)

omit

, and not in derogation of,

substitute

, and do not limit,

Explanatory note

This amendment updates language.

[3.72] New dictionary

insert

Dictionary

(see s 2)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- public trustee
- State
- the Territory.

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

child, of a deceased person, includes a grandchild and a stepchild of the deceased person.

member, of a deceased person's family—see section 3.

parent, of a deceased person, includes a stepfather, a stepmother, a grandfather and a grandmother of the deceased person.

personal representative, of a deceased person, means the person to whom any grant of probate of the will or administration of the estate of the deceased person has been made in the Territory or a State, and includes an executor by representation or the public trustee.

Explanatory note

This amendment adds a dictionary consequential on the omission of the definition section (section 3) by another amendment. A new signpost definition of ***member*** is inserted in accordance with current drafting practice and the definitions of ***child*** and ***parent*** have been updated.

Part 3.9 Conveyancing Act 1919

[3.73] Section 39

omit

is discharge

substitute

is a discharge

Explanatory note

This amendment improves sentence structure.

[3.74] Section 51A (1)

omit

a purchaser in good faith

substitute

an honest purchaser

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

Explanatory note

This amendment updates language.

[3.75] Section 51A (1) (a) and (b)

omit

shall be deemed

substitute

is taken

Explanatory note

This amendment updates language.

[3.76] Section 51A (1) (a) and (b)

omit

affixed

substitute

attached

Explanatory note

This amendment updates language.

[3.77] Section 51A (7)

omit

mode

substitute

method

Explanatory note

This amendment updates language.

[3.78] Section 51A (7)

omit

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

thereof

substitute

of the corporation

Explanatory note

This amendment updates archaic language.

[3.79] Section 51A (7)

omit

modes

substitute

methods

Explanatory note

This amendment updates language.

[3.80] Section 51A (7)

omit

effectual

substitute

effective

Explanatory note

This amendment updates language.

[3.81] Section 66A (1)

omit

made requisite to

substitute

required for

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

Explanatory note

This amendment updates language.

[3.82] Section 66A (1)

omit

shall be deemed

substitute

is

Explanatory note

This amendment updates language.

[3.83] Section 66A (2)

omit

shall not, in favour of a purchaser, be deemed to be requisite

substitute

is not, in favour of a purchaser, taken to be a requirement

Explanatory note

This amendment updates language.

[3.84] Section 66D (3)

omit

thereto by convey

substitute

to the partition by conveying

Explanatory note

This amendment updates archaic language.

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

[3.85] Section 66F

substitute

66F Definitions for div 4.6

In this division:

action, for the partition of property—see section 66G (4) (Power of Supreme Court to order sale instead of partition).

interested person, in relation to property, means a person with an interest in the property.

Explanatory note

This amendment adds a signpost definition of ***action*** to the section and consequentially brings the section's heading into line with current drafting practice.

[3.86] Section 78A

omit

In a conveyance

substitute

(1) In a conveyance

Explanatory note

This amendment creates a subsection consequent on the insertion of a new subsection by another amendment.

[3.87] Section 78A

omit

whereto

substitute

to which

Explanatory note

This amendment updates archaic language.

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

[3.88] Section 78A

omit

of them, shall be reasonably required;

(in which covenant a purchase for value shall not be deemed to include a conveyance in consideration of marriage).

substitute

of them, is reasonably required.

Explanatory note

This amendment updates language and omits the bracketed text consequent on the insertion of new section 78A (2) by another amendment.

[3.89] New section 78A (2)

insert

(2) In this section:

purchase for value does not include a conveyance in consideration of marriage.

Explanatory note

This amendment recasts the qualification to section 78A as a new subsection in line with existing section 78B (2).

[3.90] Section 78B (1)

omit

effectual

substitute

effective

Explanatory note

This amendment updates language.

[3.91] Section 78B (1)

omit

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

in nowise become

substitute

is not

Explanatory note

This amendment updates archaic language.

[3.92] Section 78B (1)

omit

notwithstanding anything this as aforesaid

substitute

despite this

Explanatory note

This amendment updates archaic language.

[3.93] Section 78C, heading 'Right to convey, quiet enjoyment'

substitute

Right to convey

Explanatory note

This amendment is consequential on the insertion of a new heading by another amendment.

[3.94] Section 78C, new heading

before

AND also that,

insert the following heading

Quiet enjoyment

Explanatory note

This amendment adds a new heading to improve the structure of the section.

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

[3.95] Section 78C

omit

thereon

substitute

on the money

Explanatory note

This amendment updates archaic language.

[3.96] Section 78C

omit

thenceforth

substitute

from then on

Explanatory note

This amendment updates archaic language.

[3.97] Section 78C

omit

thereof

substitute

of it

Explanatory note

This amendment updates archaic language.

[3.98] Section 78C

omit

whereto

substitute

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

to which

Explanatory note

This amendment updates archaic language.

[3.99] Section 78D

omit

effectual

substitute

effective

Explanatory note

This amendment updates language.

[3.100] Section 78D

omit

in nowise become

substitute

is not

Explanatory note

This amendment updates archaic language.

[3.101] Section 78E

omit

title thereunder

substitute

the title under the conveyance

Explanatory note

This amendment updates archaic language.

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

[3.102] Section 78F (1)

omit

whereby or by means whereof

substitute

under or by means of which

Explanatory note

This amendment updates archaic language.

[3.103] Section 78F (1)

omit

thereof

substitute

of it

Explanatory note

This amendment updates archaic language.

[3.104] Section 78F (3)

omit

shall be deemed

substitute

is taken

Explanatory note

This amendment updates language.

[3.105] Section 78F (3)

omit

such

substitute

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

the

Explanatory note

This amendment updates language.

[3.106] Section 151D (5)

omit

such caveats as he or she deems

substitute

the caveats the registrar-general considers

Explanatory note

This amendment updates language.

[3.107] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- corporation
- instrument
- person
- provision
- registrar-general.

Explanatory note

This amendment adds standard dictionary notes.

[3.108] Dictionary, new definition of *action*

insert

action, for the partition of property, for division 4.6 (Partition)—see section 66G (4) (Power of Supreme Court to order sale instead of partition).

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

Explanatory note

This amendment adds a signpost definition in accordance with current drafting practice.

Part 3.10 Conveyancing and Law of Property Act 1898

[3.109] Section 36 (1)

omit

a bona fide

substitute

a genuine

Explanatory note

This amendment updates language.

[3.110] Section 36 (2)

substitute

(2) If payment and settlement are made in accordance with the Supreme Court's declaration, the court may declare that the sale is valid.

(3) On the making of the declaration under subsection (2), the legal estate vests as if the power had been properly executed.

Explanatory note

This amendment updates archaic language.

[3.111] Part 4, heading

substitute

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

Part 4 Leases and sales of settled estates and estates of children

Explanatory note

This amendment updates language.

[3.112] Section 37 (1), definition of *settlement*

omit

or by virtue of

Explanatory note

This amendment omits unnecessary words (see the amendment of the *Legislation Act 2001*, dictionary, definition of ***under*** by schedule 2 of this Act).

[3.113] Section 37 (2)

omit

shall be deemed

substitute

are taken

Explanatory note

This amendment updates language.

[3.114] Section 37 (2)

omit

and by virtue of

Explanatory note

This amendment omits unnecessary words (see the amendment of the *Legislation Act 2001*, dictionary, definition of ***under*** by schedule 2 of this Act).

[3.115] Section 37 (3)

omit

said

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

Explanatory note

This amendment omits an unnecessary word.

[3.116] Section 37 (4)

omit

shall be deemed

substitute

is taken

Explanatory note

This amendment updates language.

[3.117] Section 37 (4)

omit

howsoever

Explanatory note

This amendment omits an unnecessary and archaic word.

[3.118] Part 5, heading

substitute

Part 5 Renewable leaseholds of children

Explanatory note

This amendment omits a reference to ‘persons under disability’ and revises the heading to refer to children in accordance with current drafting practice.

[3.119] Section 89, heading

substitute

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

89 Validity of surrenders and leases

Explanatory note

This amendment updates the language of the heading.

[3.120] Section 99

omit

effectual

substitute

effective

Explanatory note

This amendment updates language.

[3.121] Section 101

omit

him or her in lieu of all costs, charges, and expenses whatsoever, such

substitute

the receiver, instead of costs, charges, and expenses,

Explanatory note

This amendment updates and simplifies language.

[3.122] Section 106

omit

shall be deemed and taken

substitute

are taken

Explanatory note

This amendment updates language.

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

[3.123] Section 106

omit

therein

substitute

in the mortgaged premises

Explanatory note

This amendment updates archaic language.

[3.124] Section 106

omit

unto such

substitute

to the

Explanatory note

This amendment updates archaic language.

[3.125] Section 108 (2)

omit

or such part thereof

substitute

or a part of it

Explanatory note

This amendment updates archaic language.

[3.126] Section 115 (1)

omit

bona fide

substitute

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

genuine

Explanatory note

This amendment updates language.

[3.127] Section 119

omit

be deemed

substitute

is taken

Explanatory note

This amendment updates language.

Part 3.11 Court Security Act 2001

[3.128] Section 16 (1)

omit

, in writing,

Explanatory note

This amendment omits unnecessary words. The *Legislation Act 2001*, section 206 provides that an appointment must be made, or evidenced, in writing.

[3.129] Section 16 (1), note

substitute

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Note 3 Each police officer and sheriff's officer is a security officer (see the dict, def of ***security officer***).

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

Explanatory note

This amendment adds notes 1 and 2 which are standard notes about appointments.

[3.130] Section 16 (3)

omit

, in writing, revoke

substitute

end

Explanatory note

This amendment omits unnecessary words. The *Legislation Act 2001*, section 208 (2) provides that the power to end an appointment is exercisable in the same way as the power to make the appointment.

[3.131] Section 16 (3), new note

insert

Note A security officer's appointment also ends if the officer resigns (see *Legislation Act 2001*, s 210).

Explanatory note

This amendment adds a standard note about resignation from an appointment.

[3.132] Section 18

substitute

18 Delegation of chief executive's functions

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

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

Explanatory note

This amendment updates the delegation provision, as follows:

- the words 'in writing' have been omitted because the *Legislation Act 2001*, section 232 provides that a delegation must be made, or evidenced, in writing;

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

- the words 'all or any' (of the chief executive's functions) have been omitted because the *Legislation Act 2001*, 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.

This amendment also adds a standard note about delegations.

[3.133] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- chief executive
- contravene
- Executive
- function
- power
- public servant.

Explanatory note

This amendment adds standard dictionary notes.

Part 3.12 Crimes (Forensic Procedures) Act 2000

[3.134] Section 17 (4)

substitute

(4) In this Act (other than subsection (1)):

opposite sex, for a transgender person, means the opposite sex to the sex with which the transgender person identifies.

same sex, for a transgender person, means the same sex as the sex with which the transgender person identifies.

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

Explanatory note

This amendment remakes the definitions in accordance with current drafting practice to reflect the actual terms used in the Act.

[3.135] Section 114

substitute

114 Delegation by chief police officer

The chief police officer may delegate the chief police officer's functions under this Act to a police officer of the rank of sergeant or above.

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

Explanatory note

This amendment updates the delegation provision by omitting the words 'in writing'. The *Legislation Act 2001*, section 232 provides that a delegation must be made, or evidenced, in writing. This amendment also adds a standard note about delegations.

[3.136] Dictionary, note 2

insert

- function

Explanatory note

This amendment is consequent on the omission of the definition of ***function*** by another amendment.

[3.137] Dictionary, definition of *function*

omit

Explanatory note

This amendment omits an unnecessary definition. ***Function*** is defined in the *Legislation Act 2001*, dictionary, part 1 to include authority, duty and power.

[3.138] Dictionary, definitions of *member of the opposite sex* and *member of the same sex*

omit

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

Explanatory note

This amendment is consequential on the amendment of section 17 (4) by another amendment.

[3.139] Dictionary, new definitions

insert

opposite sex, for a transgender person—see section 17 (4).

same sex, for a transgender person—see section 17 (4).

Explanatory note

This amendment adds signpost definitions into the dictionary in accordance with current drafting practice consequentially on the amendment of section 17 (4) by another amendment.

Part 3.13 Crown Proceedings Act 1992

[3.140] New section 3

insert

3 Notes

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

Note See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment adds a standard provision about the legal status of notes.

[3.141] Section 5 (3)

substitute

(3) In this section:

proceedings, against the Crown, includes proceedings to attach earnings or other debts due or accruing from the Territory Crown to someone else.

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

Explanatory note

This amendment recasts the definition in accordance with current drafting practice.

[3.142] Section 11 (4)

substitute

(4) In this section:

Attorney-General includes the Attorney-General for the Commonwealth, the Attorney-General for each State and the Attorney-General for each other Territory.

Crown includes the Crown in right of the Commonwealth, the Crown in right of each State and the Crown in right of each other Territory.

Explanatory note

This amendment recasts the definitions in accordance with current drafting practice.

[3.143] Section 16

substitute

16 Service generally

(1) Any process or document relating to proceedings must be served on the Territory Crown by serving the process or document on the chief solicitor.

(2) However—

(a) if this Act makes special provision about service of the process or document—the process or document must be served in accordance with the special provision; and

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

(b) if the party serving the process or document has notice that a lawyer other than the government solicitor is acting for the Crown in relation to the proceedings—the process or document must be served on that lawyer.

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 2001*, s 104).

Explanatory note

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

Part 3.14 Dangerous Goods Act 1975

[3.144] Section 3 (7), definition of *overriding law*, paragraph (b)

substitute

(b) regulations made under that Act; or

Note On the republication date, the following regulations were in force:

- the *Occupational Health and Safety Regulations 1991*;
- the *Occupational Health and Safety (Certification of Plant Users and Operators) Regulations 2000*;
- the *Occupational Health and Safety (Manual Handling) Regulations 1997*.

Explanatory note

This amendment omits a reference to the *Occupational Health and Safety Regulations 1991* and applies the paragraph to all the regulations made under the *Occupational Health and Safety Act 1989*. This amendment reflects the fact that the regulations under the *Occupational Health and Safety Act 1989* are no longer contained in a single set of regulations.

[3.145] Sections 4 to 7

substitute

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

4 Chief inspector

(1) The chief executive must appoint a public servant as the Chief Inspector of Dangerous Goods.

(2) The chief inspector is also an inspector.

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

5 Inspectors

The chief executive must appoint a public servant as an inspector for this Act.

6 Analysts

The chief executive may appoint a public servant as an analyst for this Act.

7 Delegation by chief inspector

The chief inspector may delegate the chief inspector's functions under this Act to an inspector or another public servant.

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

Explanatory note

This amendment removes the requirement that the chief executive must create and maintain offices for inspectors etc in the public service. The *Legislation Act 2001*, 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. Standard notes about appointments are also inserted.

This amendment also updates the delegation provision, as follows:

- the words 'in writing' have been omitted because the *Legislation Act 2001*, section 232 provides that a delegation must be made, or evidenced, in writing;

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

- the words ‘all or any’ (of the chief inspector’s functions) have been omitted because the *Legislation Act 2001*, 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.

This amendment also adds a standard note about delegations.

[3.146] Section 8 (1), new note

insert

Note The definition of ***in*** premises includes on the premises (see the dict).

Explanatory note

This amendment is consequential on the omission of ‘or on’ from the section and the insertion into the dictionary of a new definition of ***in*** by other amendments.

[3.147] Section 9 (4)

omit

is not guilty of

substitute

does not commit

Explanatory note

This amendment updates language.

[3.148] Section 9 (4)

omit

conveyed

substitute

transported

Explanatory note

This amendment updates language consequential on the insertion into the dictionary of a new definition of ***transport*** by another amendment.

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

[3.149] Division 3.2, heading

substitute

Division 3.2 Transport of dangerous goods

Note The definition of ***in*** a vehicle includes on the vehicle (see the dict).

Explanatory note

This amendment updates language consequential on the new definition of ***transport*** made by another amendment, brings the division heading into line with current drafting practice and adds a note consequential on the new definition of ***in*** made by another amendment.

[3.150] Section 10, heading

substitute

10 Licensing of vehicles to carry dangerous goods

Explanatory note

This amendment is consequential on the revised definition of ***vehicle*** and brings the section heading into line with current drafting practice.

[3.151] Section 10 (1A) (b)

omit

vehicle or vessel in or on

substitute

vehicle in

Explanatory note

This amendment is consequential on the revised definition of ***vehicle*** and the new definition of ***in*** made by other amendments.

[3.152] Section 10 (2) (c)

omit

or vessel

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

Explanatory note

This amendment is consequential on the revised definition of ***vehicle*** inserted by another amendment.

[3.153] Sections 11 and 12

substitute

11 Unlicensed carriage of dangerous goods

A person must not carry dangerous goods prescribed under the regulations for this section in a container that is in, or forms part of, a vehicle unless the person is authorised under section 10 (3) to carry the dangerous goods in the container.

Maximum penalty: 50 penalty units.

12 Transport of dangerous goods generally

(1) A person transporting dangerous goods must take the precautions necessary to prevent access to the goods by people who are not entitled to have lawful access to them.

Maximum penalty: 50 penalty units.

(2) A person must not transport dangerous goods unless any container or vehicle in which the goods are transported is constructed and maintained, and the goods enclosed, so as to prevent the escape of any part of the goods during the ordinary course of their transport.

Maximum penalty: 100 penalty units.

(3) Subsection (2) is subject to any regulation about the venting of dangerous goods.

(4) This section does not affect the power to make regulations about the transport of dangerous goods.

Explanatory note

This amendment brings the sections into line with current drafting practice and revises them consequentially on the revised definition of ***vehicle*** and the new definition of ***in***

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

which are inserted by other amendments. The heading to section 11 is also brought into line with the scope of the section by referring to 'carriage' rather than 'transport'.

[3.154] Section 14

omit

convey

substitute

transport

Explanatory note

This amendment updates language consequential on the insertion into the dictionary of a new definition of ***transport*** by another amendment.

[3.155] Section 20 (2) (d)

omit

inexplosive

substitute

non-explosive

Explanatory note

This amendment updates language.

[3.156] Section 23, new note

insert

Note ***Sell*** has an expanded meaning that includes offer for sale, expose for sale and supply (see the dict).

Explanatory note

The note explains the extended meaning of 'sell' in relation to the offence of unlicensed sale.

[3.157] Section 27 (3)

substitute

(3) A licence is subject to—

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

(a) any condition prescribed under the regulations that applies to the licence; and

(b) any condition that is stated in the licence by the chief inspector.

Explanatory note

This amendment brings the subsection into line with current drafting practice. In particular, it omits references to classes because a statutory instrument may apply to different matters or classes of matters (see the *Legislation Act 2001*, section 48). Unnecessary references to 'term' are also omitted.

[3.158] Section 28 (2)

omit

shall be deemed not to be

substitute

is not

Explanatory note

This amendment updates language.

[3.159] Part 6, heading, new note

insert after the heading

Note for pt 6

The definition of ***in*** a vehicle or premises includes on the vehicle or premises (see the dict).

This amendment is consequential on the new definition of ***in*** inserted by another amendment.

[3.160] Section 31 (1) (a)

omit

premises, vehicle or vessel, or examine any container, fixture or fitting in or on

substitute

premises or vehicle, or examine any container, fixture or fitting, in

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

Explanatory note

This amendment is consequential on the revised definition of ***vehicle*** and the new definition of ***in*** which are inserted by other amendments.

[3.161] Section 31 (1) (b)

omit

or cause any container to be opened

Explanatory note

This amendment omits unnecessary words.

[3.162] Section 31 (1) (c)

omit

, vehicle or vessel in or on which the substance or article is being kept or conveyed

substitute

or vehicle in which the substance or article is being kept or transported

Explanatory note

This amendment updates language and is consequential on the revised definition of ***vehicle*** and the new definition of ***in*** which are inserted by other amendments.

[3.163] Section 31 (1) (e) and (f)

substitute

(e) give directions in relation to the detention of any substance, article, container or vehicle that has been detained under paragraph (c);

(f) give to the occupier or licensee of licensed premises directions (including written directions) in relation to the premises or the keeping of dangerous goods in the premises;

Authorised when accessed at www.legislation.act.gov.au or in authorised printed form

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

Explanatory note

This amendment updates language consequentially on the revised definition of ***vehicle*** and the new definition of ***in*** which are inserted by other amendments. This amendment also simplifies the paragraphs and brings them into line with current drafting practice.

[3.164] Section 31 (1) (i)

omit

the observance of

substitute

compliance with

Explanatory note

This amendment updates language.

[3.165] Section 31 (1) (j)

omit

premises, vehicle or vessel

substitute

premises or vehicle

Explanatory note

This amendment is consequential on the revised definition of ***vehicle*** inserted by another amendment.

[3.166] Section 31 (3)

omit

containers, vehicles or vessels

substitute

containers or vehicles

Explanatory note

This amendment is consequential on the revised definition of ***vehicle*** inserted by another amendment.

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

[3.167] Section 31 (4)

omit

due

substitute

payable

Explanatory note

This amendment updates language.

[3.168] Section 31 (7)

substitute

(7) An inspector who enters premises or a vehicle under this section is not authorised to remain in the premises or vehicle, and a person is not required to comply with any requirement made by the inspector under this section, if the inspector does not produce his or her identity card for inspection when asked to do so by the occupier or person in charge of the premises or vehicle.

Explanatory note

This amendment is consequential on the revised definition of ***vehicle*** and the new definition of ***in*** which are inserted by other amendments.

[3.169] Section 40 (1A)

omit

deemed

substitute

taken

Explanatory note

This amendment updates archaic language.

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

[3.170] Section 40 (2) (a) (i)

omit

or the regulations

Explanatory note

This amendment omits unnecessary words. A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see the *Legislation Act 2001*, section 104).

[3.171] Section 40 (2) (b)

omit

referred to in section 49 (4) (e) (i)

substitute

mentioned in section 50 (1) (b)

Explanatory note

This amendment is consequential on another amendment.

[3.172] Section 42 (1)

omit 1st mention of

within

substitute

in

Explanatory note

This amendment updates archaic language.

[3.173] Section 42 (1)

omit

such persons, being inspectors or police officers, as are named

substitute

the inspectors or police officers named

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

Explanatory note

This amendment omits unnecessary text.

[3.174] Section 42 (1)

omit

vehicle, vessel, fixtures or fittings therein and to search any persons therein

substitute

vehicle, fixture, fittings or people in the house

Explanatory note

This amendment is consequential on the revised definition of ***vehicle*** and updates the language of the subsection.

[3.175] Section 43 (2)

substitute

(2) If a police officer suspects, on reasonable grounds, that an explosive is being carried in a vehicle in contravention of this Act, the officer may stop and search the vehicle.

Explanatory note

This amendment revises the section consequentially on the revised definition of ***vehicle*** and the new definition of ***in*** which are inserted by other amendments.

[3.176] Section 45 (2), new note

insert

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

Explanatory note

This amendment adds a standard note about approved forms.

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

[3.177] Section 48

omit

Explanatory note

This amendment omits an unnecessary section. It is similar to the *Legislation Act 2001*, section 58 which provides that regulations may make provision about the payment of fees.

[3.178] Section 49 (2)

omit

for or with respect to

substitute

in relation to

Explanatory note

This amendment substitutes the drafting term currently used for regulation-making powers.

[3.179] Section 49 (2) (c)

omit

conveying

substitute

transport

Explanatory note

This amendment updates language consequential on the insertion into the dictionary of a new definition of ***transport*** by another amendment.

[3.180] Section 49 (2) (d)

omit

vessels,

Explanatory note

This amendment is consequential on the revised definition of ***vehicle*** made by another amendment.

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

[3.181] Section 49 (2) (e)

omit

or prohibiting

Explanatory note

This amendment omits unnecessary words. The *Legislation Act 2001*, section 53 provides that power to regulate a matter includes power to prohibit the matter.

[3.182] Section 49 (2) (g)

substitute

(g) regulating smoking, the lighting or use of fire and any other dangerous, or potentially dangerous, activities near dangerous goods and in or near premises, vehicles, containers or pipelines used or that have been used in relation to dangerous goods; and

Explanatory note

This amendment is consequential on the revised definition of ***vehicle*** and the new definition of ***in*** which are inserted by other amendments. It also updates the language of the paragraph and omits a reference to prohibiting consequent on the *Legislation Act 2001*, section 53. That section provides that power to regulate a matter includes power to prohibit the matter.

[3.183] Section 49 (2) (i)

omit

premises licensed under this Act, in a vehicle, vessel or container used for the conveyance

substitute

licensed premises, in a vehicle or container used for the transport

Explanatory note

This amendment is consequential on the revised definition of ***vehicle*** and updates a reference to the conveyance of dangerous goods consequential on the insertion into the dictionary of a new definition of ***transport*** by another amendment.

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

[3.184] Section 49 (2) (j)

omit

vessel,

Explanatory note

This amendment is consequential on the revised definition of ***vehicle*** made by another amendment.

[3.185] Section 49 (2) (l)

omit

therewith

substitute

those matters

Explanatory note

This amendment updates archaic language.

[3.186] Section 49 (2) (m)

substitute

(m) the driving of vehicles, and the navigation and mooring of vessels, transporting dangerous goods; and

Explanatory note

This amendment is consequential on the revised definition of ***vehicle*** inserted by another amendment.

[3.187] Section 49 (4) to (8)

substitute

(4) A regulation may—

(a) exempt a person from the regulations; and

(b) give a prescribed person power to give an exemption from the regulations.

(5) Dangerous goods or explosives may be prescribed by reference to—

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

(a) a class of substances, articles, dangerous goods or explosives; or

(b) the circumstances in which, or other than in which, substances, articles, dangerous goods or explosives are or are not dangerous goods or explosives; or

(c) a quantity; or

(d) a flashpoint.

(6) Subsection (5) does not limit how dangerous goods or explosives may be prescribed.

50 Regulations may apply certain documents etc

(1) The regulations may apply, adopt or incorporate an instrument (including standards, rules, codes or specifications), or a provision of an instrument, as in force from time to time—

(a) that is approved in writing by the Minister; or

(b) that has been recommended or adopted by—

(i) the American Petroleum Institute; or

(ii) the British Standards Institution; or

(iii) the Institute of Petroleum; or

(iv) Standards Australia.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the *Legislation Act 2001*, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the *Legislation Act 2001*.

(2) If an instrument (or a provision of an instrument) adopted under subsection (1) refers to a temperature reading under the Fahrenheit scale, the reading must, unless the contrary intention appears, be applied as a reading under the Celsius scale that is—

(a) its equivalent; or

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

(b) if the equivalent is not a whole number—the next highest whole number.

(3) An approval under subsection (1) (a) is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

Explanatory note

This amendment updates the structure and language (including the reference to Standards Australia) of these provisions in accordance with current drafting practice and to reflect the operation of the *Legislation Act 2001*, section 47 and section 52 (which give a wide power about how regulations may make provision about a matter).

[3.188] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- chief executive
- corporation
- function
- person
- public servant.

This amendment adds standard dictionary notes.

[3.189] Dictionary, definition of *convey*

omit

Explanatory note

This amendment is consequential on the insertion of a new definition of ***transport*** by another amendment.

[3.190] Dictionary, definition of *credit card*

omit

Explanatory note

This amendment is consequential on the omission of section 48 by another amendment.

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

[3.191] Dictionary, definition of *director*, note

omit

Explanatory note

This amendment omits a note that is out of date and unnecessary.

[3.192] Dictionary, new definition of *in*

insert

in a vehicle or premises includes on the vehicle or premises.

Explanatory note

This new definition allows for the simplification of the language of the Act.

[3.193] Dictionary, definition of *premises*

substitute

premises means all or part of any land, structure (including a portable structure), building or enclosed place.

Explanatory note

This amendment updates the language of the definition and recasts it in accordance with current drafting practice.

[3.194] Dictionary, new definition of *transport*

insert

transport dangerous goods includes carry, load, unload, transfer, transmit, pump or discharge the goods.

Explanatory note

This amendment is consequent on the updating of the language of the Act from convey to transport.

[3.195] Dictionary, definitions of *vehicle* and *vessel*

substitute

vehicle includes a railway vehicle and a vessel used in navigation.

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

Explanatory note

This amendment enables the language of the Act to be simplified.

[3.196] Further amendments, mentions of *in or on*

omit

in or on

substitute

in

in

- section 8
- section 9 (1)
- section 19
- section 26 (3) (a).

Explanatory note

This amendment enables the language of the Act to be simplified and is consequential on the new definition of ***in*** made by another amendment.

Part 3.15 Dangerous Goods Regulations 1978

[3.197] Regulation 14 (8) (b)

substitute

(b) who has committed an offence against—

(i) the Act; or

(ii) the road transport legislation within the meaning of the *Road Transport (General) Act 1999*, section 6 (What is the road transport legislation?); or

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

Explanatory note

This amendment simplifies the reference to the road transport legislation.

[3.198] Regulations 52 (1) and 53 (1), new notes

insert

Note 1 A fee may be determined under the Act, s 46 (Determination of fees) for this regulation.

Note 2 If a form is approved under the Act, s 45 (Approved forms) for this regulation, the form must be used.

Explanatory note

This amendment adds standard notes about fees and approved forms.

[3.199] Regulation 59 (3) (a) and (b)

omit

for

substitute

from

Explanatory note

This amendment corrects minor typographical errors.

[3.200] Regulations 248 (5) and 293 (2) (b)

omit

the State

substitute

the ACT

Explanatory note

This amendment is consequential on the regulations becoming an ACT law.

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

[3.201] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- ACT
- fail
- person.

This amendment adds standard dictionary notes.

[3.202] Dictionary, definitions of *amorces* and *confetti bomb*

omit

an admixture

substitute

a mixture

Explanatory note

This amendment updates language.

[3.203] Dictionary, new definition of *convey*

insert

convey means transport.

Note Transport dangerous goods includes, carry, load, unload, transfer, transmit, pump or discharge the goods, see the Act, dict, def of ***transport***.

Explanatory note

This amendment adds a definition of ***convey*** consequential on the amendment of the *Dangerous Goods Act 1984* by this schedule to update the language of the Act by changing 'convey' to 'transport'.

[3.204] Dictionary, definition of *depot*

substitute

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

depot—

(a) means a building, structure, room, compartment, tank, store, area or receptacle where dangerous goods are kept (other than a process building); and

(b) for cryogenic liquid—includes all pressure regulators, safety devices, vaporisers, manifolds, pipelines and other equipment provided in relation to the depot (other than equipment for the conveyance or other handling of cryogenic liquid kept in the depot beyond the point where it enters a pipeline at service pressure); and

(c) for division 5.3 (Keeping of dangerous goods of class 2)—see regulation 110.

Explanatory note

This amendment adds to the definition the signpost reference in new paragraph (c) in accordance with current drafting practice.

[3.205] Dictionary, definition of *detonating fuse*

omit

thereof

substitute

of them

Explanatory note

This amendment updates language.

[3.206] Dictionary, new definitions of *premises* and *safety cartridge*

insert

premises—see the Act, dictionary.

safety cartridge—see the Act, dictionary.

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

Explanatory note

This amendment adds signpost definitions for important terms used in the regulations.

[3.207] Dictionary, definition of *sparkler*

omit

in admixture

substitute

mixed

Explanatory note

This amendment updates language.

[3.208] Dictionary, definitions of *starting pistol cap* and *streamer cone*

omit

an admixture

substitute

a mixture

Explanatory note

This amendment updates language.

Part 3.16 Defamation Act 2001

[3.209] Section 17 (4) and (5)

omit

and section 31

This amendment omits an unnecessary reference to section 31. Section 31 (3) contains a signpost definition that applies the definition of ***proceeding of public concern***. The terms defined in section 17 (5) are used only in section 17.

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

[3.210] Section 18 (4)

omit

Explanatory note

This amendment is consequential on the relocation of the definition of ***publication*** to section 18 (5) by another amendment.

[3.211] Section 18 (5)

omit

(5) In this section and section 31

substitute

(4) In this section

Explanatory note

This amendment omits an unnecessary reference to section 31. Section 31 (3) contains a signpost definition picking up the definition of ***publication***. The terms defined in section 18 (5) are used only in section 18. This amendment also renumbers the subsection consequent on the omission of section 18 (4) by another amendment.

[3.212] Section 18 (5), new definition of *publication*

insert

publication, of matter, includes publication in a way that the matter will become accessible or will be broadcast or sent to other people through a computer network.

Explanatory note

This amendment brings the form of the definition, presently in section 18 (4), into line with current drafting practice.

[3.213] Section 31 (3)

omit

subsection 18 (5)

substitute

section 18 (4)

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

Explanatory note

This amendment is consequential on the renumbering of the subsection by another amendment.

[3.214] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- entity
- the Territory.

Explanatory note

This amendment adds standard dictionary notes.

Part 3.17 Dental Technicians and Dental Prosthetists Registration Act 1988

[3.215] Section 61

substitute

61 Witness fees and travelling expenses

(1) This section applies to a person (the ***witness***) who attends a hearing of the board to give evidence (whether voluntarily or under a summons).

(2) The witness is entitled to receive the fees and travelling expenses that the presiding member directs in accordance with the scale and conditions applying to people who attend as witnesses before the Supreme Court.

Note For the Supreme Court scale, see *Supreme Court Rules*, sch 4, pt 4.8.

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

(3) The fees and expenses are payable by—

(a) if the witness attended at the request of a board member—the Territory; or

(b) in any other case—the person who requested the attendance of the witness.

Explanatory note

This amendment does not make a substantive change in the entitlements of a witness. The existing section adopts the scale in the *Public Works Committee Regulations 1969* (Cwlth), schedule 2 which applies the High Court scale. The *Supreme Court Rules* (see schedule 4, part 4.8) is, in substance, the same as the High Court scale. The linking of the entitlements to the Supreme Court reflects the Territory's self-governing status.

Part 3.18 Domestic Animals Act 2000

[3.216] Section 29, heading

substitute

29 Meaning of *special licence* for div 2.4

Explanatory note

This amendment corrects a minor error in the kind of licence defined.

[3.217] Section 39

omit

a licence

substitute

a special licence

Explanatory note

This amendment clarifies the operation of the section.

[3.218] Section 52

substitute

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

52 Costs of impounding dogs

(1) This section applies in relation to a prosecution of a person for an offence against section 50 (1) or (2) or section 51 in relation to a dog.

(2) If the court convicts the person, or finds the person guilty, of the offence, the costs of impounding the dog are payable to the Territory by the keeper of the dog.

(3) If the court finds the complaint to be frivolous or vexatious, the costs of impounding the dog are payable to the Territory by the complainant.

Explanatory note

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

[3.219] Section 56

omit

if the dog—

substitute

if—

Explanatory note

This amendment corrects a syntax error.

[3.220] Section 56 (a), (b), (c) and (d)

omit

is

substitute

the dog is

Explanatory note

This amendment is consequential on another amendment of the section.

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

[3.221] Section 57 (b)

omit

a dog

substitute

the dog

Explanatory note

This amendment corrects a minor error.

[3.222] Section 60 (1) (c)

omit 2nd mention of

to the keeper

Explanatory note

This amendment omits unnecessary words.

[3.223] Section 79 (2)

omit

ranger

substitute

authorised officer

Explanatory note

This amendment corrects a misdescription of the person who may exercise the relevant powers.

[3.224] Section 102

substitute

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

102 Delegation

The administering authority for an infringement notice offence may delegate the authority's functions under this part to an authorised person or a person prescribed under the regulations.

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

Explanatory note

This amendment updates the delegation provision, as follows:

- the words 'in writing' have been omitted because the *Legislation Act 2001*, section 232 provides that a delegation must be made, or evidenced, in writing;
- the words 'all or any' (of the administering authority's functions) have been omitted because the *Legislation Act 2001*, 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.

This amendment also adds a standard note about delegations.

[3.225] Section 112 (7), penalty

substitute

Maximum penalty (subsection (7)): 5 penalty units.

Explanatory note

This amendment clarifies the operation of the penalty provision.

[3.226] Section 115, heading

substitute

115 Destruction of animals on registrar's authority

Explanatory note

This amendment revises the heading to make it more descriptive of the section's content.

[3.227] Sections 121 to 123

substitute

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

121 Registrar

The chief executive must appoint a public servant as the registrar.

Note For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

122 Deputy registrars

(1) The chief executive may appoint a public servant as a deputy registrar.

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

(2) A deputy registrar may exercise a function of the registrar, subject to any direction of the registrar.

123 Authorised officers

(1) The chief executive may appoint a person as an authorised officer for this Act.

(2) An authorised officer may exercise the functions that the registrar directs or that are prescribed under the regulations.

Explanatory note

This amendment remakes the appointment provisions to omit unnecessary words and insert standard notes about appointments. The *Legislation Act 2001*, section 206 provides that an appointment must be made, or evidenced, in writing. The *Legislation Act 2001*, 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.

[3.228] Section 125

omit

authorised person

substitute

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

authorised officer

Explanatory note

This amendment corrects a minor error.

[3.229] Sections 126 and 127

substitute

126 Definitions for div 9.2

In this division:

connected—a thing is ***connected*** with an offence if—

(a) the offence has been committed in relation to it; or

(b) it will provide evidence of the commission of the offence; or

(c) it was used, is being used, or is intended to be used, to commit the offence.

enter includes board.

offence includes an offence that there are reasonable grounds for believing has been, is being, or will be committed.

residential premises means premises used exclusively or mainly for residential purposes, and includes a private room in, but not any other part of, a motel, hotel, hostel or guesthouse.

Explanatory note

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

[3.230] Section 137

omit

Explanatory note

This section defines the term 'release of a dog'. A definition of ***release*** is inserted into the dictionary by another amendment.

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

[3.231] Section 141 (a) and (b)

omit

authorised person

substitute

authorised officer

Explanatory note

This amendment corrects a misdescription of the person who may exercise the relevant powers.

[3.232] Section 147 (2), new note

insert

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

Explanatory note

This amendment adds a standard note about approved forms.

[3.233] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- chief executive
- contravene
- found guilty
- function
- person
- police officer
- the Territory.

Explanatory note

This amendment adds standard dictionary notes.

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

[3.234] Dictionary, definition of *animal welfare offence*

after

a provision of

insert

any of

Explanatory note

This amendment clarifies the operation of the definition.

[3.235] Dictionary, definition of *authorised officer*

substitute

authorised officer means an authorised officer under section 123, and includes the registrar and a deputy registrar.

Explanatory note

This amendment corrects a minor error.

[3.236] Dictionary, new definition of *connected*

insert

connected with an offence, for division 9.2 (Powers of authorised officers)—see section 126.

Explanatory note

This amendment adds a signpost definition into the dictionary in accordance with current drafting practice.

[3.237] Dictionary, definition of *function*

omit

Explanatory note

This amendment omits an unnecessary definition. ***Function*** is defined in the *Legislation Act 2001*, dictionary, part 1 to include authority, duty and power.

[3.238] Dictionary, definition of *licence*

omit

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

Explanatory note

This amendment is consequential on the insertion of a new definition of ***special licence*** by another amendment.

[3.239] Dictionary, new definitions

insert

offence, for division 9.2 (Powers of authorised officers)—see section 126.

release a dog to a person includes permit the dog to be collected by the person.

special licence, for division 2.4 (General provisions about multiple dog and dangerous dog licences)—see section 29.

Explanatory note

The definition of ***release*** is consequential on the omission of section 137 by another amendment. The new signpost definitions of ***offence*** and ***special licence*** are inserted in accordance with current drafting practice.

[3.240] Further amendments, new note

insert

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.

after

- section 12 (1)
- section 13 (1)
- section 22 (5)
- section 33 (3)
- section 111 (1).

Explanatory note

This amendment adds standard notes about service of documents.

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

Part 3.19 Domestic Animals Regulations 2001

[3.241] Regulations 3 to 5

substitute

2 Dog registration information—Act, s 8

The following information must be recorded in the register:

(a) the name and address of the applicant (who must be stated in the register as the keeper of the dog);

(b) if the dog is kept at another address—the address;

(c) the registration number allotted to the dog;

(d) if the dog is an assistance animal—a statement to that effect;

(e) if the dog is a dangerous dog—a statement to that effect.

3 Information on dog registration certificates—Act, s 11 (2)

The following information must be stated on a registration certificate:

(a) the registration number allotted to the dog;

(b) if the dog is a recognisable breed—the breed;

(c) the colour of the dog;

(d) whether the dog is an assistance animal;

(e) the name and address of the keeper of the dog;

(f) the day the registration ends.

4 How dog or cat may be identified—Act, s 83

A dog or cat may be identified by—

(a) a microchip implanted beneath the animal's skin; or

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

(b) a tag, or for a dog, a registration tag, on the animal's collar.

5 Identification particulars for dog or cat—Act, s 83

The identification particulars for a dog or cat are—

(a) the name and address of the keeper or carer of the dog or cat; or

(b) a contact telephone number for the keeper or carer of the dog or cat; or

(c) for a dog—its registration number.

Explanatory note

This amendment changes the headings in accordance with current drafting practice and omits unnecessary text from each regulation.

Part 3.20 Eggs (Labelling and Sale) Act 2001

[3.242] Dictionary, new note

insert

Note The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Explanatory note

This amendment adds a standard dictionary note.

Part 3.21 Electoral Act 1992

[3.243] Section 6

substitute

6 Constitution of commission

The electoral commission consists of—

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

(a) the chairperson; and

(b) the commissioner; and

(c) 1 other member.

Explanatory note

This amendment omits section 6 (2) which is no longer necessary because of the *Legislation Act 2001*, section 199 (4). That subsection provides that the exercise of a function of a body is not affected only because of vacancies in the body's membership.

[3.244] Section 7 (1) (g)

omit

performance

substitute

exercise

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.245] Section 7 (1) (i)

substitute

(i) to exercise any other function given to it under this Act or another Territory law.

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 2001*, s 196 and dict, pt 1, def of ***entity***).

Explanatory note

This amendment brings the paragraph into line with current drafting practice and adds a standard note about necessary and convenient powers related to a function consequential on the omission of section 9 by another amendment.

[3.246] Section 7 (3)

substitute

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

(3) In this section:

election includes a referendum and any other ballot.

Explanatory note

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

[3.247] Section 9

omit

Explanatory note

This section is no longer necessary because of the *Legislation Act 2001*, section 196 (1). That subsection 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.

[3.248] Section 10A

substitute

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

(a) means the day when, apart from section 111 (Need for an election), a poll for an election would be required; and

(b) except in part 8 (Timing of elections) and part 9 (Arrangements for elections), includes—

(i) if the time for holding an election is extended under section 159 for more than 1 day—each of those days; and

(ii) if polling is suspended under section 160—a day when polling is resumed.

Explanatory note

This amendment brings the definition into line with current drafting practice and combines the effect of sections 102 (2), 159 (4) and 160 (6).

[3.350] Dictionary, definition of *Speaker*

substitute

Speaker—

(a) for part 13 (Casual vacancies)—see section 190; and

(b) for part 16 (Disputed elections, eligibility and vacancies)—see section 251.

Note ***Speaker*** is defined in the *Legislation Act 2001*, dict. pt 1.

Explanatory note

This amendment updates paragraph (b) consequentially on the substitution of a new section 251 by another amendment.

[3.351] Further amendments, mentions of *court* in pt 16

omit

court

substitute

Court of Disputed Elections

in

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

- section 266 (1) *(1st mention)*
- section 266 (2)
- section 266 (3) *(1st mention)*
- section 266 (4) *(1st mention)*
- section 267 *(1st mention)*
- section 268
- section 269 (1) and (2)
- section 269 (3) *(1st mention)*
- section 270 *(1st mention)*
- section 271 *(1st mention)*
- sections 272 to 274
- section 275 (1) to (3)
- section 275 (4) *(1st mention)*
- section 276
- section 277 (a)
- section 278 *(1st mention)*
- section 279 *(1st mention)*
- sections 280 and 281
- section 283.

Explanatory note

This amendment states the full name of the court in accordance with current drafting practice.

[3.352] Further amendments, new note

insert

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.

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

after

- section 52 (1)
- section 67 (1)
- section 73 (3)
- section 76 (3)
- section 81 (6)
- section 90 (1)
- section 110 (3)
- section 194 (2)
- section 203 (3)
- section 237 (3).

Explanatory note

This amendment adds standard notes about service of documents.

[3.353] Further amendments, additional note

substitute

Note 1 If a form is approved under s 340A (Approved forms) for a return, the form must be used.

Note 2 For how a return may be given, see *Legislation Act 2001*, pt 19.5.

for the note after

- section 217 (1)
- section 218 (1)
- section 220 (2)
- section 221 (1)
- section 221A (1)
- section 224 (1)

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

- section 226 (1)
- section 230 (1)
- section 231B (1).

Explanatory note

This amendment adds standard notes about service of documents.

Part 3.22 Electoral Regulations 1993

[3.354] Regulation 3, definition of *City of Canberra Arms*

substitute

City of Canberra Arms—see the *City of Canberra Arms Act 1932*, section 3.

Explanatory note

This amendment adds a reference to the relevant provision of the *City of Canberra Arms Act 1932*.

[3.355] Regulation 6 (1)

omit everything before paragraph (a), substitute

6 Prescribed classes of items—Act, s 295 (d)

(1) The following classes of items are prescribed:

Explanatory note

This amendment adds the relevant provision of the Act to the regulation heading in accordance with current drafting practice.

[3.356] Regulation 6 (2)

substitute

(2) In subregulation (1) (d):

publication does not include a publication that is published for the first time within 6 months before a general election if the publication includes a picture of an MLA.

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

Explanatory note

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

Part 3.23 Electronic Transactions Act 2001

[3.357] Section 5, definition of *data*

omit

Explanatory note

This amendment omits a definition that is included in a revised form in a new dictionary inserted by another amendment.

[3.358] Section 5, remaining definitions

relocate to the dictionary

Explanatory note

This amendment relocates to the dictionary all the remaining definitions.

[3.359] Section 5, remainder

substitute

5 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 words and expressions used in this Act, and includes references (***signpost definitions***) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition '***computer program***—see the *Copyright Act 1968* (Cwlth), section 10.' means that the expression 'computer program' 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 2001*, s 155 and s 156 (1)).

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

Explanatory note

This amendment adds a dictionary provision.

[3.360] Division 2.4, heading

substitute

Part 3 Miscellaneous

Explanatory note

This amendment brings the division heading into line with current drafting practice.

[3.361] New dictionary

insert

Dictionary

(see s 5)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- document
- regulations
- the Territory.

computer program—see the *Copyright Act 1968* (Cwlth), section 10.

data includes all or part of a computer program.

Explanatory note

This amendment adds a new dictionary.

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

Part 3.24 Executive Documents Release Act 2001

[3.362] Section 3, definitions

relocate to the dictionary

Explanatory note

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

[3.363] Section 3, 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 words and expressions used in this Act, and includes references (***signpost definitions***) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition '***release restraint determination***—see section 8 (2).' means that the expression 'release restraint determination' is defined in that subsection.

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 2001*, s 155 and s 156 (1)).

Explanatory note

This amendment adds a dictionary provision.

[3.364] Section 11

omit

in good faith

substitute

honestly

Explanatory note

This amendment updates language.

[3.365] Section 12, heading

substitute

12 Regulation-making power

Explanatory note

This amendment corrects a minor error in the section heading.

[3.366] New dictionary

insert

Dictionary

(see s 3)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- chief executive
- document
- Executive
- Speaker
- the Territory.

Explanatory note

This amendment adds a new dictionary.

Part 3.25 Financial Management Act 1996

[3.367] Section 53A

omit everything after subsection (7), substitute

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

(8) The Treasurer must consider each application and either refuse it or approve it completely or partly.

(9) The Treasurer must give the applicant written notice of his or her decision.

(10) A payment approved by the Treasurer under subsection (8) may be made whether or not an appropriation is available for the purpose.

Explanatory note

This amendment removes inconsistencies between the language used in the subsections. It also removes any doubt about the effectiveness of the amendment made by Act 2001 No 95, section 21. This amendment inserted a subsection that was incorrectly numbered at the time the amendment commenced because of the renumbering of subsections required by Act 2001 No 44, amendment 1.1636.

[3.368] Section 53B

omit

wholly

substitute

completely

Explanatory note

This amendment is consequential on the amendment of section 53A.

[3.369] New dictionary

insert

Dictionary

(see s 3)

(commencement: 31 December 2001)

Explanatory note

This amendment adds the dictionary heading. This amendment is taken to have commenced on 31 December 2001 to remove any doubt about the effectiveness of Act 2001 No 95, amendment 1.4, which relocated definitions to the dictionary effective from 1 January 2002.

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

Part 3.26 Financial Management Legislation Amendment Act 2001 No 45

[3.370] Section 4

substitute

4 Dictionary, new definitions of *interest* and *invest*

insert

interest includes a dividend and any other financial return on a deposit, loan or other investment.

invest includes enter into a transaction or arrangement for the protection or enhancement of investments.

(commencement: 12 January 2002)

Explanatory note

This amendment removes any doubt about the effectiveness of an amendment made by Act 2001 No 45, section 4. That amendment inserted the definitions into the *Financial Management Act 1996*, section 3 instead of the dictionary. The amendment was correct when the amendment was enacted, but was overtaken by a later enacted amendment of the Act that commenced first. This amendment is backdated to the commencement of section 4 of the amending Act.

Part 3.27 Firearms Act 1996

[3.371] Section 4, definition of *public place*

omit

within the meaning of the *Public Parks Act 1928*

Explanatory note

This amendment omits a reference to a repealed Act.

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

Part 3.28 Firearms Regulations 1997 SL 1997 No 13

[3.372] Regulation 2

substitute

2 Commencement

These regulations commence on 19 May 1997.

(commencement: 19 May 1997)

Explanatory note

The commencement provision of these regulations provided that the regulations 'commence on the day on which section 4 of the *Firearms Act 1996* commences'. That section commenced on 17 May 1997 but the regulations were not notified in the Gazette until 19 May 2001.

The backdating of this amendment makes it clear that the regulations validly commenced on 19 May 1997. This result is consistent with the provision now made by the *Legislation Act 2001*, section 73 (3) (which is about the commencement of laws).

The commencement provision is being reinserted because regulation 2 was repealed by the *Statute Law Amendment Act 2001*.

Part 3.29 Fisheries Act 2000

[3.373] Sections 26 (1) (a), 28 (1) (a) and 34 (1) (b)

omit

part 3

substitute

part 4

Explanatory note

This amendment updates cross-references to the *Nature Conservation Act 1980* consequentially on the renumbering of the provisions of that Act.

n

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

Part 3.30 Fisheries Regulations 2001

[3.374] Regulations 3 and 4

substitute

3 Prescribed number of fish—Act, s 37 (1)

The number of fish prescribed for any period is zero.

4 Prescribed quantity of fish—Act, s 45 (1)

The quantity of fish prescribed is 0kg.

Explanatory note

This amendment omits unnecessary text from each regulation and brings it into line with current drafting practice.

Part 3.31 Food Act 2001

[3.375] Section 41 (2), new note

insert

Note For how documents may be served, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.376] Section 51 (2), new note

insert

Note The *Legislation Act 2001*, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

Explanatory note

This amendment is consequential on the omission of sections 64 and 65 by another amendment

[3.377] Sections 64 and 65

omit

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

Explanatory note

This amendment omits section 64 (Selfincrimination) and section 65 (Legal professional privilege) consequentially on the insertion in the *Legislation Act 2001* of new sections 170 and 171 by another amending law.

[3.378] Section 79, note 2

substitute

Note 2 For how documents may be served, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment brings the note into line with the standard note about service of documents.

[3.379] Section 82, new note

insert

Note For how documents may be served, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.380] Section 94, heading

substitute

94 Issue or amendment of registration subject to conditions

Explanatory note

This amendment revises the heading to make it more descriptive of the section's content.

[3.381] Section 101 (1) (a)

omit

varied

substitute

amended

Explanatory note

This amendment brings the language of the section into line with the remainder of the Act.

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

[3.382] Sections 149 (2) and 152 (3), notes

substitute

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the *Legislation Act 2001*, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the *Legislation Act 2001*.

Explanatory note

This amendment updates the notes.

[3.383] Section 151 (2), new note

insert

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

Explanatory note

This amendment adds a standard note about approved forms.

[3.384] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- chief health officer
- exercise
- function.

Explanatory note

This amendment adds standard dictionary notes.

Part 3.32 Gaming Machine Act 1987

[3.385] Section 23B (3)

omit

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

number of

substitute

number or

Explanatory note

This amendment corrects a minor error.

[3.386] Sections 68 to 70

substitute

Part 9 Transitional provisions

68 Transitional provision for clubs not incorporated under the Corporations Law

(1) This section applies to a club if—

(a) the club was a licensee immediately before 1 June 2000; and

(b) before 1 January 2001 the commission allowed an application by the club for this section to apply to the club.

(2) The club does not cease to be an eligible club during the period (not longer than 2 years) allowed by the commission for the application of this section to the club only because, during the period, it is not incorporated in the ACT under the Corporations Act.

69 Transitional provision for associated organisations

(1) This section applies to an associated organisation if—

(a) the organisation satisfied section 30D immediately before 1 June 2000; and

(b) before 1 January 2001 the commission allowed an application by the club for this section to apply to the club.

(2) The organisation does not cease to be an associated organisation during the period (not longer than 2 years) allowed by the

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

commission for the application of this section to the organisation only because, during the period, it does not satisfy section 30D as it was amended by the *Gaming Machine Amendment Act 2000*, section 8.

70 Expiry of pt 9

This part expires on 1 June 2003.

Explanatory note

This amendment updates the transitional provisions and adds a new part heading.

This amendment also omits existing section 70 which is redundant. The reference in that section to the *Gaming Machine Amendment Act 2000*, section 9 is a reference to clause 9 of the bill that became the Act. The clause was not agreed to by the Legislative Assembly, but clause 70 was not consequentially omitted from the bill.

Part 3.33 Government Procurement Act 2001

[3.387] Section 3, note 1

substitute

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

For example, the signpost definition '***responsible chief executive***—see the *Auditor-General Act 1996*, dictionary.' means that the expression 'responsible chief executive' is defined in the dictionary and the definition applies to this Act.

Explanatory note

This amendment is consequential on the insertion of a dictionary into the *Auditor-General Act 1996* by another amendment.

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

[3.388] Section 6, new note

insert

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 2001*, s 196 and dict, pt 1, def of ***entity***).

Explanatory note

This amendment adds a standard note about necessary and convenient powers related to a function.

[3.389] Section 7 (1)

substitute

(1) The board may make procurement guidelines for this Act.

Explanatory note

This amendment revises the subsection to take account of the *Legislation Act 2001*, section 44 (1) which provides that a power to make statutory instruments includes the power to make a statutory instrument with respect to any matter that is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to the authorising law.

[3.390] Section 7 (2)

omit

Without limiting subsection (1), the

substitute

The

Explanatory note

This amendment omits unnecessary words (see *Legislation Act 2001*, section 44 (3)).

[3.391] Section 7 (3)

substitute

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

(3) The procurement guidelines may apply, adopt or incorporate an instrument (or a provision of an instrument) as in force from time to time.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the *Legislation Act 2001*, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the *Legislation Act 2001*.

Explanatory note

This amendment brings the subsection into line with the *Legislation Act 2001*, section 47 and adds standard notes about the operation of that section.

[3.392] Section 12 (1), notes

substitute

Note For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Explanatory note

This amendment brings the notes into line with the standard note about appointments.

[3.393] Section 13

substitute

13 Term of appointment of members

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

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1, def of ***appoint***).

Explanatory note

This amendment brings the section into line with current drafting practice. In particular, it removes a provision that requires the instrument of appointment to state the period of appointment because the *Legislation Act 2001*, section 206 (2) provides that, if a law provides for a maximum period of appointment, the period of appointment must be stated in the instrument of appointment.

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

[3.394] Section 25

substitute

25 Review of Act

(1) The Minister must review the operation of this Act as soon as practicable after 24 May 2006.

(2) A report on the outcome of the review must be presented by the Minister to the Legislative Assembly by 24 November 2006.

(3) This section expires on 24 May 2007.

Explanatory note

This amendment revises the section to insert references to the relevant dates.

[3.395] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- exercise
- function
- public employee.

Explanatory note

This amendment adds standard dictionary notes.

[3.396] Dictionary, definition of *responsible chief executive*

substitute

responsible chief executive—see the *Auditor-General Act 1996*, dictionary.

Explanatory note

This amendment is consequential on the insertion of a dictionary into the *Auditor-General Act 1996* by another amendment.

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

Part 3.34 Government Solicitor Act 1989

[3.397] Section 5 (12), definition of *Territory entity*

substitute

Territory entity—see the *Auditor-General Act 1996*, dictionary.

Explanatory note

This amendment is consequential on the insertion of a dictionary into the *Auditor-General Act 1996* by another amendment.

Part 3.35 Guardianship and Management of Property Act 1991

[3.398] Section 2A, heading

substitute

2 Dictionary

Explanatory note

This amendment renumbers the section.

[3.399] Section 3 (Principles to be observed) and section 3 (Jurisdiction of the Supreme Court not affected)

omit

Explanatory note

Section 3 (Principles to be observed) is made redundant by section 4 (What are a *person's interests*), which was inserted by the *Guardianship and Management of Property Amendment Act 2001*. Section 3 (Jurisdiction of the Supreme Court not affected) is unnecessary and predates the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), section 48A. That section gives the Supreme Court all original and appellate jurisdiction that is necessary for the administration of justice in the Territory but provides that the court is not bound to exercise any powers where it has concurrent jurisdiction with another court or tribunal.

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

[3.400] New section 3

insert

3 Notes

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

Note See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment adds a standard provision about the legal status of notes.

[3.401] Dictionary

omit

(see s 2A)

substitute

(see s 2)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- appoint
- exercise
- function
- Magistrates Court.

Explanatory note

This amendment is consequential on the renumbering of section 2A by another amendment and adds standard dictionary notes.

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

Part 3.36 Health and Community Care Services Act 1996

[3.402] Section 32 (1), new note

insert

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3)

Explanatory note

This amendment adds a standard note about the determination of fees and charges.

Part 3.37 Health Professions Boards (Procedures) Act 1981

[3.403] Section 34

substitute

34 Witness fees and travelling expenses

(1) This section applies to a person (the ***witness***) who attends a hearing of the board to give evidence (whether voluntarily or under a summons).

(2) The witness is entitled to receive the fees and travelling expenses that the presiding member directs in accordance with the scale and conditions applying to people who attend as witnesses before the Supreme Court.

Note For the Supreme Court scale, see *Supreme Court Rules*, sch 4, pt 4.8.

(3) The fees and expenses are payable by—

(a) if the witness attended at the request of the Minister—the Territory; or

(b) in any other case—the person who requested the attendance of the witness.

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

(4) However, if the board believes that it was reasonable for a person other than the Minister to request a person to appear before the board, the board may order that some or all of the fees and expenses be paid by the Territory.

Explanatory note

This amendment does not make a substantive change in the entitlements of a witness. The existing section adopts the scale in the *Public Works Committee Regulations 1969* (Cwlth), schedule 2 which applies the High Court scale. The *Supreme Court Rules* (see schedule 4, part 4.8) is, in substance, the same as the High Court scale. The linking of the entitlements to the Supreme Court reflects the Territory's self-governing status.

Part 3.38 Land (Planning and Environment) Act 1991

[3.404] Sections 1 and 4

substitute

1 Name of Act

This Act is the *Land (Planning and Environment) Act 1991*.

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 words and expressions used in this Act, and includes references (***signpost definitions***) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition '***order***, for part 6 (Approvals and orders)—see section 222.' means that the expression 'order' is defined in that section and the definition applies to part 6 of 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 2001*, s 155 and s 156 (1)).

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

3 Notes

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

Note See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment brings the naming provision of the Act into line with current drafting practice, adds standard dictionary and notes provisions and omits the definition section for the Act. The definitions in section 4 are inserted into a new dictionary inserted by another amendment.

[3.405] Section 5, definition of *Commonwealth Planning Act*

omit

Explanatory note

This amendment omits a definition made redundant by other amendments.

[3.406] Section 5, new definition of *consultation notice*

insert

consultation notice—see section 19 (Public consultation—notification).

Explanatory note

This amendment adds a signpost definition in accordance with current drafting practice.

[3.407] Section 5, definition of *draft plan variation*

substitute

draft plan variation means a draft plan variation notified under section 19, as revised under sections 22 (1) (a) and 27, and includes a draft stage or part of the variation.

Explanatory note

This amendment revises the definition to include the substance of section 6 which is omitted by another amendment. A provision based on section 6 (b) is unnecessary because the *Legislation Act 2001*, section 13 (3) provides that a reference to a statutory instrument includes a reference to a provision of the instrument.

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

[3.408] Section 5, definition of *national authority*

omit

Explanatory note

The *Legislation Act 2001*, dictionary, part 1 defines the national capital authority. The references to national authority are changed to national capital authority by other amendments.

[3.409] Section 5, definition of *national capital plan*

substitute

national capital plan means the plan approved under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth), section 19.

Note A reference to an instrument under a law includes a reference to the instrument as amended from time to time (see *Legislation Act 2001*, s 102)

Explanatory note

This amendment is consequential on the omission of the definition of ***Commonwealth Planning Act***.

[3.410] Section 6

omit

Explanatory note

This amendment omits the section because the substance of the section is incorporated into the definition of ***draft plan variation*** by another amendment.

[3.411] Section 7 (3) (g) and (h)

substitute

(g) provide for other matters relevant to the exercise of the powers of the Territory, the Executive or a Territory authority under a Territory law, or the administrative review of the exercise of those powers; and

(h) provide for other matters that are necessary or convenient.

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

Explanatory note

This amendment brings the language and structure of the paragraphs into line with current drafting practice.

[3.412] Section 9 (1) and (2)

substitute

(1) This section applies to a draft plan variation if a consultation notice states that it applies.

(2) The Territory, the Executive, a Minister or a Territory authority must not, during the defined period or a period stated in the consultation notice, whichever is shorter, do or approve the doing of anything that—

(a) would be inconsistent with the plan if it were varied in accordance with the draft variation; or

(b) is inconsistent with the plan.

(2A) Subsection (2) is subject to section 11 (Draft heritage places register and variations—lack of effect).

Explanatory note

This amendment brings the language and structure of the provisions into line with current drafting practice.

[3.413] Section 9 (4), definition of *draft plan variation*

omit

Explanatory note

This amendment omits an unnecessary provision. Section 9 (1) and paragraph (a) of the definition are identical in substance to the definition of this term in section 5 and paragraph (b) is unnecessary because the *Legislation Act 2001*, section 13 (3) provides that a reference to a statutory instrument includes a reference to a provision of the instrument.

[3.414] Section 9

renumber subsections when Act next republished under the Legislation Act 2001

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

Explanatory note

This amendment is consequential on the insertion of a new subsection by another amendment.

[3.415] Section 17 (1)

omit

if it agrees with all the proposals contained in the register or any of them

substitute

if it agrees with any of the proposals in the interim register

Explanatory note

This amendment updates language and makes the reference to 'the register' consistent with the remainder of the subsection.

[3.416] Section 18 (2)

substitute

(2) The Minister may direct that an assessment be made, or establish a panel to conduct an inquiry, about any aspect of a draft plan variation or a proposed draft plan variation.

(3) The Minister may initiate action under subsection (2) or act on written request by the authority.

Explanatory note

This amendment brings the language and structure of the provision into line with current drafting practice.

[3.417] Section 19 (1) (c)

omit

national authority

substitute

national capital authority

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

Explanatory note

This amendment is consequential on the omission of the definition of ***national authority*** from section 5 by another amendment.

[3.418] Section 19A (1)

omit

under section 19

Explanatory note

This amendment is consequential on the insertion of a definition of ***consultation notice*** into section 5 by another amendment.

[3.419] Section 19B (1)

omit

under section 19 (1) (Public consultation—notification)

Explanatory note

This amendment is consequential on the insertion of a definition of ***consultation notice*** into section 5 by another amendment.

[3.420] Section 20

omit

national authority

substitute

national capital authority

Explanatory note

This amendment is consequential on the omission of the definition of ***national authority*** from section 5 by another amendment.

[3.421] Section 21 (2)

omit

(ba)

substitute

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

(c)

Explanatory note

This amendment corrects a cross-reference.

[3.422] Sections 22 (5) and 24 (1)

omit

national authority

substitute

national capital authority

Explanatory note

This amendment is consequential on the omission of the definition of ***national authority*** from section 5 by another amendment.

[3.423] Section 24 (1) (d)

omit

, being a report

Explanatory note

This amendment omits unnecessary text.

[3.424] Section 26 (6)

omit

laid before

substitute

presented to

Explanatory note

This amendment updates language. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

[3.425] Section 27

substitute

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

27 Return of draft plan variation to authority

(1) This section applies if the Executive returns a draft plan variation to the authority with directions under section 26 (1) (b).

(2) The authority must comply with each Executive direction.

(3) If a direction is given under section 26 (1) (b) (i), (ii) or (iii), the authority may revise the draft variation and resubmit it to the Executive for approval together with a written report about the authority's compliance with the Executive's direction and any further revision of the draft variation under section 22 (6).

(4) If a direction is given under section 26 (1) (b) (iv), the authority must resubmit the draft variation (as revised) together with a written report about any further revision of the draft variation under section 22 (6).

Explanatory note

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

[3.426] Section 29 (1)

substitute

(1) A plan variation must be presented to the Legislative Assembly within 5 sitting days after the day it is approved by the Executive, together with copies of the following documents in relation to the variation:

(a) the background papers;

(b) the summaries and reports mentioned in section 24 (b), (c) and (d);

(c) any direction under section 26 (1) (b);

(d) any report mentioned in section 26 (1) (b) (ii);

(e) any report mentioned in section 27 (c).

(1A) Subsection (1) is subject to section 26 (6) (Executive powers).

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

Explanatory note

This amendment brings the language and structure of the subsection into line with current drafting practice. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly. This amendment also clarifies that copies of the background papers (rather than the originals) must be presented to the Legislative Assembly.

[3.427] Section 29 (2) to (5)

omit

laid before

substitute

presented to

Explanatory note

This amendment updates language. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

[3.428] Section 29 (6)

omit

expiration

substitute

end

Explanatory note

This amendment updates language.

[3.429] Section 29 (6)

omit

laid before

substitute

presented to

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

Explanatory note

This amendment updates language. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

[3.430] Section 29 (6)

omit

pursuant to subsection (4), to be deemed

substitute

under subsection (4), taken

Explanatory note

This amendment updates language.

[3.431] Section 29

renumber subsections when Act next republished under the Legislation Act 2001

Explanatory note

This amendment is consequential on the insertion of a new subsection by another amendment.

[3.432] Section 30A (5)

omit

Explanatory note

This amendment omits an unnecessary provision. The *Legislation Act 2001*, section 73 provides for a statutory instrument to commence in accordance with a commencement notice.

[3.433] Section 33

substitute

33 Establishment of authority

(1) The Australian Capital Territory Planning Authority is established.

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

(2) The chief executive must appoint a public servant as the chief executive of the authority.

Note For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Explanatory note

This amendment removes the requirement that the chief executive must create and maintain an executive office in the public service for the authority. The *Legislation Act 2001*, 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 adds a standard note about appointments.

[3.434] Section 36 (1) (c) and (d)

substitute

(c) to exercise other functions required under this Act, another Territory law or a Commonwealth law; and

(d) with the written approval of the Minister, to carry out planning services for an entity in Australia or overseas.

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 2001*, s 196 and dict, pt 1, def of ***entity***).

Note 2 An entity includes a person, see *Legislation Act 2001*, dict, pt 1, def of ***entity***.

Explanatory note

This amendment brings the language of the paragraphs into line with current drafting practice. ***Exercise*** a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions. The amendment also adds a standard note about necessary and convenient powers related to a function. The note is consequential on the omission of section 38 (1) by another amendment.

[3.435] Section 36 (2)

omit

perform

substitute

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

exercise

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.436] Section 37 (1)

omit

performance

substitute

exercise

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.437] Sections 38 and 40

substitute

38 Power to enter into contracts

(1) For the exercise of its functions, the authority may, on behalf of the Territory, enter into contracts.

(2) However, the authority must not, except with the Minister's approval, enter into a contract involving the payment or receipt by the authority of more than $100 000.

(3) Also, subsection (1) does not give the authority power to enter into a contract of employment.

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

40 Delegation

The authority may delegate the authority's functions under this Act to a public servant or to the holder of a position established under this or another Act.

Note 1 For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

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 2001*, s 104).

Explanatory note

This amendment brings the language of section 38 into line with current drafting practice. It also omits section 38 (1) which is unnecessary because of the *Legislation Act 2001*, 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.

This amendment also updates the delegation provision, as follows:

- the words 'by instrument' have been omitted because the *Legislation Act 2001*, section 232 provides that a delegation must be made, or evidenced, in writing;
- the words 'all or any' (of the authority's functions) have been omitted because the *Legislation Act 2001*, 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.

This amendment also adds a standard note about delegations.

[3.438] Section 41

omit

performance

substitute

exercise

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

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

[3.439] Section 52, heading

substitute

52 Definitions for pt 3

Explanatory note

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

[3.440] Section 52 (1)

omit

(1) In this part:

substitute

In this part:

Explanatory note

This amendment omits a subsection number no longer needed because of the relocation of the provisions of the only other subsection to a new section by another amendment.

[3.441] Section 52 (1), definition of *interim heritage places register*, new note

insert

Note The heritage places register means the register of heritage places incorporated in the plan (see the dict, def of ***heritage places register***).

Explanatory note

This amendment adds a note to help users of the Act.

[3.442] Section 52 (2)

omit

Explanatory note

The subsection is replaced by new section 53 which is inserted by another amendment.

[3.443] New section 53, division 3.1

insert

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

53 Compliance with requirements for consultation or notification

If the Executive, the Minister or the heritage council is required under this part to consult or notify an entity, the requirement is taken to be complied with if the Executive, the Minister or the heritage council takes all reasonable steps to consult or notify the entity.

Explanatory note

This amendment adds the substance of section 52 (2) as a new section. As section 52 (2) refers to person or body (whether incorporated or not), 'entity' is more appropriate.

[3.444] Section 54 (1)

omit

(1) The heritage places register shall—

substitute

The heritage places register must—

Explanatory note

This amendment omits a subsection number consequential on the omission of subsection 54 (2) by another amendment and updates language.

[3.445] Section 54 (2)

omit

Explanatory note

The subsection is unnecessary because of the *Legislation Act 2001*, section 148. That section provides that, subject to any contrary intention, words and expressions used in a statutory instrument have the same meanings as they have in the authorising law or the relevant provision of the authorising law under which the instrument is made or in force.

[3.446] Section 55 (3), definition of *defined period*, paragraph (a)

omit

heritage register

substitute

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

heritage places register

Explanatory note

This amendment clarifies which register is being referred to.

[3.447] Section 60 (4) and (5)

omit

interim heritage places register

substitute

interim register

Explanatory note

This amendment brings the references to the register into line with current drafting practice.

[3.448] Section 60 (6)

omit

interim register

substitute

interim heritage places register

Explanatory note

This amendment brings the subsection into line with sections 61 (1) and 62 (7).

[3.449] Section 62 (4) (b) and (5)

omit

interim heritage places register

substitute

interim register

Explanatory note

This amendment brings the references to the register into line with current drafting practice.

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

[3.450] Section 66

substitute

66 Definitions for div 3.5

In this division:

registered, in relation to a place, means a place for which—

(a) there is an entry in the heritage places register; or

(b) there is a provision in an interim heritage places register that has the effect of including an entry for the place in the heritage places register.

registration, in relation to a place, means—

(a) making an entry for the place in a heritage places register; or

(b) including a provision in an interim heritage places register that has the effect of including an entry for the place in a heritage places register.

unregistered, in relation to a place, means a place that is not a registered place.

Explanatory note

This amendment revises the heading to bring it into line with current drafting practice, omits the definitions in subsection 66 (1) and recasts the definitions in subsection 66 (2) in accordance with current drafting practice. The definitions of ***register*** and ***interim register*** in subsection (1) are made unnecessary by other amendments which insert the names of the heritage places register, and interim heritage places register, in full, as appropriate.

[3.451] Section 69 (1) (a)

omit

interim register

substitute

interim heritage places register

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

Explanatory note

This amendment is consequential on the omission of the definition of ***interim register*** from section 66 by another amendment.

[3.452] Section 69 (2)

omit

persons referred to

substitute

people mentioned

Explanatory note

This amendment updates language.

[3.453] Section 69 (3) (b)

substitute

(b) after taking into account the views of the people consulted under subsection (2), consider the effect of registration on their interests.

Explanatory note

This amendment updates language.

[3.454] Sections 69 (4) and 73 (1) (a)

omit

interim register

substitute

interim heritage places register

Explanatory note

This amendment is consequential on the omission of the definition of ***interim register*** from section 66 by another amendment.

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

[3.455] Section 73 (3) (b)

substitute

(b) taking into account the views of the people consulted under subsection (2), consider the effect of registration on their interests; and

Explanatory note

This amendment updates language.

[3.456] Section 73 (4)

omit

interim register

substitute

interim heritage places register

Explanatory note

This amendment is consequential on the omission of the definition of ***interim register*** from section 66 by another amendment.

[3.457] Section 75 (c) and (d)

substitute

(c) a place is registered in an interim heritage places register under a direction under section 69 (1) (a) or 73 (1) (a) following a report or order mentioned in paragraph (a) or (b); or

(d) a place is registered in the heritage places register because of its registration in an interim heritage places register under a direction under section 69 (1) (a) or 73 (1) (a).

Explanatory note

This amendment is consequential on the omission of the definition of ***register*** from section 66 by another amendment. This amendment also changes the reference to 'a register' to 'the heritage places register' for consistency with section 7 (3) (d).

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

[3.458] Section 77 (3) (b) (i)

omit

a register

substitute

the heritage places register

Explanatory note

This amendment is consequential on the omission of the definition of ***register*** from section 66 by another amendment. This amendment also changes the reference to 'a register' to 'the heritage places register' for consistency with section 7 (3) (d).

[3.459] Section 81 (1)

substitute

(1) This section applies if the heritage council is preparing an interim heritage places register, or a revision of such a register, that relates to an Aboriginal place.

Explanatory note

This amendment is consequential on the omission of the definition of ***interim register*** from section 66 by another amendment.

[3.460] Section 89

substitute

89 Searching heritage registers

(1) Anyone may, during office hours, inspect the heritage places register or interim heritage places register, other than any part that contains restricted information.

(2) On application, the heritage council must give the applicant a copy of, or of any part of, the heritage places register or interim heritage places register, other than a part that contains restricted information.

Note A fee may be determined under s 287 (Determination of fees) for this subsection and subsection (3).

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

(3) On application to the heritage council in relation to a place mentioned in subsection (4), the heritage council must give the applicant a certificate stating—

(a) whether a declaration in relation to the place is in force under section 69 (1) (a) or 73 (1) (a); or

(b) whether the place has previously been so listed, or proposed to be so listed.

(4) Subsection (3) applies to a place that—

(a) is not listed in the heritage places register or an interim heritage places register; and

(b) is not, in an interim heritage places register, proposed to be listed in the corresponding heritage places register.

Explanatory note

This amendment is consequential on the omission by another amendment of section 89 (4). That subsection presently contains definitions of ***interim register*** and ***register***. The effect of the omission of the subsection is that the definition of ***interim heritage places register*** in section 52 and of ***heritage places register*** in the dictionary will apply to this section. This amendment also updates language.

[3.461] Division 3.7

substitute

Division 3.7 Australian Capital Territory Heritage Council

90 Definitions for div 3.7

In this division:

chairperson means the chairperson of the heritage council appointed under section 99 (1).

deputy chairperson means the deputy chairperson of the heritage council appointed under section 99 (1).

expert member means a member appointed under section 96 (1).

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

heritage objects register—see the *Heritage Objects Act 1991*, section 4.

member means a member of the heritage council.

permanent member means a member mentioned in section 92 (a), and includes a deputy of a permanent member appointed under section 95 (1).

secretary means the secretary to the heritage council appointed under section 99 (2).

91 Establishment of heritage council

The Australian Capital Territory Heritage Council is established.

92 Constitution

The heritage council consists of—

(a) the authority and the conservator as permanent members; and

(b) not more than 9 expert members.

93 Functions of heritage council

The heritage council has the following functions:

(a) to advise the Minister about—

(i) the criteria for this part and the *Heritage Objects Act 1991* for deciding the heritage significance of places and objects; and

(ii) incentives for the conservation of the heritage significance of heritage places and heritage objects; and

(iii) the promotion of public awareness of heritage places and heritage objects; and

(iv) other matters about heritage significance in the ACT;

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

(b) at the request of a Territory authority, to advise the authority about the matters mentioned in paragraph (a) as they relate to the exercise of the authority's functions under this Act or another Territory law;

(c) to prepare an initial interim heritage places register and an initial interim heritage objects register and, subsequently, to prepare interim variations to the heritage places register and the heritage objects register;

(d) any other function given to it under this Act or another Territory law.

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 2001*, s 196 and dict, pt 1, def of ***entity***).

94 Ministerial directions

(1) The Minister may give the heritage council written directions—

(a) about the policy and objectives it should pursue in the exercise of its functions; or

(b) to review the heritage places register or the heritage objects register in consideration of any stated matters.

(2) A direction is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

(3) A direction must be notified under the *Legislation Act 2001* within 14 days after the day it is made.

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

95 Deputies of permanent members

(1) The Minister may appoint a person to be the deputy of a permanent member.

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, 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 a permanent member is absent from a heritage council meeting, the member's deputy may exercise the member's functions.

96 Appointment of expert members

(1) The Minister may appoint a person to be an expert member of the heritage council.

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

(2) In making appointments under subsection (1), the Minister must endeavour to ensure that the following disciplines and areas of expertise are represented among the people appointed:

(a) archaeology;

(b) Aboriginal tradition;

(c) local history;

(d) town planning;

(e) engineering;

(f) architectural history and conservation;

(g) landscape architecture;

(h) the natural environment and its conservation;

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

(i) archivism;

(j) librarianship;

(k) preservation of Australian material culture;

(l) knowledge of objects in an Australian context.

97 Term of appointment of expert members

An expert member must not be appointed for a term 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 2001*, s 208 and dict, pt 1, def of ***appoint***).

98 Conditions of appointment of expert members generally

An expert member holds office on the conditions decided by the Minister.

99 Chairperson, deputy chairperson and secretary

(1) The Minister must appoint members of the heritage council as the chairperson and the deputy chairperson of the heritage council.

(2) The Minister must appoint a public servant as the secretary to the heritage council.

(3) However, a member must not be appointed as the secretary.

100 Leave of absence

The Minister may give a member leave of absence on conditions about remuneration and other matters decided by the Minister.

101 Disclosure of interests

(1) A member who has a direct or indirect financial interest in a matter being considered or about to be considered by the heritage council must, as soon as practicable after the relevant facts have come to the

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

member's knowledge, disclose the nature of the interest at a heritage council meeting.

(2) A disclosure must be recorded in the minutes of the meeting and, unless the Minister otherwise decides, the member must not—

(a) be present during any deliberation of the heritage council about the matter; or

(b) take part in any decision of the heritage council about the matter.

102 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) is absent from 3 consecutive meetings of the committee, except on leave granted under section 100 (Leave of absence); or

(b) contravenes section 101 (Disclosure of interests) without reasonable excuse.

Note A person's appointment also ends if the person resigns (see *Legislation Act 2001*, s 210).

103 Calling meetings

(1) The chairperson, or if the chairperson cannot do so, the deputy chairperson—

(a) may at any time call a meeting of the heritage council; and

(b) must call a meeting of the heritage council if asked by the Minister.

(2) The person who calls a meeting of the heritage council must, at least 5 days before the day of the meeting, give the other members written notice of—

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

(a) the date, time and place of the meeting; and

(b) the matters to be considered at the meeting.

104 Procedure at meetings

(1) The chairperson presides at all heritage council meetings at which the chairperson is present.

(2) If the chairperson is absent, the deputy chairperson presides.

(3) If both the chairperson and deputy chairperson are absent from a meeting, the member chosen by the member's present presides.

(4) The presiding member may give directions about the procedure to be followed in relation to the meeting.

(5) Business may be carried out at a meeting only if a majority of members are present.

(6) At a meeting each member has a vote on each question to be decided.

(7) However, a permanent member must not vote on a question that relates to an interim heritage places register.

(8) A question is to be decided by a majority of the votes of the members present and voting, but, if the votes are equal the member presiding has a casting vote.

(9) The heritage council must keep minutes of its meetings.

105 Delegation to secretary

The heritage council may delegate the council's functions under this Act to the secretary.

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

Explanatory note

This amendment brings the division into line with current drafting practice. In particular, the following unnecessary provisions are omitted:

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

- section 94 (Powers) is unnecessary because the *Legislation Act 2001*, section 196 (1) 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;
- section 97 (3) (which is about the performance of functions during a vacancy) is unnecessary because the *Legislation Act 2001*, section 199 (4) provides that the functions of a body are not affected by a vacancy in its membership;
- section 99 (2) (which is about the reappointment of members) is unnecessary because the *Legislation Act 2001*, section 208 (1) gives an appointer power to reappoint an eligible person;
- section 105 (Resignation) is unnecessary because the *Legislation Act 2001*, section 210 provides for the resignation of a person from a statutory appointment;
- section 107 (Acting members) is unnecessary because the *Legislation Act 2001*, section 209 provides for acting appointments.

The delegation provision is updated as follows:

- the words 'by resolution' have been omitted with the effect that the *Legislation Act 2001*, section 232 requires that a delegation must be made, or evidenced, in writing;
- the limitation on the functions that may be delegated has been omitted because the *Legislation Act 2001*, 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 term 'ex officio' member is replaced by 'permanent member'. The term 'appointed member' is replaced by 'expert member'.

This amendment also adds standard notes about appointments, necessary and convenient powers, resignation and delegations.

[3.462] Section 132 (1)

omit

cause to be laid before

substitute

present to

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

Explanatory note

This amendment updates language. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

[3.463] Section 133 (1)

omit

shall cause that part to be excluded from the copy of the assessment laid before

substitute

must exclude that part from the copy of the assessment presented to

Explanatory note

This amendment updates language. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

[3.464] Section 141 (1)

substitute

(1) The relevant Minister must present a copy of the report of a panel's findings and recommendations to the Legislative Assembly within 6 sitting days after the day the Minister receives the report.

Explanatory note

This amendment updates language. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

[3.465] Section 142 (1)

omit

cause that part of the report to be excluded from the copy laid before

substitute

exclude that part from the copy of the report presented to

Explanatory note

This amendment updates language. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

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

[3.466] Section 142 (2)

omit

laid before

substitute

presented to

Explanatory note

This amendment updates language. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

[3.467] Section 143

substitute

143 Definitions for sdiv 4.4.3

In this subdivision:

authorised person means—

(a) a panel member; or

(b) a person assisting a panel member in a way authorised in writing by the member.

occupier, of a place, includes—

(a) a person believed, on reasonable grounds, to be an occupier of the place; and

(b) a person apparently in charge of the place.

place includes premises, land, vehicle, aircraft or vessel.

Explanatory note

This amendment brings the heading into line with current drafting practice and recasts the form of the definition of ***occupier*** in section 143 (2) in accordance with current drafting practice.

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

[3.468] Section 146 (1) (c), new note

insert

Note For the taking of an oath or the making of an affirmation, see the *Oaths and Affirmations Act 1984.*

Explanatory note

This amendment adds notes about the relevant legislation for administering and taking oaths.

[3.469] Section 148 (5)

omit everything before paragraph (a), substitute

(5) For section 132 (1), the relevant Minister must present a copy of an assessment under subsection (1), together with any notice, report, comment or information mentioned in section 132 (1) (b) or (c), to the Legislative Assembly within 6 sitting days after—

Explanatory note

This amendment updates language. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

[3.470] Section 156 (b)

substitute

(b) disturb a panel member in the exercise of the member's functions; or

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.471] Section 157 (1)

omit

powers or the performance of his or her

Explanatory note

This amendment omits an unnecessary reference to powers. A provision of a law that gives an entity (including a person) a function also gives the entity the powers necessary

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

and convenient to exercise the function (see *Legislation Act 2001*, s 196 and dictionary, part 1, defintion of ***entity***). ***Exercise*** a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.472] Section 159, heading

substitute

159 Definitions for pt 5

Explanatory note

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

[3.473] Section 159 (1)

omit

(1) In this part:

substitute

In this part:

Explanatory note

This amendment omits a subsection number no longer needed because the provisions of the other subsections of section 159 are remade by another amendment in standard definition form and inserted into existing subsection (1).

[3.474] Section 159 (1), definition of *lease*

substitute

lease means a lease (other than a sublease)—

(a) granted under this Act; or

(b) that is taken under section 289 (Status of leases and licences) to have been granted under this Act; or

(c) granted or arising under the *Unit Titles Act 2001*.

Explanatory note

This amendment is consequential on the transfer by an earlier Act of the transitional provisions of the *Land (Planning and Environment) (Consequential Provisions) Act 1991*

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

to the *Land (Planning and Environment) Act 1991*, part 9. Paragraph (b) of the definition has been recast consequential on the definition of ***repealed Act*** being omitted by another amendment.

[3.475] Section 159 (1), new definitions of *market value* and *provision*

insert

market value, of a lease, means the amount that could be expected to be paid for the lease on the open market if it were sold by a willing but not anxious seller to a willing but not anxious buyer.

provision, of a lease, includes a provision incorporated in the lease by reference and any other provision to which the lease is subject.

Explanatory note

This amendment updates the form of the definitions that are presently in section 159 (2) and (4). The subsections are omitted by another amendment.

[3.476] Section 159 (1), definition of *repealed Act*

omit

Explanatory note

This amendment is consequential on the remaking of the definition of ***lease*** by another amendment.

[3.477] Section 159 (2) and (4)

omit

Explanatory note

This amendment is consequential on another amendment that inserts the definitions of ***market value*** and ***provision*** into section 159.

[3.478] Section 163 (9)

omit

Nothing in this section shall be taken to derogate from

substitute

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

This section does not limit

Explanatory note

This amendment updates language.

[3.479] Section 170 (5)

omit

monies

substitute

money

Explanatory note

This amendment updates language.

[3.480] Section 191, heading

substitute

191 Definitions for div 5.7

Explanatory note

This amendment corrects an error in the section heading.

[3.481] Section 195 (4)

omit

lastmentioned in that schedule

substitute

appearing later in the schedule

Explanatory note

This amendment updates language.

[3.482] Section 211

omit

may not be

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

substitute

must not be

Explanatory note

This amendment makes it clear that the requirement is mandatory.

[3.483] Section 215

substitute

215 Reduction of rent and relief from provisions of lease

(1) The Executive may approve—

(a) a reduction of the rent payable under a lease of Territory land, or of the amount payable, in relation to any occupation of Territory land; or

(b) the grant of relief, to a lessee or occupier of Territory land, from compliance, completely or partly, with any provision to which the person's lease or occupation is subject.

(2) The reduction or grant of relief may be for any period (including a period before the commencement of this section or any other period before the approval).

(3) If the Executive gives an approval under subsection (1), the liability or obligation of the lessee or occupier under the lease, or in relation to the person's occupation, is discharged for the period approved, to the extent of the reduction or grant of relief approved.

(4) An approval under subsection (1) may be made subject to conditions.

(5) If the Executive approves a grant of relief to a lessee or occupier under subsection (1), it must give to the lessee or occupier notice of the reduction of rent or other grant of relief approved.

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.

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

Explanatory note

This amendment brings the form and language of the section into line with current drafting practice.

[3.484] Section 216A

substitute

216A Notification of certain leases to Legislative Assembly

(1) This section applies if the Executive grants a lease under any of the following provisions:

(a) section 161 (1) (d) (which is about the direct grant to an applicant of a lease);

(b) section 163 (Leases to community organisations);

(c) section 164 (Special leases);

(d) section 209 (which is about the grant of leases over certain areas of public land or land designated to become public land).

(2) The Minister must present to the Legislative Assembly, within 5 sitting days after the end of the quarter in which the lease was granted, a statement that sets out for the lease—

(a) the name of the lessee; and

(b) a description of the land comprised in the lease that is in accordance with the *Districts Act 1966*, section 6; and

(c) the amount (if any) paid for the grant of the lease; and

(d) the provision of the Act under which the lease was granted.

(3) The validity of the lease is not affected by a failure to comply with subsection (2).

Explanatory note

This amendment brings the section into line with current drafting practice. A definition of ***quarter*** is inserted into the *Legislation Act 2001*, dictionary, part 1 by another amendment.

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

[3.485] Section 222, heading

substitute

222 Definitions for pt 6

Explanatory note

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

[3.486] Section 222 (1)

omit

(1) In this part:

substitute

In this part:

Explanatory note

This amendment omits a subsection number no longer needed because the other provisions of section 222 are remade by another amendment in standard definition form and relocated to existing section 222 (1) and new section 223.

[3.487] Section 222 (1), definitions of *building work* and *consolidation*

substitute

building work—see the *Building Act 1972*, section 5.

consolidation—see section 159.

Explanatory note

This amendment changes the definitions to signpost definitions in line with current drafting practice.

[3.488] Section 222 (1), new definition of *Executive*

insert

Executive includes a Minister acting on behalf of the Executive.

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

Explanatory note

This amendment is consequential on the omission of section 222 (2) by another amendment.

[3.489] Section 222 (1), definitions of *lease*, *lessee* and *subdivision*

substitute

lease—see section 159.

lessee—see section 159.

***subdivision*—**see section 159.

Explanatory note

This amendment changes the definitions to signpost definitions in line with current drafting practice.

[3.490] Section 222 (1), new definition of *variation*

insert

variation, of a lease—see section 223.

Explanatory note

This amendment is consequential on the omission of section 222 (3) by another amendment.

[3.491] Section 222 (2) and (3)

omit

Explanatory note

This amendment is consequential on the relocation of the definitions by other amendments.

[3.492] New section 223

insert

223 Meaning of *variation* for pt 6

(1) In this part, ***variation***, of a lease, includes—

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

(a) the surrender of a lease and the granting of a new lease subject to different provisions to the same lessee over all or part of the land comprised in the surrendered lease; and

(b) a consolidation; and

(c) a subdivision.

(2) However, the ***variation*** of a lease does not include the surrender of a lease and the granting of a new lease to the same lessee over all or part of the land comprised in the surrendered lease if—

(a) the land is defined land within the meaning of section 31; or

(b) the new lease is granted under any of the following provisions:

(i) section 171 (Grant of further residential leases);

(ii) section 171A (Grant of further rural leases);

(iii) section 172 (Grant of further leases for purposes other than residential or rural).

Explanatory note

This amendment brings the form of the definition of ***variation*** in existing section 222 (3), which is omitted by another amendment, into line with current drafting practice.

[3.493] Section 229A (7) (b)

omit

cause to be laid before

substitute

present to

Explanatory note

This amendment updates language. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

[3.494] Section 229A (10)

omit

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

Subsections (5) and (7) (a) do not derogate from

substitute

Subsections (5) and (7) (a) do not limit

Explanatory note

This amendment updates language.

[3.495] Section 231 (2)

substitute

(2) In subsection (1) (b):

Aboriginal place—see section 52.

relevant Aboriginal organisation—see section 52.

Explanatory note

This amendment updates the section references consequential on other amendments.

[3.496] Section 249 (c)

substitute

(c) if application is made to the administrative appeals tribunal for a review of the decision to approve the application—on the day the tribunal decision affirming or varying the decision is given.

Explanatory note

This amendment brings section 249 (c) into line with the *Administrative Appeals Tribunal Act 1989*. Section 49 of that Act provides for a decision of the tribunal to come into operation on the giving of the decision or a later day specified in the decision (see s 44 (9) and (10)). Existing section 249 (c) is inconsistent with the AAT provisions (ie referring to the tribunal decision taking effect on the day the tribunal affirms or varies the decision under review).

[3.497] Section 262

substitute

262 Definitions for div 6.4

In this division:

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

connected—a thing is ***connected*** with an offence if—

(a) the offence has been committed in relation to it; or

(b) it will provide evidence of the commission of the offence; or

(c) it was used, is being used, or is intended to be used, to commit the offence.

occupier, of premises, includes—

(a) a person believed, on reasonable grounds, to be an occupier of the premises; and

(b) a person apparently in charge of the premises.

offence includes an offence that there are reasonable grounds for believing has been, is being, or will be committed.

Explanatory note

This amendment brings the form of the definitions into line with current drafting practice.

[3.498] Sections 274A to 274F

substitute

274A Commissioner for land and planning

(1) The Minister must appoint a person to be the Commissioner for Land and Planning.

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 Appointments under subsection (1) require consultation with an Assembly committee and are disallowable (see *Legislation Act 2001*, div 19.3.3).

(2) The commissioner holds office on the conditions (if any) in relation to matters not provided for by this Act decided by the Minister.

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

(3) The *Legislation Act 2001*, division 19.3.3 (Appointments—Assembly consultation) applies to the appointment of a public servant as commissioner.

Note Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see *Legislation Act 2001*, div 19.3.3).

(4) Subsection (3) has effect despite the *Legislation Act 2001*, section 227 (2) (a) (Application of div 19.3.3).

274B Term of office

The commissioner must not be appointed for a term longer than 5 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1, def of ***appoint***).

274C Leave of absence

The Minister may give leave of absence to the commissioner on conditions about remuneration or otherwise decided by the Minister.

Explanatory note

This amendment brings these provisions into line with current drafting practice. In particular, the following unnecessary provisions are omitted:

- section 274C (Remuneration and allowances) is unnecessary because the *Remuneration Tribunal Act 1995* applies to the commissioner;
- section 274E (Acting appointments) is unnecessary because the *Legislation Act 2001*, section 209 provides for acting appointments;
- section 274F (Resignation) is unnecessary because the *Legislation Act 2001*, section 210 provides for the resignation of a person from a statutory appointment.

This amendment also adds standard notes about appointments.

[3.499] Section 274G (3)

omit

shall cause a statement of the grounds of the suspension to be laid before the Legislative Assembly

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

substitute

must present to the Legislative Assembly a statement of the grounds of the suspension

Explanatory note

This amendment updates language. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

[3.500] Section 274G (4) and (5)

omit

laid before

substitute

presented to

Explanatory note

This amendment updates language. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

[3.501] Section 274G (8), new note

insert

Note A person's appointment also ends if the person resigns (see *Legislation Act 2001*, s 210).

Explanatory note

This amendment is consequential on the omission of section 274F (Resignation) by another amendment.

[3.502] Section 274I

substitute

274I Delegation

The commissioner may delegate the commissioner's function under this Act to a public servant.

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

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

Explanatory note

This amendment updates the delegation provision, as follows:

- the words 'by signed instrument' have been omitted with the effect that the *Legislation Act 2001*, section 232 requires that a delegation must be made, or evidenced, in writing;
- the words 'all or any' (of the commission's functions) have been omitted because the *Legislation Act 2001*, 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.

This amendment also adds a standard note about delegations.

[3.503] Section 274J

omit

power or authority conferred by

substitute

function under

Function is defined in the *Legislation Act 2001*, dictionary, part 1, to include power and is the drafting term now used.

[3.504] Section 283

omit

power

substitute

function

Function is defined in the *Legislation Act 2001*, dictionary, part 1, to include power and is the drafting term now used.

[3.505] Section 287A (2), new note

insert

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

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

Explanatory note

This amendment adds a standard note about approved forms.

[3.506] Section 289 (2)

substitute

(2) In this section:

repealed Act means any of the following Acts:

(a) the *Leases Act 1918* No 2;

(b) the *Leases (Special Purposes) Act 1925* No 11;

(c) the *City Area Leases Act 1936* No 31.

Explanatory note

This amendment brings the form of the provision into line with current drafting practice.

[3.507] New dictionary

insert

Dictionary

(see s 2)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- administrative appeals tribunal
- amend
- appoint
- change
- conservator of flora and fauna
- contravene
- document
- exercise
- function

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

- month
- national capital authority
- penalty unit
- the Territory.

Aboriginal object, for part 3 (Heritage)—see section 52.

Aboriginal place, for part 3 (Heritage)—see section 52.

Aboriginal tradition, for part 3 (Heritage)—see section 52.

application, for part 6 (Approvals and orders)—see section 222.

approval, for part 6 (Approvals and orders)—see section 222.

assessment means an assessment made under division 4.3 (Assessments).

authorised person, for subdivision 4.4.3 (Procedures and powers)—see section 143.

authority means the Australian Capital Territory Planning Authority established under section 33.

background papers, for part 2 (Planning)—see section 5.

building, for part 6 (Approvals and orders)—see section 222.

building and development provision, for part 5 (Land administration)—see section 159.

building work, for part 6 (Approvals and orders)—see section 222.

chairperson, for division 3.7 (Australian Capital Territory Heritage Council)—see section 90.

commissioner means the Commissioner for Land and Planning appointed under section 274A.

compensation, for subdivision 3.5.4 (Compensation claims)—see section 74.

Note Sdiv 3.5.4 is about compensation claims in relation to Aboriginal heritage discoveries and places.

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

connected, with an offence, for division 6.4 (Enforcement)—see section 262.

conservation, for part 3 (Heritage)—see section 52.

conservator means the conservator of flora and fauna.

consolidation—

(a) for part 5 (Land administration)—see section 159; and

(b) for part 6 (Approvals and orders)—see section 222.

consultation notice, for part 2 (Planning)—see section 19.

controlled activity means—

(a) an activity of a kind mentioned in schedule 5; or

(b) an activity under another Act that is declared by that Act to be a controlled activity for schedule 5.

dealing, for division 5.4 (Restrictions on rural leases)—see section 186B.

defined decision, for part 4 (Environmental assessments and inquiries)—see section 111.

deputy chairperson, for division 3.7 (Australian Capital Territory Heritage Council)—see section 90.

development, in relation to land—

(a) for part 2 (Planning)—see section 5; and

(b) for part 6 (Approvals and orders)—see section 222.

discharge amount, for division 5.4 (Restrictions on rural leases)—see section 186B.

draft plan variation, for part 2 (Planning)—see section 5.

earlier index number, for division 5.4 (Restrictions on rural leases)—see section 186B.

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

environmental impact, for part 4 (Environmental assessments and inquiries)—see section 111.

environmental impact statement, for part 4 (Environmental assessments and inquiries)—see section 111.

environmental report, for part 2 (Planning)—see section 5.

Environment Minister means the Minister administering part 4 (Environmental assessments and inquiries).

Executive, for part 6 (Approvals and orders)—see section 222.

expert member, for division 3.7 (Australian Capital Territory Heritage Council)—see section 90.

formal error means—

(a) a clerical error; or

(b) an error arising from an accidental slip or omission; or

(c) a defect of form.

Gungahlin central area means the area referred to as the Gungahlin Town Centre and Central Area in the plan.

heritage council means the Australian Capital Territory Heritage Council established under section 91.

heritage object, for part 3 (Heritage)—see section 52.

heritage objects register, for division 3.7 (Australian Capital Territory Heritage Council)—see section 90.

heritage place, for part 3 (Heritage)—see section 52.

heritage places register means the register of heritage places incorporated in the plan.

heritage significance means archaeological, historic, aesthetic, architectural, scientific, natural or social significance, or other special significance in relation to the environment, for the present community, and for future generations.

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

holding period, for division 5.4 (Restrictions on rural leases)—see section 186B.

index number, for division 5.4 (Restrictions on rural leases)—see section 186G.

inquiry means an inquiry conducted under division 4.4 (Inquiries).

interim heritage places register—see section 52.

interim variation, in relation to the heritage places register, for part 3 (Heritage)—see section 52.

land—

(a) for part 2 (Planning)—see section 5; and

(b) for part 4 (Environmental assessments and inquiries)—see section 111.

land management agreement means an agreement under section 186C.

Note A reference to an instrument (including a land management agreement) includes a reference to the instrument as originally made and as amended (see *Legislation Act 2001*, s 102).

later index number, for division 5.4 (Restrictions on rural leases)—see section 186B.

lease—

(a) for part 5 (Land administration)—see section 159; and

(b) for part 6 (Approvals and orders)—see section 222.

lessee—

(a) for part 5 (Land administration)—see section 159; and

(b) for part 6 (Approvals and orders)—see section 222.

long lease, for division 5.4 (Restrictions on rural leases)—see section 186B.

market value, for part 5 (Land administration)—see section 159.

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

member, for division 3.7 (Australian Capital Territory Heritage Council)—see section 90.

national capital plan, for part 2 (Planning)—see section 5.

natural environment, for schedule 1 (Management objectives for public land)—see section 195 (6).

newspaper means a newspaper published and circulating in the ACT.

nominal rent lease, for part 5 (Land administration)—see section 159.

objection, for part 6 (Approvals and orders)—see section 222.

occupier—

(a) for subdivision 4.4.3 (Procedures and powers)—see section 143; and

(b) for division 6.4 (Enforcement)—see section 262.

offence, for division 6.4 (Enforcement)—see section 262.

order, for part 6 (Approvals and orders)—see section 222.

panel, for part 4 (Environmental assessments and inquiries)—see section 111.

permanent member, for division 3.7 (Australian Capital Territory Heritage Council)—see section 90.

pest animal means an animal in a class of animals declared to be pest animals under section 254 (1).

pest plant means a plant in a class of plants declared to be pest plants under section 254 (1).

place, for subdivision 4.4.3 (Procedures and powers)—see section 143.

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

plan means the Territory plan.

Note A reference to an instrument (including the plan) includes a reference to the instrument as originally made and as amended (see *Legislation Act 2001*, s 102).

plan of management, for division 5.7 (Public land)—see section 191.

preliminary assessment, for part 4 (Environmental assessments and inquiries)—see section 111.

prescribed period, for part 6 (Approvals and orders)—see section 222.

proponent, for part 4 (Environmental assessments and inquiries)—see section 111.

provision, of a lease, for part 5 (Land administration)—see section 159.

public car park, for part 5 (Land administration)—see section 159.

public environment report, for part 4 (Environmental assessments and inquiries)—see section 111.

public land means land identified by the plan as public land.

registered, for division 3.5 (Aboriginal heritage)—see section 66.

registered lease, for part 5 (Land administration)—see section 159.

registered proprietor, for part 5 (Land administration)—see section 159.

registration, for division 3.5 (Aboriginal heritage)—see section 66.

relevant Aboriginal organisation, for part 3 (Heritage)—see section 52.

relevant authority, for part 6 (Approvals and orders)—see section 222.

relevant Minister, for part 4 (Environmental assessments and inquiries)—see section 111.

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

rental lease, for part 5 (Land administration)—see section 159.

residential lease, for part 5 (Land administration)—see section 159.

restricted information, for part 3 (Heritage)—see section 52.

rural lease, for part 5 (Land administration)—see section 159.

secretary, for division 3.7 (Australian Capital Territory Heritage Council)—see section 90.

short lease, for division 5.4 (Restrictions on rural leases)—see section 186B.

special Pialligo lease, for division 5.4 (Restrictions on rural leases)—see section 186B.

structure, for part 6 (Approvals and orders)—see section 222.

subdivision—

(a) for part 5 (Land administration)—see section 159; and

(b) for part 6 (Approvals and orders)—see section 222.

sublease, for part 5 (Land administration)—see section 159.

sublessee, for part 5 (Land administration)—see section 159.

Territory authority means—

(a) a body (whether or not incorporated) established by the Executive; or

(b) the holder of a position established under an Act or by the Executive.

unregistered, for division 3.5 (Aboriginal heritage)—see section 66.

variation, for part 3 (Heritage)—see section 52.

variation, of a lease—

(a) for division 5.3 (Variation of leases)—see section 184; and

(b) for part 6 (Approvals and orders)—see section 223.

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

variation, of the plan, for part 2 (Planning)—see section 5.

variation, of a plan of management, for division 5.7 (Public land)—see section 191.

Explanatory note

This amendment adds a new dictionary in accordance with current drafting practice which includes changes consequential on the insertion or omission of definitions by other amendments.

[3.508] Further amendments, new note

insert

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.

after

- section 17 (3)
- section 61 (1)
- section 62 (6)
- section 68 (1)
- section 82 (3)
- section 147 (2)
- section 229 (3)
- section 232 (1)
- section 247 (3)
- section 256 (3)
- section 257 (1)
- section 278 (1).

Explanatory note

This amendment adds standard notes about service of documents.

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

Part 3.39 Land (Planning and Environment) Regulations 1992

[3.509] Regulation 6

substitute

6 Prescribed period—Act s 121 (1A)

The prescribed period is 30 business days.

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 121 by Act 2000 No 37, section 7.

[3.510] Regulation 14

substitute

14 Heavy vehicle parking (lease purposes)—Act, s 175 (3) (b)

(1) The parking of a heavy vehicle on residential land in accordance with the *Road Transport (Safety and Traffic Management) Regulations 2000*, division 3.1.3 is a prescribed activity.

(2) In this regulation:

heavy vehicle—see the *Road Transport (Safety and Traffic Management) Regulations 2000*, dictionary.

Explanatory note

This amendment recasts the regulation in accordance with current drafting practice by including specific references to the *Road Transport (Safety and Traffic Management) Regulations 2000*.

[3.511] Regulation 15, heading

substitute

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

15 Definitions for div 3.2

Explanatory note

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

[3.512] Regulation 15 (1)

omit

(1) In this division:

substitute

In this division:

Explanatory note

This amendment is consequential on the omission of subregulation (2) by another amendment.

[3.513] Regulation 15 (1), new definition of *lease*

insert

lease, over the largest parcel of land—see regulation 15A.

Explanatory note

This amendment is consequential on the insertion of new regulation 15A by another amendment.

[3.514] Regulation 15 (2)

substitute

15A Meaning of *lease* over the largest parcel of land

(1) This regulation applies if—

(a) a number of leases are surrendered in the course of a subdivision or consolidation; and

(b) the parcels of land over which the leases were granted are not of equal area; and

(c) there are 2 or more parcels of land of equal area that are larger than all the other parcels.

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

(2) In this division:

lease, over the largest parcel of land, means any of the leases over the equally large parcels mentioned in subregulation (1) (c).

Explanatory note

This amendment brings the form of the provisions into line with current drafting practice.

[3.515] Regulation 16 (1)

omit

entirely remit the

substitute

remit in full

Explanatory note

This amendment updates language.

[3.516] Regulation 17 (1)

omit

whole of the

substitute

in full

Explanatory note

This amendment updates language.

[3.517] Regulation 17 (2)

substitute

(2) If a change of use charge eligible for a remission under subregulation (1) is also subject to an increase under regulation 22 (Concessional lease increase—Act, s 184C (2)) or regulation 24 (Enlarged area of land increase—Act, s 184C (2)), the remission is to be offset by that increase.

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

Explanatory note

This amendment makes minor changes to provision references consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80 and the omission of regulation 23 by another amendment.

[3.518] Regulation 19 (2)

omit

s 184C (3)

substitute

s 184C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.519] Regulation 21 (1)

substitute

(1) The Minister may give written policy directions for determining the remission of change of use charges under the Act, section 184C (1), for the variation of leases in circumstances prescribed by regulation 20.

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80. It also removes references to *stated* leases. These references are no longer necessary because of the *Legislation Act 2001*, section 48. Under that section, the power to make a statutory instrument (eg Ministerial direction under regulation 21 (1)), includes, among other things, the power to make different provision with respect to different matters or different classes of matters.

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

[3.520] Regulation 22, heading and subregulation (1)

substitute

22 Concessional lease increase—Act, s 184C (2)

(1) The Minister must increase the change of use charge for the variation of a concessional lease by an amount equal to 25% of the added value in relation to the variation.

Explanatory note

This amendment updates provision references consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.521] Regulation 23, heading and subregulation (1)

substitute

23 Recently commenced lease increase—Act, s 184C (2)

(1) The Minister must increase the change of use charge for the variation of a recently commenced lease by an amount equal to 25% of the added value in relation to the variation.

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.522] Regulation 23 (4)

omit

s 184C (3)

substitute

s 184C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

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

[3.523] Regulation 24, heading

substitute

24 Enlarged area of land increase—Act, s 184C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.524] Regulation 24 (2)

omit

section 184C (3)

substitute

section 184C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.525] Regulation 24 (3)

substitute

(3) This regulation does not apply in relation to the variation of a lease if any of the following regulations apply in relation to the variation:

(a) regulation 22 (Concessional lease increase—Act, s 184C (2));

(b) regulation 25 (Service station lease increase—Act, s 184C (2)).

Explanatory note

This amendment updates a provision references consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80 and the omission of regulation 23 by another amendment.

[3.526] Regulation 25, heading

substitute

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

25 Service station lease increase—Act, s 184C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.527] Regulation 25 (2)

omit

section 184C (3)

substitute

section 184C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.528] Regulation 27, heading

substitute

27 Definitions for div 3.3

Explanatory note

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

[3.529] Regulation 27 (1)

omit

(1) In this division:

substitute

In this division:

Explanatory note

This amendment is consequential on the omission of subregulation (2) by another amendment.

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

[3.530] Regulation 27 (1), new definition of *lease*

insert

lease, over the largest parcel of land—see regulation 27A.

Explanatory note

This amendment is consequential on the insertion of new regulation 27A by another amendment.

[3.531] Regulation 27 (2)

substitute

27A Meaning of *lease* over the largest parcel of land

(1) This regulation applies if—

(a) a number of leases are surrendered in the course of a subdivision or consolidation; and

(b) the parcels of land over which the leases were granted are not of equal area; and

(c) there are 2 or more parcels of land of equal area that are larger than all the other parcels.

(2) In this division:

lease, over the largest parcel of land, means any of the leases over the equally large parcels mentioned in subregulation (1) (c).

Explanatory note

This amendment brings the form of the provision into line with current drafting practice.

[3.532] Regulation 28 (1)

omit

whole of the

substitute

in full

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

Explanatory note

This amendment updates language.

[3.533] Regulation 28 (2) and (3)

omit

s 187C (3)

substitute

s 187C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.534] Regulation 32 (1)

substitute

(1) The Minister may give written policy directions for determining the remission of change of use charges under the Act, section 187C (1), for consolidations or subdivisions of leases in circumstances prescribed by regulation 31.

Explanatory note

This amendment updates provision references consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80. It also removes references to *stated* consolidation or subdivisions of leases. These references are no longer necessary because the *Legislation Act 2001*, section 48. Under that section, the power to make a statutory instrument (eg Ministerial direction under regulation 32 (1)), includes, among other things, the power to make different provision with respect to different matters or different classes of matters.

[3.535] Regulation 33, heading

substitute

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

33 Concessional lease increase—Act, s 187C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.536] Regulation 33 (2)

omit

section 187C (3)

substitute

section 187C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.537] Regulation 33 (6) and (7)

omit

s 187C (3)

substitute

s 187C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.538] Regulation 34, heading

substitute

34 Recently commenced lease increase—Act, s 187C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

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

[3.539] Regulation 34 (2)

omit

section 187C (3)

substitute

section 187C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.540] Regulation 34 (4) and (5)

omit

s 187C (3)

substitute

s 187C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.541] Regulation 35, heading

substitute

35 Consolidation involving service station lease increase—Act, s 187C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.542] Regulation 35 (2)

omit

section 187C (3)

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

substitute

section 187C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.543] Regulation 36, heading

substitute

36 Subdivision involving service station lease increase—Act, s 187C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.544] Regulation 36 (2)

omit

section 187C (3)

substitute

section 187C (2)

Explanatory note

This amendment updates a reference consequential on the amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

[3.545] Regulation 37 (4)

omit

laid before

substitute

presented to

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

Explanatory note

This amendment updates language. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

[3.546] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to these regulations.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- business day
- Territory land.

Explanatory note

This amendment adds standard dictionary notes.

[3.547] Dictionary, new definitions

insert

added value—

(a) for division 3.2 (Variation of leases)—see regulation 15; and

(b) for division 3.3 (Consolidation and subdivision)—see regulation 27.

change of use charge—

(a) for division 3.2 (Variation of leases)—see regulation 15; and

(b) for division 3.3 (Consolidation and subdivision)—see regulation 27.

consolidated lease—

(a) for division 3.2 (Variation of leases)—see regulation 15; and

(b) for division 3.3 (Consolidation and subdivision)—see regulation 27.

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

Explanatory note

This amendment adds signpost definitions in accordance with current drafting practice.

[3.548] Dictionary, definitions of *consolidation* and *development*

substitute

***consolidation*—**see the Act, section 159.

***development*—**see the Act, section 222.

Explanatory note

This amendment is consequential on the amendment of the *Land (Planning and Environment) Act 1991* by other amendments.

[3.549] Dictionary, new definitions

insert

further lease—

(a) for division 3.2 (Variation of leases)—see regulation 15; and

(b) for division 3.3 (Consolidation and subdivision)—see regulation 27.

lease, over the largest parcel of land—

(a) for division 3.2 (Variation of leases)—see regulation 15A; and

(b) for division 3.3 (Consolidation and subdivision)—see regulation 27A.

Explanatory note

This amendment adds signpost definitions in accordance with current drafting practice.

[3.550] Dictionary, definition of *market value*

substitute

***market value*—**see the Act, section 159.

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

Explanatory note

The existing definition is the same as the definition of ***market value*** inserted in section 159 by another amendment. This amendment changes the existing definition to a signpost definition in accordance with current drafting practice.

[3.551] Dictionary, new definition

insert

regranted lease—

(a) for division 3.2 (Variation of leases)—see regulation 15; and

(b) for division 3.3 (Consolidation and subdivision)—see regulation 27.

Explanatory note

This amendment adds a signpost definition in accordance with current drafting practice.

[3.552] Dictionary, definition of *relevant authority*

omit

section 222 (1)

substitute

section 222

Explanatory note

This amendment is consequential on the amendment of the *Land (Planning and Environment) Act 1991* by other amendments.

[3.553] Dictionary, new definition

insert

subdivided lease—

(a) for division 3.2 (Variation of leases)—see regulation 15; and

(b) for division 3.3 (Consolidation and subdivision)—see regulation 27.

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

Explanatory note

This amendment adds a signpost definition in accordance with current drafting practice.

[3.554] Dictionary, definitions of *subdivision* and *variation*

substitute

subdivision—see the Act, section 159.

variation—see the Act, section 222.

Explanatory note

This amendment is consequential on the amendment of the *Land (Planning and Environment) Act 1991* by other amendments.

Part 3.40 Leases (Commercial and Retail) Act 2001

[3.555] Sections 25, 28 (1) and 30 (2), new note

insert

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.556] Section 31

substitute

31 Form of disclosure statements

A disclosure statement must—

(a) if the lessor's accounting period is not a financial year—state the accounting period; and

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

(b) contain a written estimate of the outgoings the tenant is required to contribute to under the lease that itemises the outgoings for the first accounting period of the lessor under the lease.

Note If a form is approved under section 157A (Approved forms) for a disclosure statement, the form must be used.

Explanatory note

This amendment omits subsection (1) which requires a disclosure statement to be in the approved form and adds a standard note about approved forms. Subsection (1) is no longer necessary because current drafting practice is to have a single approved forms provision (which is inserted by another amendment) that deals with approved forms for the Act.

[3.557] Section 49 (1), new note

insert

Note For how documents may be served, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.558] Section 52 (3) (a)

substitute

(a) the lessor—

(i) proposes to renew the lease and makes an offer to renew the lease in response to a request under section 107 (Lessor's intentions about renewal); or

(ii) gives the tenant preference under section 108 (Rules of conduct at end of lease term for shopping centre leases) by making an offer to the tenant to renew the lease; or

(iii) otherwise makes a renewal offer to the tenant before the end of 12 months after the end of the existing lease; and

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

Explanatory note

This amendment changes the form of the paragraph in accordance with current drafting practice to improve its readability.

[3.559] Sections 52 (4) and 57 (3), new notes

insert

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, 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 adds standard notes about appointments.

[3.560] Section 67 (3)

substitute

(3) In subsection (2) (b):

amount spent—if a lessor is using an accrual method of accounting, the ***amount spent*** by a lessor during a period includes a debt accrued by the lessor during the period.

Explanatory note

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

[3.561] Section 88, new note

insert

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.562] Section 116 (1)

omit

in writing

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

Explanatory note

This amendment omits unnecessary words.

[3.563] Sections 116 (1) and 122 (1), new note

insert

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.564] Section 124 (1), note

omit

Explanatory note

This amendment omits an unnecessary note about service of documents.

[3.565] Section 125 (1) (a) and (b)

substitute

(a) the day the lease is or was terminated; and

(b) that, if the tenant has not already vacated the premises, the tenant must vacate the premises on or before that day; and

(c) that, if the tenant has not already vacated the premises and does not vacate the premises on or before that day, either—

(i) the lessor may apply to the Magistrates Court for the issue of a warrant for the eviction of the tenant; or

(ii) the order will have effect as if it were a warrant for eviction.

Explanatory note

This amendment changes the form of the subsection in accordance with current drafting practice to improve its readability.

[3.566] New section 157A

insert

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

157A Approved forms

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

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

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

(3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

Explanatory note

This amendment adds the standard approved forms provision.

[3.567] Division 16.1, heading

omit

(commencement: the commencement of section 2 of this Act or 1 July 2002, whichever is later)

Explanatory note

This amendment omits a heading that will become redundant on the automatic expiry of amending and repealing provisions.

[3.568] Section 159, heading

substitute

159 Definitions for pt 16

(commencement: the commencement of section 2 of this Act or 1 July 2002, whichever is later)

Explanatory note

This amendment changes the section heading consequentially on the omission of the heading to division 16.1.

[3.569] Section 171

substitute

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

171 Expiry of pt 16

This part expires on 30 June 2004.

(commencement: the commencement of section 2 of this Act or 1 July 2002, whichever is later)

Explanatory note

This amendment changes the section consequentially on the omission of the heading to division 16.1 and states the actual date the part will expire.

[3.570] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- exercise
- function.

Explanatory note

This amendment adds standard dictionary notes.

Part 3.41 Legislative Assembly (Broadcasting) Act 2001

[3.571] Section 10 (2), new note

insert

Note For other provision about forms, see *Legislation Act 2001*, s 255.

Explanatory note

This amendment adds a standard note about approved forms.

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

[3.572] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- function
- Legislative Assembly
- person
- Speaker.

Explanatory note

This amendment adds standard dictionary notes.

Part 3.42 Legislative Assembly Precincts Act 2001

[3.573] Section 3, definitions

relocate to the dictionary

Explanatory note

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

[3.574] Section 3, 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 words and expressions 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 2001*, s 155 and s 156 (1)).

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

Explanatory note

This amendment adds a standard dictionary provision.

[3.575] New dictionary

insert

Dictionary

(see s 3)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- contravene
- Executive
- Legislative Assembly
- Speaker.

Explanatory note

This amendment adds a dictionary consequent on the omission of the definition section (section 3) by another amendment.

Part 3.43 Legislation (Consequential Amendments) Act 2001

[3.576] Schedule 1, amendments 1.1026 and 1.1027

substitute

[1.1026] Section 49 (1), new note

insert

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

[1.1027] Section 49 (2) (a)

omit

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

, whether under this Act or the regulations,

(commencement: 12 September 2001)

Explanatory note

This amendment corrects a minor error in the reference to the provisions to be amended.

[3.577] Schedule 1, amendment 1.3496

omit

Explanatory note

This amendment omits an uncommenced amendment of the *Public Sector Management Act 1994*. The amendment is redundant because it was made in anticipation of an amendment of that Act that was not made.

[3.578] Schedule 1, part 403

omit

Explanatory note

This amendment omits amendments of the *University of Canberra Regulations* which are no longer in force in the ACT.

Part 3.44 Liquor Act 1975

[3.579] Section 151, definition of *driver licence*

substitute

driver licence means an Australian driver licence or a licence to drive a motor vehicle (however described) issued under the law of an external Territory or a foreign country.

Explanatory note

This amendment simplifies the definition to take account of the definition of ***Australian driver licence*** in the *Legislation Act 2001*, dictionary, part 1.

[3.580] Section 170 (5)

substitute

Note For the Supreme Court scale, see *Supreme Court Rules*, sch 4, pt 4.8.

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

(5) The fees and expenses are payable—

(a) if the person attended the hearing, whether on summons or not, at the request of someone who is not a member of the board—by the person who made the request; or

(b) in any other case—by the Territory.

Explanatory note

This amendment adds a note at the end of subsection (4) showing where the Supreme Court scale about fees and travelling expenses may be found. It also revises subsection (5) in accordance with current drafting practice.

Part 3.45 Low-alcohol Liquor Subsidies Act 2000

[3.581] Section 27

substitute

27 Subsidy offences etc—interpretation

In this part:

connected—a thing is ***connected*** with a subsidy offence if—

(a) the offence has been committed in relation to it; or

(b) it will provide evidence of the commission of the offence; or

(c) it was used, or is intended to be used, for the commission of the offence.

occupier, of premises a subsidy officer enters under this part, includes a person the officer has reasonable grounds for believing to be an occupier of the premises.

subsidy offence includes a subsidy offence that there are reasonable grounds for believing has been, is being, or will be committed.

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

Explanatory note

This amendment remakes the form of the definitions in accordance with current drafting practice.

[3.582] Section 41 (2)

omit

the firstmentioned requirement

substitute

the requirement mentioned in paragraph (a)

Explanatory note

This amendment updates language.

[3.583] Section 43 (5)

omit

Explanatory note

This amendment omits a reference definition of ***keep*** that is remade by another amendment in accordance with current drafting practice.

[3.584] Section 43 (6)

insert

keep, in relation to a subsidy record, includes make a subsidy record.

Explanatory note

This amendment remakes the form of the definition in accordance with current drafting practice. The definition does not include the reference in existing section 43 (5) to the keeping of records that do not correctly record or explain matters because these are elements of the relevant offences.

[3.585] Section 43 (6)

renumber as section 43 (5)

Explanatory note

This amendment is consequential on the omission of section 43 (5) by another amendment.

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

[3.586] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- administrative appeals tribunal
- commissioner for revenue
- contravene
- corporation
- fail.

Explanatory note

This amendment adds standard dictionary notes.

Part 3.46 Magistrates Court Act 1930

[3.587] Section 117, definition of *authorised person*

substitute

authorised person, for part 8 (Infringement notices for certain offences)—see section 134A (3).

Explanatory note

This amendment is consequential on the insertion by another amendment of new section 134A.

[3.588] New section 134A

before section 135, insert

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

134A Authorised people for infringement notice offences

(1) The administering authority for an infringement notice offence may appoint a person to be an authorised person to serve infringement notices or reminder notices.

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, 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 regulations may prescribe a person to be an authorised person for the service of infringement notices or reminder notices.

(3) In this part:

authorised person means—

(a) for an infringement notice for an infringement notice offence—

(i) the administering authority; or

(ii) a person who is appointed under this section by the administering authority to serve an infringement notice for the offence; or

(iii) anyone else who, under the regulations, may serve an infringement notice for the offence; or

(b) for a reminder notice for an infringement notice offence—

(i) the administering authority; or

(ii) a person who is appointed under this section by the administering authority to serve a reminder notice for the offence; or

(iii) anyone else who, under the regulations, may serve a reminder notice for the offence.

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

Explanatory note

New section 134A provides a specific power for an administering authority to appoint (rather then merely authorise) authorised persons and is consistent with the *Road Transport (General) Act 1999*, new section 53A that is inserted by another amendment. Standard appointments notes are also inserted.

[3.589] Section 135

substitute

135 Delegation of administering authority's functions

(1) The administering authority for an infringement notice offence may delegate the administering authority's functions under this part to an authorised person or a person prescribed under the regulations.

(2) A person prescribed under the regulations for subsection (1) may delegate the functions delegated to the person under that subsection to anyone else.

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

Explanatory note

This amendment updates the delegation provisions as follows:

- the words 'in writing' have been omitted because the *Legislation Act 2001*, section 232 provides that a delegation must be made, or evidenced, in writing;
- the words 'all or any' (of the administering authority's or delegated person's functions) have been omitted because the *Legislation Act 2001*, 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.

This amendment also adds standard notes about delegations.

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

Part 3.47 Major Events Security Act 2000

[3.590] Section 4 (1)

omit

, in writing,

Explanatory note

This amendment omits unnecessary words. Section 4 (5) requires a declaration to be in writing.

[3.591] Section 14, heading

substitute

14 Unauthorised entry to event venue

Explanatory note

This amendment confirms a minor correction to the heading made under the *Legislation (Republication) Act 1996*.

[3.592] Section 16 (d)

substitute

(d) disrupt, interfere with, delay or obstruct the conduct of a major event, or an activity associated with the event, by throwing anything; or

Explanatory note

This amendment confirms a minor correction to the paragraph made under the *Legislation (Republication) Act 1996*.

[3.593] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- contravene
- exercise
- function
- police officer.

Explanatory note

This amendment adds standard dictionary notes.

Part 3.48 Mediation Act 1997

[3.594] Section 1

substitute

1 Name of Act

This Act is the *Mediation Act 1997*.

Explanatory note

This amendment brings the naming provision of the Act into line with current drafting practice.

[3.595] 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 words and expressions 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 2001*, s 155 and s 156 (1)).

Authorised when accessed at www.legislation.act.gov.au or in authorised printed form

3 Notes

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

Note See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment adds standard dictionary and notes provisions. The definitions are inserted into a new dictionary which is inserted by another amendment.

[3.596] Section 5 (3), new note

insert

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about giving notice.

[3.597] Section 7 (2)

omit

a mediator

substitute

the mediator

Explanatory note

This amendment clarifies the relationship between section 7 (1) and (2).

[3.598] New dictionary

insert

Dictionary

(see s 2)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

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

- ACT
- contravene
- document
- person.

approved agency means an entity that is declared under section 4 (2) to be an approved agency.

Note An entity includes an individual, see *Legislation Act 2001*, dict, pt 1, def of ***entity***.

mediation session means a meeting between people in dispute and a registered mediator for the purpose of resolving the dispute by mediation, and includes anything done for the purpose of—

(a) arranging the meeting (whether or not successfully); or

(b) following up anything raised in the meeting.

party, to a mediation session, does not include the registered mediator for the session.

registered mediator means a person who is registered under section 5 as a mediator (Registration of mediators).

Explanatory note

This amendment adds a dictionary consequent on the omission of the definition section (section 3) by another amendment. The definitions have been updated in accordance with current drafting practice.

Part 3.49 Mental Health (Treatment and Care) Act 1994

[3.599] Section 121 (3) (c)

substitute

(c) has a financial interest in a private hospital.

Explanatory note

This amendment omits a reference to the *Public Health (Private Hospitals) Regulations* which were repealed by the *Public Health Regulations 2000* SL No 1.

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

Part 3.50 National Environment Protection Council Act 1994

[3.600] New section 13 (4)

insert

(4) An instrument under section 13 (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

Explanatory note

This amendment makes national environmental protection measures made by the council notifiable instruments in accordance with current drafting practice.

Part 3.51 Plumbers, Drainers and Gasfitters Board Act 1982

[3.601] Section 42

substitute

42 Witness fees and travelling expenses

(1) This section applies to a person (the ***witness***) who attends a hearing of the board to give evidence (whether voluntarily or under a summons).

(2) The witness is entitled to receive the fees and travelling expenses that the chairperson directs in accordance with the scale and conditions applying to people who attend as witnesses before the Supreme Court.

Note For the Supreme Court scale, see *Supreme Court Rules*, sch 4, pt 4.8.

(3) The fees and expenses are payable by—

(a) if the witness attended at the request of the board—the Territory; or

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

(b) in any other case—the person who requested the attendance of the witness.

(4) However, if the board believes that it was reasonable for a person (other than the board) to request a person to appear before the board, the board may order that some or all of the fees and expenses be paid by the Territory.

Explanatory note

This amendment does not make a substantive change in the entitlements of a witness. The existing section adopts the scale in the *Public Works Committee Regulations 1969* (Cwlth), schedule 2 which applies the High Court scale. The *Supreme Court Rules* (see schedule 4, part 4.8) is, in substance, the same as the High Court scale. The linking of the entitlements to the Supreme Court reflects the Territory's self-governing status.

Part 3.52 Pounds Act 1928

[3.602] Section 5, definition of *occupier of land*

substitute

occupier, of land, includes a person with an interest in the land or a person acting on behalf of a person with an interest in the land.

Explanatory note

This amendment revises the definition to omit redundant concepts and bring it into line with current drafting practice.

Part 3.53 Prisoners' Interstate Leave Act 1997

[3.603] Section 1

substitute

1 Name of Act

This Act is the *Prisoners Interstate Leave Act 1997*.

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

Explanatory note

This amendment brings the name of the Act into line with current drafting practice by omitting the apostrophe.

[3.604] 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 words and expressions used in this Act, and includes references (***signpost definitions***) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition '***custodial officer*—**see the *Remand Centres Act 1976*, section 3.' means that the expression 'custodial officer' 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 2001*, 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 2001*, s 127 (1), (4) and (5) for the legal status of notes.

3 Functions of administration under corresponding laws

If a corresponding law gives a function to the person responsible for the conduct of prisons in the ACT, the function may be exercised by the administrator.

Explanatory note

This amendment adds a standard dictionary provision consequential on the insertion of a new dictionary by another amendment. The definitions in section 3 (1) are inserted into the new dictionary. The substance of section 3 (2) is remade as new section 3. This amendment also adds a standard provision about the legal status of notes.

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

[3.605] Section 5

omit

Explanatory note

This amendment is consequential on the inclusion of the definitions in a new dictionary which is inserted by another amendment. A provision reproducing section 5 (2), which provides that a reference to a condition or restriction on a permit which has been varied means the condition or restriction as varied, is unnecessary because of section 10 (Variation of permits).

[3.606] Section 6 (1)

omit

, being a purpose of a kind set out in subsection (2)

Explanatory note

This amendment is consequential on the insertion of a new section 6 (1A) by another amendment.

[3.607] New section 6 (1A)

insert

(1A) However, the administrator must give a permit only for a purpose mentioned in subsection (2).

Explanatory note

This amendment relocates a qualification in existing section 6 (1) in accordance with current drafting practice.

[3.608] Section 6

renumber subsections when Act next republished under Legislation Act 2001

Explanatory note

This amendment provides for the renumbering of subsections.

[3.609] Section 7 (1)

omit

deems

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

substitute

considers

Explanatory note

This amendment updates language.

[3.610] Section 9 (4)

omit

Explanatory note

This amendment omits an unnecessary definition of ***chief police officer***. The term is defined in the *Legislation Act 2001*, dictionary, part 1.

[3.611] Section 13 (5)

substitute

(5) In subsection (3):

frisk search—see the *Crimes Act 1900*, section 185.

ordinary search—see the *Crimes Act 1900*, section 185.

seizable item—see the *Crimes Act 1900*, section 185.

Explanatory note

This amendment substitutes signpost definitions to bring the form of the definitions into line with current drafting practice.

[3.612] Section 14

omit

Explanatory note

This amendment is consequential on the inclusion of the definitions in the new dictionary.

[3.613] Section 16 (3)

omit

shall cause the prisoner to be brought

substitute

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

must bring the prisoner

Explanatory note

This amendment updates language.

[3.614] New dictionary

insert

Dictionary

(see s 2)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- ACT
- chief police officer
- custodial escort
- police officer
- remand centre
- remand centre administrator
- the Territory.

administrator means the remand centre administrator.

assigned escort, in relation to a permit or a prisoner who is absent from a remand centre under a permit, means the escort assigned to exercise functions in relation to the permit under section 9 (1).

corresponding law means a law of a participating jurisdiction that corresponds to this Act.

custodial officer—see the *Remand Centres Act 1976*, section 3.

escort means a custodial escort.

interstate permit means a permit, issued under a corresponding law, permitting a prisoner to travel in or through the ACT, and includes any condition or restriction to which the permit is subject.

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

participating jurisdiction means a State or another Territory in which there is in force a corresponding law.

permit means a permission under section 6.

prisoner means—

(a) for part 3 (Leave of absence for prisoners)—a person detained in a remand centre; and

(b) for part 4 (Interstate prisoners on leave of absence in the Territory)—a person in custody under the law of a participating jurisdiction.

Explanatory note

This amendment adds a new dictionary and brings the definitions in sections 3 (1), 5 (1) and 14 into line with current drafting practice. A definition of ***remand centre*** is unnecessary because the term is to be defined in the *Legislation Act 2001*, dictionary, part 1 (see schedule 1). A provision reproducing section 5 (2), which provides that a reference to a condition or restriction on a permit which has been varied means the condition or restriction as varied, is unnecessary because of section 10 (Variation of permits).

Part 3.54 Prostitution Act 1992

[3.615] Section 1

substitute

1 Name of Act

This Act is the *Prostitution Act 1992*.

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

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 words and expressions used in this Act, and includes references (***signpost definitions***) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition '***drug of dependence***—see the *Drugs of Dependence Act 1989*, section 3 (1) (Interpretation for Act).' means that the expression '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 2001*, 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 2001*, s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment brings the naming provision of the Act into line with current drafting practice, adds a standard dictionary provision consequent on the insertion of a new dictionary by another amendment and adds a standard provision about the legal status of notes.

[3.616] Section 3 (1), definitions of *child, drug of dependence* and *public place*

omit

Explanatory note

Child is defined in the *Legislation Act 2001*, dictionary, part 1 and updated definitions of ***drug of dependence*** and ***public place*** are inserted into a new dictionary which is inserted by another amendment

[3.617] Section 3 (1), remaining definitions

relocate to dictionary

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

Explanatory note

This amendment relocates all the remaining definitions to the new dictionary which is inserted by another amendment.

[3.618] Section 3, remainder

omit

Explanatory note

The definition of ***employing*** in existing section 3 (2) is inserted into the new dictionary which is inserted by another amendment.

[3.619] Section 5

substitute

5 Registrar of Brothels and Escort Agencies

The chief executive must appoint a public servant as the Registrar of Brothels and Escort Agencies.

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, 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 brings the section into line with current drafting practice. In particular, it removes the requirement that the chief executive must create and maintain an office of registrar in the public service. The *Legislation Act 2001*, 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 adds a standard note about appointments.

[3.620] Section 6 (3)

omit

perform

substitute

exercise

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

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.621] Section 17 (3)

omit

designated medical practitioner

substitute

doctor nominated in writing by the chief health officer for this section

Explanatory note

This amendment brings the section into line with current drafting practice. The *Legislation Act 2001*, dictionary, part 1, defines ***doctor*** and ***chief health officer***.

[3.622] Section 17 (4)

omit

Explanatory note

This amendment is consequential on the amendment of section 17 (3) by another amendment.

[3.623] New dictionary

insert

Dictionary

(see s 2)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- chief health officer
- child
- doctor

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

- exercise
- function
- police officer.

drug of dependence—see the *Drugs of Dependence Act 1989*, section 3 (1).

employing a prostitute includes entering into a contract for services with a prostitute for the provision of commercial sexual services.

public place means any street, road, public park, reserve, or any building, premises or other place that the public are entitled to use or that is open to, or used by, the public (whether on payment or otherwise).

Explanatory note

This amendment adds a new dictionary. The definition of ***drug of dependence*** has been updated to bring it into line with the definition of this term in the *Drugs of Dependence Act 1989*. Existing section 3 (2) is recast as the definition of ***employing*** in line with current drafting practice. The definition of ***public place*** is revised by omitting the reference to the repealed *Public Parks Act 1928* (see *Statute Law Amendment Act 2001* No 11, schedule 4, part 4.2).

Part 3.55 Protection Orders Act 2001

[3.624] Section 16 (1), note

substitute

Note 1 For service of the application, see s (4) and pt 11 (Service).

Note 2 If a form is approved under s 96 (Approved forms) for a return date notice, the form must be used.

Explanatory note

This amendment adds a note about service.

[3.625] Section 33 (2)

substitute

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

(2) Service under subsection (1) (a) must be personal service unless the Magistrates Court makes an order under section 98 (If service impracticable or impossible).

Note For how the order may be served on a person mentioned in s (1) (b), see pt 11 (Service).

Explanatory note

This amendment brings the subsection into line with section 16 (4) by adding a reference to section 98 and a note about service of an order.

[3.626] Section 56, heading

substitute

56 Service of application for interim order unnecessary

Explanatory note

This amendment revises the heading to explain more accurately the section's contents.

[3.627] Section 74

substitute

74 Service of emergency orders

(1) A copy of an emergency order must be served on the respondent by a police officer.

(2) Service under subsection (1) must be personal service unless the Magistrates Court makes an order under section 98 (If service impracticable or impossible).

Explanatory note

This amendment removes any doubt that service under the section must be personal service.

[3.628] Section 80, new note

insert

Note For service of the notice, see pt 11 (Service).

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

Explanatory note

This amendment adds a note about service.

[3.629] Section 96 (2), new note

insert

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

Explanatory note

This amendment adds a standard note about approved forms.

[3.630] New section 97 (3)

insert

(3) The *Legislation Act 2001*, part 19.5 (Service of documents) does not apply to the service of a document that is required to be served under this Act.

Explanatory note

This amendment makes it clear that the methods of service set out in the *Legislation Act 2001*, part 19.5 are not additional to the methods set out in section 97.

[3.631] Section 101 (2) (c)

omit

performance

substitute

exercise

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.632] Section 108

omit

For this Act:

substitute

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

In this part:

Explanatory note

This amendment limits the operation of the definitions in section 108 to part 14.

[3.633] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- document
- exercise
- Magistrates Court
- police officer
- Supreme Court.

Explanatory note

This amendment adds standard dictionary notes.

[3.634] Further amendments, mentions of *may not be*

omit

may

substitute

must

in

- section 35 (3)
- section 58 (3)
- section 59 (1) (c)
- section 59 (3)
- section 60, note 1

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

- section 68 (2).

Explanatory note

This amendment makes it clear that, in each of the provisions, the relevant requirement is mandatory.

Part 3.56 Public Health Regulations 2000

[3.635] Dictionary, definition of *proprietor*

omit

Explanatory note

This amendment is consequential on the repeal of the *Public Health (Private Hospitals) Regulations* by the *Public Health Regulations 2000* SL No 1.

Part 3.57 Public Place Names Regulations 2001

[3.636] Regulation 3, heading

substitute

2 Prescribed entity—Act, s 4

Explanatory note

This amendment renumbers the regulation and brings the regulation heading into line with current drafting practice.

Part 3.58 Race and Sports Bookmaking Act 2001

[3.637] Sections 7 (2) and 58 (1), new note

insert

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.

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

Explanatory note

This amendment adds a standard service note.

[3.638] Section 97 (1), note

substitute

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

Explanatory note

This amendment updates the note.

[3.639] Section 98 (3)

omit

may prescribe

substitute

may also prescribe

Explanatory note

This amendment brings this provision into line with current drafting practice.

[3.640] Section 101 (2)

substitute

(2) This section expires on 7 September 2002.

Explanatory note

This amendment brings this provision into line with current drafting practice by including the actual date of expiry of the section.

[3.641] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

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

- contravene
- corporation
- fail
- found guilty
- individual.

Explanatory note

This amendment adds standard dictionary notes.

Part 3.59 Rehabilitation of Offenders (Interim) Act 2001

[3.642] Section 6 (2)

omit

may not be

substitute

must not be

Explanatory note

This amendment makes it clear that the requirement is mandatory.

[3.643] Section 7 (5)

substitute

(5) This section comes into operation on 24 September 2003.

Explanatory note

This amendment brings the subsection into line with current drafting practice by including the actual commencement date.

[3.644] Sections 9 (2) and 10 (1)

omit

may not be

substitute

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

must not be

Explanatory note

This amendment makes it clear that the requirement is mandatory.

[3.645] Section 10 (5)

substitute

(5) Subsection (4) and this subsection expire on 27 March 2006.

Explanatory note

This amendment brings the subsection into line with current drafting practice by including the actual expiry date.

[3.646] Section 19, note

substitute

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 2001*, s 104).

Explanatory note

This amendment updates a standard note.

[3.647] Section 50 (2) (b)

omit

may not be

substitute

must not be

Explanatory note

This amendment makes it clear that the requirement is mandatory.

[3.648] Section 66, new note

insert

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 2001*, s 196 and dict, pt 1, def of ***entity***).

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

Explanatory note

This amendment adds a standard note about the exercise of necessary and convenient powers in relation to functions.

[3.649] Section 68 (1), notes

substitute

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see *Legislation Act 2001*, div 19.3.3).

Explanatory note

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

[3.650] Section 69

substitute

69 Term of appointment of members

(1) A member of the board must be appointed for a term of 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 2001*, s 208 and dict, pt 1, def of ***appoint***).

(2) The instrument appointing, or evidencing the appointment of, a member of the board must state whether the person is appointed as chairperson, deputy chairperson or a non-judicial member.

Explanatory note

This amendment recasts the section in accordance with current drafting practice and adds a standard note about reappointment. This amendment also removes an unnecessary provision that requires the instrument of appointment to state the period of appointment. This requirement will be dealt with by a provision being inserted into the *Legislation Act 2001* (new s 206 (2)) by an amendment in schedule 2 of this Act.

[3.651] Section 72 (3)

substitute

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

(3) The chairperson may delegate the functions of the board to a division.

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

Explanatory note

This amendment updates the delegation provision by omitting the words 'all or any' (of the board's functions) because the *Legislation Act 2001*, 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. This amendment also adds a standard note about delegations.

[3.652] Section 72 (4)

omit

Explanatory note

This amendment omits an unnecessary provision because the *Legislation Act 2001*, section 239 (2) provides that all Territory laws apply to the delegate in the exercise of the delegation as if the delegate were the appointer.

[3.653] Section 85 (1), new note

insert

Note For how documents may be served, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.654] Section 86 (1), new note

insert

Note For the taking of an oath or the making of an affirmation, see the *Oaths and Affirmations Act 1984*.

Explanatory note

This amendment adds a standard note about the taking of an oath or affirmation.

[3.655] Section 98 (1)

substitute

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

(1) The Minister may, in writing, approve forms for this Act (other than forms for use in or in relation to a court).

Explanatory note

This amendment adds ', in writing,' to bring the provision into line with the standard approved forms provision.

[3.656] Section 98 (2), new note

insert

Note For other provisions about forms, see *Legislation Act 2001*, s 255

Explanatory note

This amendment adds a standard note about approved forms.

[3.657] Section 100

substitute

100 Review of home detention provisions

(1) The Minister must review the operation of the provisions of this Act relating to home detention as soon as is practicable after 24 September 2003.

(2) A report on the outcome of the review must be presented by the Minister to Legislative Assembly before 24 March 2004.

(3) This section expires on 24 September 2004.

Explanatory note

This amendment brings the section into line with current drafting practice by including actual dates for things to be done and the expiry of the section.

[3.658] Section 113

substitute

113 Expiry of ch 6

This chapter expires on 24 September 2002.

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

Explanatory note

This amendment brings the section into line with current drafting practice by including the actual date.

[3.659] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- another Territory
- fail
- found guilty
- function
- police officer
- public servant
- remand centre.

Explanatory note

This amendment adds standard dictionary notes.

[3.660] Dictionary, definition of *remand centre*

omit

Explanatory note

This amendment omits the definition because the term is to be defined in the *Legislation Act 2001*, dictionary, part 1 (see schedule 1 amendments).

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

Part 3.60 Rehabilitation of Offenders (Interim) Regulations 2001

[3.661] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to these regulations.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- ACT
- doctor.

Explanatory note

This amendment adds standard dictionary notes.

Part 3.61 Residential Tenancies Act 1997

[3.662] Section 44 (3) (a)

omit

in accordance

substitute

in accordance with

Explanatory note

This amendment corrects a minor typographical error.

Part 3.62 Roads and Public Places Act 1937

[3.663] Section 1

substitute

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

1 Name of Act

This Act is the *Roads and Public Places Act 1937*.

Explanatory note

This amendment brings the naming provision of the Act into line with current drafting practice.

[3.664] Sections 2, 2A and 2B

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 words and expressions used in this Act, and includes references (***signpost definitions***) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition '***retention area***—see the *Uncollected Goods Act 1996*, section 4.' means that the expression 'retention area' 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 2001*, 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 2001*, s 127 (1), (4) and (5) for the legal status of notes.

2B Application of Act to Territory

(1) The following sections do not bind the Territory:

- section 6 (Drains for surface water)
- section 7 (Damage to or interference with public places and property on them).

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

(2) This section has effect despite the *Legislation Act 2001*, section 121 (Binding effect of Acts).

2C Road and public places officers

The chief executive may appoint a public servant as a roads and public places officer for this Act.

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, 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 adds standard dictionary and notes provisions and brings section 2B into line with current drafting practice.

This amendment also removes the requirement in existing section 2B that the chief executive must create and maintain offices for roads and public places officers in the public service. The *Legislation Act 2001*, 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. Standard notes about appointments are also inserted.

[3.665] Section 3 (2)

substitute

(2) The level of any public road proposed to be fixed or altered may only be fixed or altered after an opportunity is given to people interested in the proposal to be heard about the proposal.

Explanatory note

This amendment updates language.

[3.666] Section 3 (6)

omit

thereupon

substitute

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

on receiving the report

Explanatory note

This amendment updates language.

[3.667] Section 5 (3)

omit

forthwith

substitute

immediately

Explanatory note

This amendment updates language.

[3.668] Section 6 (3)

omit

deems

substitute

considers

Explanatory note

This amendment updates language.

[3.669] Sections 7 (b) and 8

omit

whereof

substitute

of which

Explanatory note

This amendment updates language.

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

[3.670] Section 9

substitute

9 Permission to place culverts etc across, and to interfere with the surfaces of, public places

(1) The Minister or a roads and public places officer may give permission to a person to make or place a culvert, bridge, crossing or drain across a watertable, watercourse or footpath in, or to open up or break the surface of, any public place.

Note A fee may be determined under s 9A (Determination of fees) for this section.

(2) The permission may be given subject to such conditions as the Minister determines.

Explanatory note

This amendment brings the provision into line with current drafting practice. Reference to payment of a determined fee has been omitted consequential on the enactment of the *Legislation Act 2001*. The determination may deal with when a fee is not payable.

[3.671] Section 9A

substitute

9A Determination of fees

(1) The Minister may, in writing, determine fees for this Act.

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

(2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Explanatory note

This amendment is consequential on the enactment of the *Legislation Act 2001*.

[3.672] Section 10

omit

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

thereof

substitute

of the public place

Explanatory note

This amendment updates language.

[3.673] Section 12

omit

by any means whatsoever

substitute

in any way

Explanatory note

This amendment updates language.

[3.674] Section 12A

substitute

12A Code of practice for removable signs

(1) The Minister may, in writing, approve a code of practice about the placement and keeping of moveable signs in public places.

(2) An approval is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Explanatory note

This amendment is consequential on the enactment of the *Legislation Act 2001*.

[3.675] Section 12C, penalty

substitute

Maximum penalty:

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

(a) for a contravention of the code relating to insurance—50 penalty units; or

(b) in any other case—10 penalty units.

Explanatory note

This amendment brings the penalty provision into line with current drafting practice.

[3.676] Section 12E

omit

Explanatory note

This amendment omits a provision about proof of the code in court proceedings. Formal proof of documents of a legislative character is generally not required (see the *Legislation Act 2001*, section 26 and the *Evidence Act 1995* (Cwlth), section 143). The *Evidence Act 1995* (Cwlth) applies to proceedings under Territory laws.

[3.677] Section 12F (4) (a) and (b)

omit

shall be deemed

substitute

is taken

Explanatory note

This amendment updates language.

[3.678] Section 12G

substitute

12G Prescribed objects—s 12F (5), def of *prescribed object*

(1) The Minister may, in writing, prescribe objects.

(2) An instrument under subsection (1) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

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

Explanatory note

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

[3.679] Section 13 (3)

omit

thereof

substitute

of such a thing

Explanatory note

This amendment updates language.

[3.680] Section 13 (3)

omit

forthwith

substitute

immediately

Explanatory note

This amendment updates language.

[3.681] Section 15E (1)

omit

, on payment of the determined fee,

Explanatory note

This amendment omits words that are now redundant (see *Legislation Act 2001*, part 6.3).

[3.682] Section 15E (1), new note

insert

Note A fee may be determined under s 9A (Determination of fees) for this section.

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

Explanatory note

This amendment is consequential on the amendment of section 15E (1) by another amendment.

[3.683] Section 15G (1) and (2)

omit

or his or her delegate

Explanatory note

This amendment omits redundant text (see *Legislation Act 2001*, section 239 (2)).

[3.684] Section 15G (2)

omit

or the delegate

Explanatory note

This amendment omits redundant text (see *Legislation Act 2001*, section 239 (2)).

[3.685] Section 15K (1)

substitute

(1) If the holder of a permit applies to the Minister for its renewal (whether the application is made before or after the end of the permit's term), the Minister must renew the permit.

Note A fee may be determined under s 9A (Determination of fees) for this section.

Explanatory note

This amendment omits a redundant reference to a determined fee and adds a standard explanatory note about fees.

[3.686] Sections 15M (1) and 15N (2), new note

insert

Note For the giving of documents, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

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

[3.687] Section 15P (1)

omit

shall be deemed

substitute

is taken

Explanatory note

This amendment updates language.

[3.688] Section 15Q

omit

Explanatory note

This amendment omits a provision about service of notices consequentially on the enactment of the *Legislation Act 2001*, part 19.5 and the insertion of notes about service by another amendment.

[3.689] Section 15R (1)

omit

shall forthwith furnish

substitute

must immediately give

Explanatory note

This amendment updates language.

[3.690] Section 16

substitute

15S Approved forms

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

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

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

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

(3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

16 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Explanatory note

This amendment adds a standard provision about approved forms and brings the regulation-making power into line with current drafting practice.

[3.691] New dictionary

insert

Dictionary

(see s 2)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- ACT
- chief executive
- document
- the Territory.

code of practice means the code of practice approved by the Minister under section 12A (1).

object includes any item of movable personal property.

owner, of land, means the lessee of the land.

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

permit means a permit granted under this Act.

public place means unleased Territory land that the public are entitled to use or that is open to, or used by, the public, and includes every public road.

public road means any street, road, lane, thoroughfare, footpath, or place that is Territory land open to, or used by, the public.

retention area—see the *Uncollected Goods Act 1996*, section 4.

roads and public places officer means a roads and public places officer appointed under section 2B.

sign includes a notice and an advertisement.

Explanatory note

This amendment adds a new dictionary containing the definitions previously contained in section 2 which is omitted by another amendment. In the definition of ***code of practice***, the words 'as varied from time to time under that section' have been omitted (see *Legislation Act 2001*, section 102). The definition of ***determined fee*** is unnecessary (see *Legislation Act 2001*, part 6.3) and other definitions have been updated in accordance with current drafting practice.

Part 3.63 Road Transport (Alcohol and Drugs) Act 1977

[3.692] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- doctor
- exercise
- function
- nurse.

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

Explanatory note

This amendment adds standard dictionary notes.

[3.693] Dictionary, definitions of *doctor* and *nurse*

omit

Explanatory note

This amendment omits unnecessary definitions. ***Doctor*** and ***nurse*** are defined in the *Legislation Act 2001*, dictionary, part 1.

Part 3.64 Road Transport (Dimensions and Mass) Act 1990

[3.694] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- exercise
- function.

Explanatory note

This amendment adds standard dictionary notes.

[3.695] Dictionary, definition of *authorised person*

substitute

authorised person, for a provision of this Act, means—

(a) a person who is appointed as an authorised person under the *Road Transport (General) Act 1999*, section 19 for the provision; or

(b) a person who is, under regulations made under this Act or the *Road Transport (General) Act 1999*, an authorised person for the provision.

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

Explanatory note

This amendment adds into paragraph (a) a reference to the *Road Transport (General) Act 1999*, section 19.

[3.696] Dictionary, definition of *function*

omit

Explanatory note

This amendment omits an unnecessary definition. ***Function*** is defined in the *Legislation Act 2001*, dictionary, part 1.

[3.697] Dictionary, definitions of *road* and *road related area*

omit

an order

substitute

a declaration

Explanatory note

This amendment brings the language of the definitions into line with the *Road Transport (General) Act 1999*, section 12.

Part 3.65 Road Transport (Dimensions and Mass) Regulations 2000

[3.698] Regulation 4 (2)

substitute

(2) This regulation does not apply to a person who is given a unique number under the *Road Transport (Offences) Regulations 2001*, regulation 11 (People authorised for infringement notices etc to have unique number).

Explanatory note

This amendment updates the reference to the regulations about offences.

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

[3.699] Regulation 5 (2) (b)

substitute

(b) under the *Road Transport (Offences) Regulations 2001*, regulation 11 (People authorised for infringement notices etc to have unique number).

Explanatory note

This amendment updates the reference to the regulations about offences.

Part 3.66 Road Transport (Driver Licensing) Act 1999

[3.700] New section 5 (3)

insert

(3) Subsection (2), the notes mentioned in subsection (2) and this subsection expire on the commencement of this subsection.

Explanatory note

This amendment provides for the expiry of the notes in the headings to sections.

[3.701] Division 2.1, heading

substitute

Division 2.1 Functions of road transport authority generally

Explanatory note

This amendment omits unnecessary words. ***Function*** is defined in the *Legislation Act 2001*, dictionary, part 1, to include authority, duty and power.

[3.702] Sections 15 (2), 18 (1), 19 (3), 20 (1) and 21 (3), new note

insert

Note For how documents may be served, see *Legislation Act 2001*, pt 19.5.

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

Explanatory note

This amendment adds a standard note about service of documents.

[3.703] Section 27

substitute

27 Regulations may apply certain documents etc

(1) The regulations—

(a) may apply publications of the National Road Transport Commission approved, or of matters approved, by the Australian Transport Council, a law of another jurisdiction, or any other instrument, as in force from time to time; and

(b) may apply to a provision of the regulations, entirely or in part and with or without changes, the provisions of the Criminal Code (Cwlth), as in force from time to time.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the *Legislation Act 2001*, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the *Legislation Act 2001*.

(2) For the regulations, the regulations may define a word or expression (or apply a definition of a word or expression in a law or instrument mentioned in subsection (1) (a)) defined by this Act—

(a) in the same (or in substantially the same) way as it is defined by this Act; or

(b) by reference to a matter included in the word or expression as defined by this Act; or

(c) by reference to a combination of matters included in the word or expression as defined by this Act and in any other word or expression defined by this Act; or

(d) for applying a publication of the National Road Transport Commission approved, or of matters approved, by the

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

Australian Transport Council—in the same way as it is defined in the publication despite anything in this Act or other road transport legislation.

(3) In this section:

publication of the National Road Transport Commission includes a document published on behalf of the National Road Transport Commission.

Explanatory note

This section is amended consequentially on the *Legislation Act 2001*, section 47 (Statutory instrument may make provision by applying a law or instrument) and to bring the section into line with current drafting practice.

This amendment also omits subsection (3) which provides for proof of applied instruments in court proceedings. Formal proof of documents of a legislative character is generally not required (see the *Legislation Act 2001*, section 26 and the *Evidence Act 1995* (Cwlth), section 143). The *Evidence Act 1995* (Cwlth) applies to proceedings under Territory laws.

[3.704] Division 5.1, heading

omit

Explanatory note

This amendment omits a redundant division heading consequentially on the expiry of the other divisions of part 5.

[3.705] Section 37

omit everything before the definition of existing disqualification, substitute

37 Definitions for pt 5

In this part:

Explanatory note

This amendment is consequential on the omission by another amendment of the heading to division 5.1.

[3.706] Section 42

substitute

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

42 Expiry of pt 5

This part expires on 1 March 2006.

Explanatory note

This amendment is consequential on the omission by another amendment of the heading to division 5.1.

[3.707] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- ACT
- exercise
- function
- instrument.

Explanatory note

This amendment adds standard dictionary notes.

[3.708] Dictionary, definitions of *exercise* and *function*

omit

Explanatory note

This amendment omits unnecessary definitions. The terms are defined in the *Legislation Act 2001*, dictionary, part 1.

[3.709] Dictionary, definitions of *road* and *road related area*

omit

an order

substitute

a declaration

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

Explanatory note

This amendment brings the language of the definitions into line with the *Road Transport (General) Act 1999*, section 12.

Part 3.67 Road Transport (Driver Licensing) Regulations 2000

[3.710] New regulation 4 (3)

insert

(3) Subregulation (2), the notes mentioned in subregulation (2) and this subregulation expire on the commencement of this subregulation.

Explanatory note

This amendment provides for the expiry of the notes in the headings to regulations.

[3.711] Regulation 45 (2), note 2

renumber as note 3

Explanatory note

This amendment is consequential on the insertion of a new note 2 by another amendment.

[3.712] Regulation 45 (2), new note 2

insert

Note 2 A person who is disqualified from holding or obtaining an Australian driver licence in another jurisdiction is not eligible to apply for a restricted licence (see *Road Transport (General) Act 1999*, s 66 (7)).

Explanatory note

This amendment adds a new note to help the reader.

[3.713] Regulation 56 (2), note 1

omit

Note 1

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

substitute

Note

Explanatory note

This amendment is consequential on the omission of note 2 by another amendment.

[3.714] Regulation 56 (2), note 2

omit

Explanatory note

This amendment omits a note for consistency with other parts of the road transport legislation.

[3.715] Regulation 88 (2), note and regulation 103 (1), note

omit

Explanatory note

This amendment omits notes for consistency with other parts of the road transport legislation.

[3.716] Dictionary, definition of *authorised person*

substitute

authorised person, for a provision of these regulations, means a person who is appointed as an authorised person under the *Road Transport (General) Act 1999*, section 19 for the provision.

Explanatory note

This amendment adds into the definition a reference to the *Road Transport (General) Act 1999*, section 19.

Part 3.68 Road Transport (General) Act 1999

[3.717] New section 5 (3)

insert

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

(3) Subsection (2), the notes mentioned in subsection (2) and this subsection expire on the commencement of this section.

Explanatory note

This amendment provides for the expiry of the notes in the headings to sections.

[3.718] Section 16 (3)

omit

performing

substitute

exercising

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.719] Sections 17 and 18

substitute

17 Delegation of road transport authority's functions

(1) The road transport authority may delegate the authority's functions under the road transport legislation to—

(a) the chief police officer; or

(b) a public employee; or

(c) a person prescribed under the regulations.

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

(2) The chief police officer may delegate functions delegated to the chief police officer under subsection (1) to—

(a) a police officer; or

(b) a public employee; or

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

(c) a person prescribed under the regulations.

(3) A person mentioned in subsection (1) (c) may delegate a function delegated to the person under subsection (1) to—

(a) a public employee; or

(b) a person prescribed under the regulations.

(4) However, a delegation under subsection (1) may provide that a stated function must not be delegated.

18 Delegation of chief police officer's functions

The chief police officer may delegate the chief police officer's functions under the road transport legislation to—

(a) a police officer; or

(b) a public employee; or

(c) a person prescribed under the regulations.

Note 1 For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

Note 2 For the chief police officer's power to delegate functions delegated by the road transport authority, see s 17 (2).

Explanatory note

This amendment updates the delegation provisions, as follows:

- the words 'in writing' have been omitted because the *Legislation Act 2001*, section 232 provides that a delegation must be made, or evidenced, in writing;
- the words 'all or any' (of the functions being delegated) have been omitted because the *Legislation Act 2001*, 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.

This amendment also adds standard notes about delegations.

[3.720] Section 19 (1)

substitute

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

(1) The road transport authority may appoint a person to be an authorised person for the road transport legislation.

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, 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 updates the provision, as follows:

- the reference to the appointment being made 'in writing' is omitted because the *Legislation Act 2001*, section 206 provides that an appointment must be made, or evidenced, in writing;
- the reference to 'or a provision of the road transport legislation' is omitted because the *Legislation Act 2001*, section 205 (1) provides that an appointment may be for a function under an Act.

This amendment also adds standard appointments notes.

[3.721] New section 19 (4)

insert

(4) However, this section does not authorise the road transport authority to appoint a person to be an authorised person for part 3 (Infringement notices for certain offences).

Explanatory note

This amendment makes the operation of the section consistent with the definition of ***authorised person*** in the dictionary.

[3.722] Section 23 (1) (c)

substitute

(c) providing that all offences, or all offences except for stated offences, against an Act or subordinate law are infringement notice offences.

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

Explanatory note

This amendment brings this provision into line with the corresponding infringement notice provision that was inserted into the *Magistrates Court Act 1930* by the *Fair Trading Legislation Amendment Act 2001*.

[3.723] Section 24 (1), new note

insert

Note For how documents may be served, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.724] Section 26 (1) (a)

omit

on which

substitute

when

Explanatory note

This amendment simplifies language in accordance with current drafting practice.

[3.725] Sections 27 (a) and (c) and 28 (1)

after

service

insert

of the notice

Explanatory note

This amendment brings these provisions into line with the corresponding infringement notice provision that was inserted into the *Magistrates Court Act 1930* by the *Fair Trading Legislation Amendment Act 2001*.

[3.726] Section 31 (2) (b)

substitute

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

(b) the infringement notice penalty (or part of it) has been paid for the offence; or

(c) the person has disputed liability for the infringement notice offence.

Explanatory note

This amendment brings this provision into line with the corresponding infringement notice provision that was inserted into the *Magistrates Court Act 1930* by the *Fair Trading Legislation Amendment Act 2001*.

[3.727] Section 32 (3)

substitute

(3) Guidelines are a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Explanatory note

This amendment brings this provision into line with the corresponding infringement notice provision that was inserted into the *Magistrates Court Act 1930* by the *Fair Trading Legislation Amendment Act 2001*.

[3.728] Section 36 (3) and (4)

substitute

Note 1 For how documents may be served, see *Legislation Act 2001*, pt 19 .5

Note 2 Subsections (3) and (4) provide additional ways for serving infringement notices (see *Legislation Act 2001*, s 251 (1)).

(3) If the infringement notice is to be served on a person under this section by post and the vehicle is registered under a law of another jurisdiction corresponding to the *Road Transport (Vehicle Registration) Act 1999*, the notice may be served by sending it by prepaid post, addressed to the person, to the latest address of the person in the registration records kept under that law.

(4) An infringement notice for an offence involving a vehicle may be served by securely placing or attaching the notice, addressed to the

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

responsible person (without further description), on or to the vehicle in a conspicuous position.

Explanatory note

This amendment omits the part of subsection (3) that provides for postal service of infringement notices in relation to vehicles registered in the ACT. It is made redundant by the *Legislation Act 2001*, part 19.5 (Service of documents). This amendment also omits from subsection (4) a reference to section 266 (about the service of documents) which is omitted by another amendment. This amendment also adds notes about service of documents.

[3.729] Section 51 (1), new note

insert

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.730] Section 51 (3)

after

service

insert

of the infringement notice or reminder notice

Explanatory note

This amendment brings this provision into line with the corresponding infringement notice provision that was inserted into the *Magistrates Court Act 1930* by the *Fair Trading Legislation Amendment Act 2001*.

[3.731] Section 54

substitute

53A Authorised persons for infringement notice offences

(1) The administering authority for an infringement notice offence may appoint a person to be an authorised person to serve infringement

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

notices or reminder notices for infringement notice offences or particular infringement notice offences.

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, 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 regulations may prescribe a person to be an authorised person for the service of infringement notices or reminder notices for infringement notice offences or particular infringement notice offences.

(3) In this part:

authorised person means—

(a) for an infringement notice for an infringement notice offence—

(i) the administering authority; or

(ii) a person who is appointed under subsection (1) by the administering authority to serve an infringement notice for the offence; or

(iii) anyone else who, under the regulations, may serve an infringement notice for the offence; or

(b) for a reminder notice for an infringement notice offence—

(i) the administering authority; or

(ii) a person who is appointed under subsection (1) by the administering authority to serve a reminder notice for the offence; or

(iii) anyone else who, under the regulations, may serve a reminder notice for the offence.

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

54 Delegation of administering authority's functions

(1) The administering authority for an infringement notice offence may delegate the authority's functions under this part to—

(a) the road transport authority; or

(b) a person prescribed under the regulations; or

(c) a person who is an authorised person under section 19.

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

(2) A person mentioned in subsection (1) (a) or (b) may delegate functions delegated to the person under subsection (1) to anyone else.

Explanatory note

New section 53A provides a specific power for an administering authority to appoint authorised persons (similar to section 19 for the road transport authority). The existing power to authorise people, which is given by the dictionary definition of ***authorised person***, is omitted by another amendment.

Section 54 is amended to bring it into line with current drafting practice by omitting the words 'in writing' because the *Legislation Act 2001*, section 232 provides that a delegation must be made, or evidenced, in writing. This amendment also adds standard appointments and delegation notes.

[3.732] Section 56 (3) (h)

substitute

(h) a stated address or number was, on a stated date, the latest business, home or email address, or fax number, of a stated person recorded in a register or other record kept under a law of another jurisdiction corresponding to the *Road Transport (Vehicle Registration) Act 1999*;

Explanatory note

This amendment brings this provision into line with the corresponding infringement notice provision that was inserted into the *Magistrates Court Act 1930* by the *Fair Trading Legislation Amendment Act 2001*.

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

[3.733] Section 61 (2), penalty

substitute

Maximum penalty (subsection (2)): 20 penalty units.

Explanatory note

This amendment clarifies the application of the penalty.

[3.734] Section 67 (5), note, 2nd dot point

substitute

- s 66 (7) (which provides that a person who is disqualified from holding or obtaining an Australian driver licence in another jurisdiction is not eligible to apply for a restricted licence)

Explanatory note

This amendment revises the note so that it explains more clearly the operation of section 66 (7).

[3.735] Section 215 (1), new notes

insert

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, 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 adds standard appointments notes.

[3.736] Section 225 (2), new note

insert

Note For other provisions about forms, see *Legislation Act 2001*, s 255

Explanatory note

This amendment adds a standard note about approved forms.

[3.737] Sections 226 and 227

omit

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

Explanatory note

This amendment omits provisions about the service of documents under the road transport legislation. They are made redundant by the *Legislation Act 2001*, part 19.5 (Service of documents). Notes about service of documents are inserted into several sections by other amendments.

[3.738] Section 229

substitute

229 Regulations may apply certain documents etc

(1) The regulations—

(a) may apply publications of the National Road Transport Commission approved, or of matters approved, by the Australian Transport Council, a law of another jurisdiction, or any other instrument, as in force from time to time; and

(b) may apply to a provision of the regulations, entirely or in part and with or without changes, the provisions of the Criminal Code (Cwlth), as in force from time to time.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the *Legislation Act 2001*, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the *Legislation Act 2001*.

(2) For the regulations, the regulations may define a word or expression (or apply a definition of a word or expression in a law or instrument mentioned in subsection (1) (a)) defined by this Act—

(a) in the same (or in substantially the same) way as it is defined by this Act; or

(b) by reference to a matter included in the word or expression as defined by this Act; or

(c) by reference to a combination of matters included in the word or expression as defined by this Act and in any other word or

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

expression defined by this Act (but not in a way that exceeds the power to make regulations about those matters); or

(d) for applying a publication of the National Road Transport Commission approved, or of matters approved, by the Australian Transport Council—in the same way as it is defined in the publication despite anything in this Act or other road transport legislation.

(3) In this section:

publication of the National Road Transport Commission includes a document published on behalf of the National Road Transport Commission.

Explanatory note

This section is amended consequentially on *Legislation Act 2001*, section 47 (Statutory instrument may make provision by applying a law or instrument) and to bring the section into line with current drafting practice.

This amendment also omits subsection (3) which provides for proof of applied instruments in court proceedings. Formal proof of documents of a legislative character is generally not required (see the *Legislation Act 2001*, section 26 and the *Evidence Act 1995* (Cwlth), section 143). The *Evidence Act 1995* (Cwlth) applies to proceedings under Territory laws.

[3.739] Section 233 (4)

substitute

(4) In this section:

another road transport Act means an Act (other than this Act) mentioned in section 6 (What is the road transport legislation?).

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 2001*, s 104).

Explanatory note

This amendment simplifies the definition by linking it to section 6.

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

[3.740] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- chief police officer
- entity
- exercise
- function
- instrument
- public employee
- statutory declaration
- the Territory.

Explanatory note

This amendment adds standard dictionary notes.

[3.741] Dictionary, definition of *administering authority*

substitute

administering authority, for an infringement notice offence, means the entity that, under the regulations, is the administering authority for the offence.

Explanatory note

This amendment brings this provision into line with the corresponding definition that was inserted into the *Magistrates Court Act 1930* by the *Fair Trading Legislation Amendment Act 2001*.

[3.742] Dictionary, definition of *authorised person*

substitute

authorised person means—

(a) for part 3 (Infringement notices for certain offences)—see section 53A (3); and

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

(b) in any other case—

(i) a person who is appointed as an authorised person under section 19 for the provision; or

(ii) a person who, under the regulations, is an authorised person for the provision.

Explanatory note

This amendment revises the definition consequentially on the relocation of the power to appoint an authorised person for part 3 to section 53A. Section 53A is inserted by another amendment. This amendment also adds a reference to the section (section 19) under which an authorised person is appointed for another provision.

[3.743] Dictionary, definitions of *exercise* and *function*

omit

Explanatory note

This amendment omits unnecessary definitions. The terms are defined in the *Legislation Act 2001*, dictionary, part 1.

[3.744] Dictionary, definition of *infringement notice*

omit

served

Explanatory note

This amendment brings this provision into line with the corresponding definition that was inserted into the *Magistrates Court Act 1930* by the *Fair Trading Legislation Amendment Act 2001*.

[3.745] Dictionary, definitions of *road* and *road related area*

omit

an order

substitute

a declaration

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

Explanatory note

This amendment brings the language of the definitions into line with section 12 of the Act.

Part 3.69 Road Transport (General) Regulations 2000

[3.746] New regulation 4 (3)

insert

(3) Subregulation (2), the notes mentioned in subregulation (2) and this subregulation expire on the commencement of this subregulation.

Explanatory note

This amendment provides for the expiry of the notes in the headings to regulations.

[3.747] Schedule 1, part 1.10, column 3

omit

authorised officer

substitute

authorised person

Explanatory note

This amendment brings the language of the regulations into line with the *Road Transport (General) Act 1999*.

Part 3.70 Road Transport (Public Passenger Services) Act 2001

[3.748] Section 16 (2) (a)

omit

network

substitute

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

services

Explanatory note

This amendment brings the language of the paragraph into line with the language of similar provisions of the Act.

[3.749] Section 21

substitute

21 Pretending to be an accredited bus service operator

A person must not pretend to be accredited under the regulations to operate a bus service.

Maximum penalty: 30 penalty units.

Explanatory note

This amendment brings this section into line with similar sections about other kinds of accreditations under the Act.

[3.750] Section 62

substitute

62 Regulations may apply certain laws and instruments

The regulations may apply a law of another jurisdiction or any other instrument, as in force from time to time.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the *Legislation Act 2001*, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the *Legislation Act 2001*.

Explanatory note

This section is amended consequentially on the *Legislation Act 2001*, section 47 (Statutory instrument may make provision by applying a law or instrument).

[3.751] Section 69

substitute

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

69 Expiry of div 7.1

This division expires on 1 June 2003.

Explanatory note

The section is amended to state the actual date when the division will expire.

[3.752] Section 72

substitute

72 Expiry of div 7.2

This division expires on 1 December 2002.

Explanatory note

The section is amended to state the actual date when the division will expire.

[3.753] Section 80

substitute

80 Expiry of div 7.4

This division expires on 1 December 2002.

Explanatory note

The section is amended to state the actual date when the division will expire.

[3.754] Section 82

substitute

82 Expiry of div 7.5

This division expires on 1 December 2002.

Explanatory note

The section is amended to state the actual date when the division will expire.

[3.755] Section 84

substitute

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

84 Expiry of div 7.6

This division expires on 1 June 2003.

Explanatory note

The section is amended to state the actual date when the division will expire.

[3.756] Section 92

substitute

92 Expiry of div 7.7

This division expires on 2 March 2003.

Explanatory note

The section is amended to state the actual date when the division will expire.

[3.757] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- ACT
- exercise
- function
- the Territory.

Explanatory note

This amendment adds standard dictionary notes.

[3.758] Dictionary, definition of *function*

omit

Explanatory note

This amendment omits an unnecessary definition. ***Function*** is defined in the *Legislation Act 2001*, dictionary, part 1.

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

[3.759] Dictionary, definitions of *road* and *road related area*

omit

an order

substitute

a declaration

Explanatory note

This amendment brings the language of the definitions into line with section 12 of the *Road Transport (General) Act 1999*.

[3.760] Dictionary, definitions of *road* and *road related area*

omit

section 15

substitute

section 12

Explanatory note

This amendment corrects a reference to the *Road Transport (General) Act 1999*.

Part 3.71 Road Transport (Public Passenger Services) Act 2001 No 62

[3.761] Schedule 1, amendments 1.29 and 1.31

omit

(commencement: 10 September 2001)

Explanatory note

This amendment omits renumbering provisions that were of no effect because of the renumbering of the relevant provisions by another Act. This amendment is backdated to the notification of the Act.

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

Part 3.72 Road Transport (Safety and Traffic Management) Act 1999

[3.762] New section 5 (3)

insert

(3) Subsection (2), the notes mentioned in subsection (2) and this subsection expire on the commencement of this subsection.

Explanatory note

This amendment provides for the expiry of the notes in the headings to sections.

[3.763] Sections 10 (4), 10D (1), 22 (2) and 28 (2), new note

insert

Note For how documents may be served, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.764] Section 34

substitute

34 Regulations may apply certain documents etc

(1) The regulations—

(a) may apply publications of the National Road Transport Commission approved, or of matters approved, by the Australian Transport Council, a law of another jurisdiction, or any other instrument, as in force from time to time; and

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

(b) may apply to a provision of the regulations, entirely or in part and with or without changes, the provisions of the Criminal Code (Cwlth), as in force from time to time.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the *Legislation Act 2001*, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the *Legislation Act 2001*.

(2) For the regulations, the regulations may define a word or expression (or apply a definition of a word or expression in a law or instrument mentioned in subsection (1) (a)) defined by this Act—

(a) in the same (or in substantially the same) way as it is defined by this Act; or

(b) by reference to a matter included in the word or expression as defined by this Act; or

(c) by reference to a combination of matters included in the word or expression as defined by this Act and in any other word or expression defined by this Act; or

(d) for applying a publication of the National Road Transport Commission approved, or of matters approved, by the Australian Transport Council—in the same way as it is defined in the publication despite anything in this Act or other road transport legislation.

(3) In this section:

publication of the National Road Transport Commission includes a document published on behalf of the National Road Transport Commission.

Explanatory note

This section is amended consequentially on the *Legislation Act 2001*, section 47 (Statutory instrument may make provision by applying a law or instrument) and to bring the section into line with current drafting practice.

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

This amendment also omits subsection (3) which provides for proof of applied instruments in court proceedings. Formal proof of documents of a legislative character is generally not required (see the *Legislation Act 2001*, section 26 and the *Evidence Act 1995* (Cwlth), section 143). The *Evidence Act 1995* (Cwlth) applies to proceedings under Territory laws.

[3.765] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- ACT
- exercise
- function
- instrument.

Explanatory note

This amendment adds standard dictionary notes.

[3.766] Dictionary, definition of *authorised person*

substitute

authorised person, for a provision of this Act, means—

(a) a person who is appointed as an authorised person under the *Road Transport (General) Act 1999*, section 19 for the provision; or

(b) a person who is, under the regulations made under this Act or the *Road Transport (General) Act 1999*, an authorised person for the provision.

Explanatory note

This amendment adds into paragraph (a) a reference to the *Road Transport (General) Act 1999*, section 19.

[3.767] Dictionary, definitions of *exercise* and *function*

omit

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

Explanatory note

This amendment omits unnecessary definitions. The terms are defined in the *Legislation Act 2001*, dictionary, part 1.

[3.768] Dictionary, definitions of *road* and *road related area*

omit

an order

substitute

a declaration

Explanatory note

This amendment brings the language of the definitions into line with the *Road Transport (General) Act 1999*, section 12.

Part 3.73 Road Transport (Safety and Traffic Management) Regulations 2000

[3.769] New regulation 4 (3)

insert

(3) Subregulation (2), the notes mentioned in subregulation (2) and this subregulation expire on the commencement of this subregulation.

Explanatory note

This amendment provides for the expiry of the notes in the headings to regulations.

[3.770] Regulation 56 (2), new note

insert

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

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

[3.771] Regulation 87 (1)

omit

longer that

substitute

longer than

Explanatory note

This amendment corrects a minor typographical error.

[3.772] Regulation 97 (1), new note

insert

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.773] Dictionary, definition of *road*

substitute

road—see the Act, dictionary, and includes a road related area.

Explanatory note

This amendment adds a signpost definition to a term that is defined in the Act.

[3.774] Dictionary, new definition of *road related area*

insert

road related area—see the Act, dictionary.

Explanatory note

This amendment adds a signpost definition to a term that is defined in the Act in accordance with current drafting practice.

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

Part 3.74 Road Transport (Vehicle Registration) Act 1999

[3.775] New section 5 (3)

insert

(3) Subsection (2), the notes mentioned in subsection (2) and this subsection expire on the commencement of this subsection.

Explanatory note

This amendment provides for the expiry of the notes in the headings to sections.

[3.776] Division 2.1, heading

substitute

Division 2.1 Functions of road transport authority generally

Explanatory note

This amendment omits unnecessary words. ***Function*** is defined in the *Legislation Act 2001*, dictionary, part 1, to include authority, duty and power.

[3.777] Section 16

substitute

16 Regulations may apply certain documents etc

(1) The regulations—

(a) may apply publications of the National Road Transport Commission approved, or of matters approved, by the Australian Transport Council, a law of another jurisdiction, or any other instrument, as in force from time to time; and

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

(b) may apply to a provision of the regulations, entirely or in part and with or without changes, the provisions of the Criminal Code (Cwlth), as in force from time to time.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the *Legislation Act 2001*, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the *Legislation Act 2001*.

(2) For the regulations, the regulations may define a word or expression (or apply a definition of a word or expression in a law or instrument mentioned in subsection (1) (a)) defined by this Act—

(a) in the same (or in substantially the same) way as it is defined by this Act; or

(b) by reference to a matter included in the word or expression as defined by this Act; or

(c) by reference to a combination of matters included in the word or expression as defined by this Act and in any other word or expression defined by this Act; or

(d) for applying a publication of the National Road Transport Commission approved, or of matters approved, by the Australian Transport Council—in the same way as it is defined in the publication despite anything in this Act or other road transport legislation.

(3) In this section:

publication of the National Road Transport Commission includes a document published on behalf of the National Road Transport Commission.

Explanatory note

This section is amended consequentially on the *Legislation Act 2001*, section 47 (Statutory instrument may make provision by applying a law or instrument) and to bring this section into line with current drafting practice.

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

This amendment also omits subsection (3) which provides for proof of applied instruments in court proceedings. Formal proof of documents of a legislative character is generally not required (see the *Legislation Act 2001*, section 26 and the *Evidence Act 1995* (Cwlth), section 143). The *Evidence Act 1995* (Cwlth) applies to proceedings under Territory laws.

[3.778] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- ACT
- exercise
- function
- instrument.

Explanatory note

This amendment adds standard dictionary notes.

[3.779] Dictionary, definition of *authorised person*

substitute

authorised person, for a provision of this Act, means—

(a) a person who is appointed as an authorised person under the *Road Transport (General) Act 1999*, section 19 for the provision; or

(b) a person who is, under the regulations made under this Act or the *Road Transport (General) Act 1999*, an authorised person for the provision.

Explanatory note

This amendment adds into paragraph (a) a reference to the *Road Transport (General) Act 1999*, section 19.

[3.780] Dictionary, definitions of *exercise* and *function*

omit

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

Explanatory note

This amendment omits unnecessary definitions. The terms are defined in the *Legislation Act 2001*, dictionary, part 1.

[3.781] Dictionary, definitions of *road* and *road related area*

omit

an order

substitute

a declaration

Explanatory note

This amendment brings the language of the definitions into line with section 12 of the *Road Transport (General) Act 1999*.

Part 3.75 Road Transport (Vehicle Registration) Regulations 2000

[3.782] New regulation 5 (3)

insert

(3) Subregulation (2), the notes mentioned in subregulation (2) and this subregulation expire on the commencement of this subregulation.

Explanatory note

This amendment provides for the expiry of the notes in the headings to regulations.

[3.783] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to these regulations.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- contravene
- exercise

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

- function
- the Territory.

Explanatory note

This amendment adds standard dictionary notes.

Part 3.76 Sale of Motor Vehicles Act 1977

[3.784] Section 32A, definition of *hire-purchase agreement*

relocate to dictionary

Explanatory note

The definition of ***hire-purchase agreement*** in section 32A is an updated form of the definition in the dictionary. The definition is relocated to the dictionary so that it applies to the whole of the Act. The existing definition of the term in the dictionary is omitted by another amendment.

[3.785] Dictionary, definitions of *creditor*, *debtor*, *director-general*, *hire-purchase agreement*, *hirer*, *lease*, *non-dealer*, *notice*, *owner*, *participating State*, *payment*, *purchase*, *registered*, *register of interests*, *registrable interest*, *security interest* and *the NSW Act*

omit

Explanatory note

There is presently some doubt whether these definitions (other than the definitions of ***hire-purchase agreement*** and ***owner*** that are not for part 4A) form part of the dictionary. They were inserted by the *Sale of Motor Vehicle Amendment Act 2001* No 13, section 5. Section 5 commenced on 5 October 2001. However, the *Justice and Community Safety Legislation Amendment Act 2001* No 70, schedule 1, amendments of the *Sale of Motor Vehicles Act 1977*, amendment 1.174 created the dictionary. The amendments of the *Sale of Motor Vehicles Act 1977* made by the *Justice and Community Safety Legislation Amendment Act 2001* commenced on 14 March 2002. This amendment and the insertion of new definitions into the dictionary by another amendment in this part put the matter beyond doubt.

The definition of ***hire-purchase agreement*** is relocated from section 32A to the dictionary by another amendment.

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

An updated definition of ***owner*** is inserted into the dictionary by another amendment.

[3.786] Dictionary, new definitions

insert

creditor, for part 4A (Registration of interests in motor vehicles)—see section 32A.

debtor, for part 4A (Registration of interests in motor vehicles)—see section 32A.

director-general, for part 4A (Registration of interests in motor vehicles)—see section 32A.

hirer, for part 4A (Registration of interests in motor vehicles)—see section 32A.

lease, for part 4A (Registration of interests in motor vehicles)—see section 32A.

non-dealer, for part 4A (Registration of interests in motor vehicles)—see section 32A.

notice, for part 4A (Registration of interests in motor vehicles)—see section 32A.

owner, in relation to a motor vehicle—

(a) for part 4A (Registration of interests in motor vehicles)—see section 32A; and

(b) in any other case—

(i) includes a person—

(A) who is the sole owner, joint owner or part owner of the motor vehicle; or

(B) who has possession of the motor vehicle under a hire-purchase agreement, or bill of sale or similar instrument; or

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

(C) who has possession of the motor vehicle under a contract of hire; and

(ii) does not include a person—

(A) mentioned in paragraph (b) (i) (A) who does not have possession of the motor vehicle; or

(B) who is entitled under a contract of hire, hire-purchase agreement, or bill of sale or similar instrument, to possession of the motor vehicle but who does not have possession of it.

participating State, for part 4A (Registration of interests in motor vehicles)—see section 32A.

payment, of a purchase price, for part 4A (Registration of interests in motor vehicles)—see section 32A.

purchase, for part 4A (Registration of interests in motor vehicles)—see section 32A.

registered, for part 4A (Registration of interests in motor vehicles)—see section 32A.

register of interests, for part 4A (Registration of interests in motor vehicles)—see section 32A.

registrable interest, for part 4A (Registration of interests in motor vehicles)—see section 32A.

security interest, for part 4A (Registration of interests in motor vehicles)—see section 32A.

the NSW Act, for part 4A (Registration of interests in motor vehicles)—see section 32A.

Explanatory note

This amendment adds signpost definitions into the dictionary in accordance with current drafting practice and also adds an updated definition of ***owner***.

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

Part 3.77 Smoke-free Areas (Enclosed Public Places) Regulations 1994

[3.787] Regulation 5, penalty

substitute

Maximum penalty: 5 penalty units.

Explanatory note

This amendment converts a penalty stated as an amount to penalty units.

Part 3.78 Stadiums Authority Act 2000

[3.788] 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 words and expressions used in this Act, and includes references (***signpost definitions***) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition '***relevant person***, for division 5.1 (Conduct of persons associated with the authority—see section 31.' means that the term 'relevant person' is defined in that section and the definition applies to that division.

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 2001*, s 155 and s 156 (1)).

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

3 Notes

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

Note See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment adds standard dictionary and notes provisions. A new dictionary is inserted by another amendment.

[3.789] Section 5 (i) and (j)

substitute

(i) to exercise any other function given to it under this Act or another Territory law; and

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

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see *Legislation Act 2001*, s 196 and dict, pt 1, def of ***entity***).

Explanatory note

This amendment brings the paragraphs into line with current drafting practice and adds a standard note about necessary and convenient powers related to a function. This amendment is consequential on the omission of section 6 by another amendment.

[3.790] Section 6

omit

Explanatory note

This section is no longer necessary because of the *Legislation Act 2001*, 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.

[3.791] Section 9 (2) (b)

omit

performs

substitute

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

exercises

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.792] Section 10

substitute

10 Constitution of board

(1) The board consists of the directors.

(2) The directors of the authority are—

(a) the appointed directors; and

(b) the chief executive.

(3) However, the board consists of only the appointed directors when it is considering or deciding—

(a) the appointment, or the ending of the appointment, of the chief executive; or

(b) the chief executive's conditions of appointment.

Explanatory note

This amendment brings the section into line with current drafting practice and omits section 10 (4) which is no longer necessary because of the *Legislation Act 2001*, section 199 (4). That section provides that the exercise of a function of a body is not affected only because of vacancies in the body's membership.

[3.793] Section 11 (1)

omit

, by instrument,

Explanatory note

This amendment omits unnecessary words. The *Legislation Act 2001*, section 206 provides that an appointment must be made, or evidenced, by writing.

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

[3.794] Section 11 (1), new note

insert

Note For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Explanatory note

This amendment adds a standard note about appointments.

[3.795] Section 11 (2)

substitute

(2) An appointment must not be for a term 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 2001*, s 208 and dict, pt 1, def of ***appoint***).

Explanatory note

This amendment brings the subsection into line with current drafting practice and adds a standard note about reappointment.

[3.796] Section 12 (1)

omit

, by instrument,

Explanatory note

This amendment omits unnecessary words. The *Legislation Act 2001*, section 206 provides that an appointment must be made, or evidenced, in writing.

[3.797] Section 13

omit

performance

substitute

exercise

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

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.798] Section 14

omit

Explanatory note

This provision is unnecessary because the *Legislation Act 2001*, section 210 provides for the resignation of a person from a statutory appointment.

[3.799] Section 15, heading

substitute

15 Ending of appointment of director

Explanatory note

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

[3.800] Section 15 (1)

omit

terminate

substitute

end

Explanatory note

End is the drafting term that is now used in relation to appointments.

[3.801] Section 15 (1) (f) (i)

substitute

(i) punishable by imprisonment for 1 year or more; or

Explanatory note

This amendment brings the language of the subparagraph into line with current drafting practice.

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

[3.802] Section 15 (1), new note

insert

Note An appointed director's appointment also ends if the director resigns (see *Legislation Act 2001*, s 210).

Explanatory note

This amendment adds a standard note about resignation from an appointment.

[3.803] Section 15 (2)

omit

terminate

substitute

end

Explanatory note

This amendment updates language by changing the references to the termination of an appointment to the ending of an appointment. ***End*** is the drafting term that is now used in relation to appointments.

[3.804] Section 15 (2)

omit

appointment of the director be terminated

substitute

director's appointment be ended

Explanatory note

This amendment brings the subsection into line with current drafting practice. ***End*** is the drafting term that is now used in relation to appointments.

[3.805] Section 15 (3) (c)

omit

member

substitute

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

director

Explanatory note

This amendment clarifies the operation of the provision.

[3.806] Section 16 (1)

omit

pecuniary

substitute

financial

Explanatory note

This amendment updates language.

[3.807] Section 16 (5)

substitute

(5) The Minister must present a copy of a statement under subsection (4) to the relevant committee of the Legislative Assembly within 14 days after the day the Minister receives the request.

Explanatory note

This amendment updates language. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

[3.808] Section 17

substitute

17 Calling meetings of board

(1) The chairperson or, if the chairperson cannot do so, the deputy chairperson—

(a) may at any time call a meeting of the board; and

(b) must call a meeting of the board if asked by the Minister or at least 2 directors.

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

(2) A person who calls a meeting of the board must give the other directors reasonable notice of the time and place of the meeting.

Explanatory note

This amendment updates language and simplifies the section in accordance with current drafting practice.

[3.809] Section 20

substitute

20 Appointment of chief executive

(1) The Minister must appoint a person as the chief executive of the authority.

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see *Legislation Act 2001*, div 19.3.3).

(2) The chief executive's conditions of appointment are the conditions agreed to between the authority and the chief executive.

(3) However, the authority may enter into an agreement mentioned in subsection (2) only after consultation between the Minister and the board.

(4) Despite any agreement under subsection (2), the authority may end the appointment of a chief executive without compensation if the chief executive contravenes section 21 (2) or division 5.1 (Conduct of persons associated with the authority).

Note The chief executive's appointment also ends if the chief executive resigns (see *Legislation Act 2001*, s 210).

Explanatory note

This amendment brings the section into line with current drafting practice and omits section 20 (2) which is no longer necessary because of the *Legislation Act 2001*, section 209 (1). That section provides that a power of appointment includes the power to make acting appointments during vacancies and when the person holding the position cannot exercise the functions of the position.

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

[3.810] Section 21, heading

substitute

21 Functions of chief executive

Explanatory note

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

[3.811] Section 26 (1)

substitute

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

Explanatory note

This amendment brings the subsection into line with current drafting practice by updating language. ***Exercise*** a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.812] Section 26 (3)

substitute

(3) The Minister must present a copy of a direction to the Legislative Assembly within 6 sitting days after the day the Minister makes it.

Explanatory note

This amendment brings the subsection into line with current drafting practice. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

[3.813] Section 27 (3)

substitute

(3) The Minister must present a copy of each business plan given to the Minister under subsection (2) to the Legislative Assembly within 6 sitting days after the day the Minister receives it.

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

Explanatory note

This amendment brings the subsection into line with current drafting practice. ***Present*** is the drafting term now used in relation to the tabling of documents in the Legislative Assembly.

[3.814] Section 29 (3) and (4)

substitute

(3) In this section:

available profits means—

(a) the profits for the financial year to which the Treasurer's direction relates; and

(b) any profits for any previous financial year that have not previously been taken into account in deciding whether a dividend should be declared.

profit includes the net proceeds of the sale of assets.

Explanatory note

This amendment brings the form of the definitions into line with current drafting practice.

[3.815] Part 6, heading

substitute

Part 6 Transitional provisions

Explanatory note

This amendment retitles the part in accordance with current drafting practice.

[3.816] Section 41 (7)

omit

the commencement day

substitute

13 April 2000

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

Explanatory note

This amendment replaces a reference to the commencement day (of a provision of the Act) with a reference to the actual date the provision commenced.

[3.817] New section 42

insert

42 Expiry of pt 6

This part expires on 31 December 2003.

Explanatory note

This amendment adds a new section in accordance with current drafting practice that provides for the expiry of the transitional provisions.

[3.818] New dictionary

insert

Dictionary

(see s 2)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- appoint
- contravene
- exercise
- function.

appointed director means a person appointed to be a director of the authority under section 11 (1).

authority means the Stadiums Authority established under section 4 (1).

board means the board of management of the authority established under section 8.

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

chief executive means a person appointed as the chief executive under section 20.

director means a director of the authority.

relevant person, for part 5.1 (Conduct of persons associated with the authority)—see section 31.

Explanatory note

This amendment adds a dictionary consequential on the omission of the definition section (section 3) by another amendment. The definitions have been updated, and a new signpost definition of ***relevant person*** added, in accordance with current drafting practice. The definition of ***commencement day*** has been omitted consequent on the amendment of section 41 (7) by another amendment.

Part 3.79 Statute Law Amendment Act 2001 (No 2)

[3.819] Schedule 3, amendment 3.6

omit

Explanatory note

This amendment is redundant because it was made in anticipation of the Cemeteries and Crematoria Bill 2001 which was not made a law.

Part 3.80 Supreme Court Act 1933

[3.820] Section 2, note 1

omit

Terms and conditions of judges

substitute

Remuneration, allowances and other entitlements of judges

Explanatory note

This amendment is consequential on the revision of a part heading by another amendment.

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

[3.821] Section 9 (1)

omit

conferred on

substitute

given to

Explanatory note

This amendment updates language.

[3.822] Section 9 (2)

omit

conferred

substitute

given

Explanatory note

This amendment updates language.

[3.823] Section 10 (1)

omit

conferred on

substitute

given to

Explanatory note

This amendment updates language.

[3.824] Section 10 (2)

omit

an order

substitute

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

a judgment

Explanatory note

This amendment makes the language of the section consistent with the other provisions about the jurisdiction of the court.

[3.825] Section 10 (2)

omit

conferred

substitute

given

Explanatory note

This amendment updates language.

[3.826] Section 10 (3)

omit

the order

substitute

the judgment

Explanatory note

This amendment makes the language of the section consistent with the other provisions about the jurisdiction of the court.

[3.827] Section 13 (4)

substitute

(4) If an order has been made under subsection (2) or (3) in relation to a matter—

(a) the jurisdiction of the court in the matter must, subject to the rules of court, be exercised by the Full Court; and

(b) the court may give the directions it considers appropriate about the procedure to be followed in the further conduct of the

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

proceeding, including directions about the use (if any) of any evidence received before the making of the order.

Explanatory note

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

[3.828] Section 19

omit

proceeding to perform

substitute

exercising

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions. This amendment also omits unnecessary words.

[3.829] Section 19 (a)

omit

the schedule, part 1

substitute

schedule 1, part 1.1

Explanatory note

This amendment updates a reference.

[3.830] Section 19 (b)

omit

the schedule, part 2

substitute

schedule 1, part 1.2

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

Explanatory note

This amendment updates a reference.

[3.831] Section 30 (5) (b)

substitute

(b) subject to any other conditions the court considers just.

Explanatory note

This amendment updates language.

[3.832] Section 34 (1)

substitute

(1) At any stage of a proceeding, the court may grant an injunction (interlocutory or otherwise) on the conditions the court considers appropriate if the court considers it just to do so.

Explanatory note

This amendment updates language.

[3.833] Section 34A

substitute

34A Receivers

(1) At any stage of a proceeding, the court may appoint a receiver if the court considers it just to do so.

(2) The appointment may be made on the conditions the court considers appropriate.

Explanatory note

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

[3.834] Section 34B (2)

substitute

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

(2) In a proceeding in the court for any relief or remedy of a kind mentioned in subsection (1), the court may, instead of directing the issue of the relevant writ, grant the relief or remedy sought by making an order to the same effect.

Explanatory note

This amendment simplifies and updates language (see *Legislation Act 2001*, section 146).

[3.835] Section 35

substitute

35 Rules of practice and procedure—judicial discretion

In a proceeding, if no provision about a matter of practice or procedure of the court is made under this Act or another Territory law, the court may give the directions about practice and procedure that it considers appropriate.

Explanatory note

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

[3.836] Section 36 (1) (ba) to (d)

renumber as section 36 (1) (c) to (e)

Explanatory note

This amendment renumbers paragraphs so that they form a single sequence.

[3.837] Section 36 (2) (g)

omit

thereof

substitute

of them

Explanatory note

This amendment updates language.

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

[3.838] Section 37A (2)

omit

performing

substitute

exercising

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.839] Section 37B (2) (c) (v)

omit

the following Acts: or

substitute

the following Acts:

Explanatory note

This amendment omits an unnecessary word.

[3.840] Section 37B (2) (c) (v) (A) and (B)

omit

or

Explanatory note

This amendment omits an unnecessary word.

[3.841] Section 37B (2) (c) (v) (D)

substitute

(C) the *Protection Orders Act 2001*;

Explanatory note

This amendment updates a reference to legislation and renumbers the provision.

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

[3.842] Section 37B (2) (c) (v) (E) and (G)

omit

or

Explanatory note

This amendment omits an unnecessary word.

[3.843] Section 37B (2) (c) (v) (E), (G) and (H)

renumber as section 37B (2) (c) (v) (D), (E) and (F)

Explanatory note

This amendment renumbers the provisions so that they form a single sequence.

[3.844] Part 2B, heading

substitute

Part 2B Remuneration, allowances and other entitlements of judges

Explanatory note

This amendment revises the heading so that it more accurately reflects the contents of the part.

[3.845] Section 37U (1)

omit

, being an appointment made

Explanatory note

This amendment omits unnecessary text.

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

[3.846] Section 39

substitute

39 Functions of master

The master has power to administer oaths and may exercise the other functions given to the master under this Act, another Territory law or a special order of the court.

Explanatory note

This amendment brings the section into line with current drafting practice, particularly by removing references to powers and duties. ***Exercise*** a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function and function is defined to include power and duty.

[3.847] Section 40 (1), new note

insert

Note For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Explanatory note

This amendment adds a standard note about appointments.

[3.848] Section 40 (3)

substitute

(3) A person who is 70 years old or older must not be appointed as the master.

Explanatory note

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

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

[3.849] Section 41

substitute

41 Term of appointment of master

(1) The master must be appointed either—

(a) for a term of not longer than 7 years; or

(b) until the master turns 70 years old.

(2) A term mentioned in subsection (1) (a) must not end after the master turns 70 years old.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1, def of ***appoint***).

Explanatory note

This amendment brings the section into line with current drafting practice. The reference in existing section 41 (1) (b) (i) to reappointment is omitted because the *Legislation Act 2001*, s 208 provides for the reappoint of a person. A standard reappointments note is inserted into the new section.

[3.850] Section 41A

substitute

41A Extension of master's term of appointment

(1) The Executive may, in writing, extend the term of the master's appointment for a stated period.

(2) An extension must be made before the term of appointment (including that term as previously extended) ends.

(3) The period of an extension must not end after the master turns 70 years old.

(4) In this section:

extend includes further extend.

Explanatory note

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

[3.851] Section 41B

substitute

41B Conditions of appointment generally

The master holds the position on the conditions not provided for by this Act or any other Territory law that are decided by the Executive.

Explanatory note

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

[3.852] Section 42

omit

proceeding to perform

substitute

exercising

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions. This amendment also omits unnecessary words.

[3.853] Section 42 (a)

omit

the schedule, part 1

substitute

schedule 1, part 1.1

Explanatory note

This amendment updates a reference.

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

[3.854] Section 42 (b)

omit

the schedule, part 2

substitute

schedule 1, part 1.2

Explanatory note

This amendment updates a reference.

[3.855] Section 45

omit

Explanatory note

This amendment omits an unnecessary provision about acting appointments for the following reasons:

- section 45 (1) and (3) are unnecessary because the *Legislation Act 2001*, section 209 (1) provides that a power to make an appointment includes power to appoint a person to act in the position during a vacancy, whether or not an appointment had previously been made and during any periods when the person holding the position cannot exercise the functions of the position;
- section 45 (2) is unnecessary because the *Legislation Act 2001*, section 221 (1) provides that a person may not act for more than 1 year;
- section 45 (4) is unnecessary because the *Legislation Act 2001*, section 220 provides that an acting appointee has the functions of the position and that Territory laws apply to the acting appointee as if the appointee were the occupant of the position;
- section 45 (5) is unnecessary because the *Legislation Act 2001*, section 219 provides that an appointer may decide the conditions of an acting appointment;
- section 45 (7) is unnecessary because the *Legislation Act 2001*, section 225 provides that an acting appointment, or anything done under an acting appointment, is not invalid only because of a defect or irregularity in the appointment.

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

[3.856] Section 46 (1), new notes

insert

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see *Legislation Act 2001*, div 19.3.3).

Explanatory note

This amendment adds standard notes about appointments.

[3.857] Section 46A

omit

Explanatory note

This amendment omits an acting provision for reasons similar to the omission of section 45 by another amendment.

[3.858] Section 47

substitute

47 Functions of registrar and deputy registrars

(1) The registrar has power to administer oaths and may exercise the other functions given to the registrar under this Act, another Territory law or a special order of the court.

(2) Subject to this Act and to any directions of the registrar, a deputy registrar may exercise the functions of the registrar under this Act or another Territory law.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations and rules of court (see *Legislation Act 2001*, s 104).

(3) The exercise of a function by a deputy registrar does not affect the power of the registrar to exercise the function.

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

Explanatory note

This amendment updates the section, as follows:

- subsection (1) is brought into line with new section 39 (inserted by another amendment) which is about the functions of the master;
- subsections (2) and (3) are amended to refer to the exercise of functions. ***Exercise*** a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.859] Section 48

omit

proceeding to perform

substitute

exercising

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions. This amendment also omits unnecessary words.

[3.860] Section 48 (a)

omit

the schedule, part 3

substitute

schedule 1, part 1.3

Explanatory note

This amendment updates a reference.

[3.861] Section 48 (b)

omit

the schedule, part 4

substitute

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

schedule 1, part 1.4

Explanatory note

This amendment updates a reference.

[3.862] Section 49 (1)

omit

When

substitute

If

Explanatory note

This amendment makes it clear that a direction under the section need not be made at the same time as the winding up order is made.

[3.863] Section 49 (2) (c) and (d)

substitute

(c) the master or registrar may refer to the court any matter in relation to the winding-up that the master or registrar considers should be decided by the court; and

(d) an appeal lies to the court from any judgment made by the master or registrar in relation to the winding-up.

Explanatory note

This amendment brings the paragraphs into line with current drafting practice, particularly by updating language.

[3.864] Section 49 (3)

substitute

(3) A deputy registrar must not exercise a function of the registrar under this section.

Explanatory note

This amendment brings the section into line with current drafting practice and, in particular, revises the section to refer to the exercise of functions. ***Exercise*** a function is

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

defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.865] Section 51

substitute

51 Deputy sheriffs

(1) Subject to this Act and the directions of the sheriff, a deputy sheriff may exercise the functions of the sheriff under this Act or another Territory law.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations and rules of court (see *Legislation Act 2001*, s 104).

(2) In exercising the functions of the sheriff, a deputy sheriff has all the rights, privileges, immunities and liabilities of the sheriff.

(3) The exercise of a function by a deputy sheriff does not affect the power of the sheriff to exercise the function.

Explanatory note

This amendment brings the section into line with current drafting practice and, in particular, revises the section to refer to the exercise of functions. ***Exercise*** a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.866] Section 52 (3)

omit

performing

substitute

exercising

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

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

[3.867] Section 53

substitute

53 Sheriff's assistants

(1) The sheriff may appoint public servants to assist in the exercise of the sheriff's functions.

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

(2) A person appointed under subsection (1) (a ***sheriff's assistant***)—

(a) may exercise any function given to the sheriff, subject to this Act and any directions of the sheriff; and

(b) has the rights, privileges, immunities and liabilities of the sheriff.

(3) Anything done by a sheriff's assistant is taken to have been done by the sheriff.

Explanatory note

This amendment brings the section into line with current drafting practice and, in particular, revises the section to refer to the exercise of functions. ***Exercise*** a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.868] Section 53A (5)

omit

in good faith

substitute

honestly

Explanatory note

This amendment updates language.

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

[3.869] Section 54, heading

substitute

54 How evidence must be given

Explanatory note

This amendment updates language.

[3.870] Section 54

omit

shall

substitute

must

Explanatory note

This amendment updates language.

[3.871] Section 55 (2) and (3)

substitute

(2) The court may order that all or part of the evidence in a civil matter may or must be given by affidavit.

(3) An order under subsection (2) may be made subject to any conditions the court considers appropriate, including, for example, the following:

(a) that a copy of an affidavit be served on a party in the matter;

(b) that a person whose evidence is given by affidavit attend the hearing to be available for cross-examination.

Explanatory note

This amendment simplifies the subsections and clarifies the court's power in civil matters to permit or require evidence to be given by affidavit.

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

[3.872] Section 55A (3)

substitute

(3) This section does not apply in relation to a child.

Explanatory note

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

[3.873] Section 57 (c)

omit

touching

substitute

about

Explanatory note

This amendment updates language.

[3.874] Section 57 (d)

substitute

(d) authorise a party to the suit or civil matter to give in evidence testimony taken under this section on the conditions (if any) the court directs.

Explanatory note

This amendment simplifies the language of the paragraph and brings it into line with current drafting practice.

[3.875] Section 58 (1A)

renumber as section 58 (2)

Explanatory note

This amendment provides for the renumbering of a subsection.

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

[3.876] Section 58 (2)

substitute

(3) If, in a suit of which the court has jurisdiction, a defendant is not a resident of, or in, Australia and does not voluntarily appear in the suit, the court may nevertheless exercise its jurisdiction after notice to the defendant, and on the conditions, prescribed by rules of court.

Explanatory note

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

[3.877] Section 58A (2)

substitute

(2) In this section:

depositions, of a witness, means—

(a) if a record of the depositions was made in accordance with the *Magistrates Court Act 1930*, section 54A (2)—a transcript of the record certified in accordance with that Act, section 255B (2); or

(b) if the depositions were taken down in writing and signed in accordance with the *Magistrates Court Act 1930*, section 54A (3)—the depositions taken down and signed.

Explanatory note

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

[3.878] Section 59

substitute

59 Amendment of defects

(1) The court may at any time amend a defect or error in a proceeding in the court.

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

(2) The amendment may be made on the conditions the court considers just.

(3) An amendment under this section is to be made for the purpose of deciding the real questions in issue in the proceeding.

Explanatory note

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

[3.879] Section 60A (4)

omit

and effectual

Explanatory note

This amendment omits unnecessary words.

[3.880] Section 67A (4)

substitute

(4) A declaration may be expressed to be subject to the conditions the court considers appropriate.

Explanatory note

This amendment updates language.

[3.881] Section 67A (6)

substitute

(6) If the court gives leave to a person for subsection (5) (a), it may impose the conditions it considers appropriate.

Explanatory note

This amendment updates language.

[3.882] Section 69 (1) (a)

omit

such rate as the court thinks fit

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

substitute

the rate the court considers appropriate

Explanatory note

This amendment updates language.

[3.883] Section 69 (1) (a)

omit

as of which

substitute

when

Explanatory note

This amendment updates and simplifies language.

[3.884] Section 69 (1) (b), (2) (a) and (3)

omit

in lieu

substitute

instead

Explanatory note

This amendment updates language.

[3.885] Section 74A

renumber subsections when Act next republished under Legislation Act 2001

Explanatory note

This amendment provides for the renumbering of subsections.

[3.886] Section 75 (2), new note

insert

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

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

Explanatory note

This amendment adds a standard note about approved forms.

[3.887] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- exercise
- function
- police officer
- the Territory.

Explanatory note

This amendment adds standard dictionary notes.

[3.888] Dictionary, definition of *entitlements*

substitute

entitlements, for part 2B (Remuneration, allowances and other entitlements of judges)—see section 37T.

Explanatory note

This amendment amends the definition of ***entitlements*** consequentially on another amendment.

[3.889] Dictionary, definition of *president* (of the administrative appeals tribunal)

omit

Explanatory note

This amendment omits a redundant definition.

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

Part 3.81 Surveyors Act 2001

[3.890] New section 2

insert

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 words and expressions used in this Act, and includes references (***signpost definitions***) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition '***disciplinary notice***—see section 29.' means that the term 'disciplinary notice' is defined in that section.

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 2001*, s 155 and s 156 (1)).

Explanatory note

This amendment adds a standard dictionary provision consequential on the insertion of a new dictionary by another amendment.

[3.891] Section 4, definitions

relocate to the dictionary

Explanatory note

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

[3.892] Section 4, remainder

omit

Explanatory note

This amendment omits the remainder of existing section 4 consequential on the insertion of the new dictionary by another amendment.

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

[3.893] Section 6 (d) (iii)

omit

and powers

Explanatory note

This amendment omits unnecessary words. ***Function*** is defined in the *Legislation Act 2001*, dictionary, part 1 to include authority, duty and power.

[3.894] Section 7

substitute

7 Appointment of commissioner

(1) The commissioner is appointed by the Minister.

Note For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

(2) The *Legislation Act 2001*, division 19.3.3 (Appointments—Assembly consultation) applies to the appointment of a public servant as commissioner.

Note Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see *Legislation Act 2001*, div 19.3.3).

(3) Subsection (2) has effect despite the *Legislation Act 2001*, section 227 (2) (a) (Application of div 19.3.3).

Explanatory note

This amendment adds an updated reference to the *Legislation Act 2001*, division 19.3.3 and updates the appointments notes.

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

[3.895] Section 8

substitute

8 Term of appointment

The commissioner must be appointed for a term of not longer than 5 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1, def of ***appoint***).

Explanatory note

This amendment brings the section into line with current drafting practice. In particular, it removes a provision that requires the instrument of appointment to state the period of appointment because the *Legislation Act 2001*, section 206 (2) provides that, if a law provides for a maximum period of appointment, the period of appointment must be stated in the instrument of appointment.

[3.896] Sections 10 and 11

substitute

10 Conditions of appointment generally

The commissioner holds the position on the conditions not provided by this Act or another Territory law that are decided by the Minister.

11 Leave of absence

The Minister may give the commissioner leave of absence on conditions about remuneration and other matters decided by the Minister.

Explanatory note

This amendment updates the language of these provisions to bring them into line with current drafting practice.

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

[3.897] Section 13

substitute

13 Delegation by commissioner

The commissioner may delegate the commissioner's functions under this Act or another Territory law to a public servant.

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

Explanatory note

This amendment updates the delegation provision.

[3.898] Section 30, new note

insert

Note For how documents may be served, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.899] Section 33 (4), new note

insert

Note For the taking of an oath or the making of an affirmation, see the *Oaths and Affirmations Act 1984*.

Explanatory note

This amendment adds a standard note about the taking of an oath or affirmation.

[3.900] Section 51 (2), new note

insert

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

Explanatory note

This amendment adds a standard note about approved forms.

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

[3.901] Section 60

substitute

60 Expiry of pt 7

This part expires on 26 July 2002.

Explanatory note

This amendment states the actual date when the part will expire.

[3.902] New dictionary

insert

Dictionary

(see s 2)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- appoint
- exercise
- function.

Explanatory note

This amendment adds a dictionary consequent on the omission of the definition section (section 4) by another amendment.

Part 3.82 Tobacco Act 1927

[3.903] Section 2, definition of *functions*

omit

Explanatory note

This amendment omits an unnecessary definition. ***Function*** is defined in the *Legislation Act 2001*, dictionary, part 1 to include authority, duty and power.

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

[3.904] Section 2, remaining definitions

relocate to the dictionary

Explanatory note

This amendment relocates to a new dictionary (inserted by another amendment) all definitions that do not need amendment.

[3.905] 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 words and expressions used in this Act, and includes references (***signpost definitions***) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition '***price ticket***—see section 3.' means that the expression 'price ticket' is defined in that section.

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 2001*, 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 2001*, s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment adds standard dictionary and notes provisions.

[3.906] Section 14, heading

substitute

14 Supply of smoking product to under 18 year olds

(commencement: 5 October 2000)

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

Explanatory note

This amendment confirms a correction of the heading made under the *Legislation (Republication) Act 1996*.

[3.907] Sections 51 (5) and 52 (3)

omit

Explanatory note

This amendment omits expired transitional provisions.

[3.908] New dictionary

insert

Dictionary

(see s 2)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- contravene
- exercise
- function.

Explanatory note

This amendment adds a new dictionary consequent on the omission of the definition section (section 2) by another amendment.

Part 3.83 Tree Protection (Interim Scheme) Act 2001

[3.909] Section 12 (2), new note

insert

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

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

Explanatory note

This amendment adds a standard note about disallowable instruments.

[3.910] Section 21 (1)

omit

, in writing,

Explanatory note

This amendment omits unnecessary words. The *Legislation Act 2001*, section 206 provides that an appointment must be made, or evidenced, in writing.

[3.911] Section 21 (1), new note

insert

Note For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Explanatory note

This amendment adds a standard appointments note.

[3.912] Section 21 (3), notes

omit

Explanatory note

This amendment omits existing notes about appointments and is consequential on another amendment.

[3.913] Section 22 (1)

substitute

(1) The adviser must be appointed for a term of not longer than 1 year.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1, def of ***appoint***).

Explanatory note

This amendment removes an unnecessary requirement that the instrument of appointment state the period of appointment (see *Legislation Act 2001*, section 206 (2)).

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

[3.914] Sections 25 and 26

substitute

25 Definitions for pt 5

In this part:

connected—a thing is ***connected*** with an offence if—

(a) the offence has been committed in relation to it; or

(b) it will provide evidence of the commission of the offence; or

(c) it was used, is being used, or is intended to be used, to commit the offence.

occupier, of premises, includes—

(a) a person believed on reasonable grounds to be an occupier of the premises; and

(b) a person apparently in charge of the premises.

Note The dictionary defines ***premises*** as including land.

offence includes an offence that there are reasonable grounds for believing has been, is being, or will be committed.

Explanatory note

This amendment recasts the form of the definitions in accordance with current drafting practice.

[3.915] Section 27 (1)

omit

, in writing,

Explanatory note

This amendment omits unnecessary words. The *Legislation Act 2001*, section 206 provides that an appointment must be made, or evidenced, in writing.

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

[3.916] Section 27 (1), new notes

insert

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act* 2001, 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 adds standard appointments notes.

[3.917] Sections 48 to 50

substitute

48 Determination of fees

(1) The Minister may, in writing, determine fees for this Act.

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

(2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Explanatory note

This amendment omits provisions that are unnecessary because the matters dealt with in the provisions are now dealt with in the *Legislation Act 2001*, part 6.3 and replaces them with the standard determination of fees provision.

[3.918] Section 51 (2), new note

insert

Note For other provisions about forms, see *Legislation Act 2001*, s 255

Explanatory note

This amendment adds a standard note about approved forms.

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

[3.919] New section 51 (3)

insert

(3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

Explanatory note

This amendment inserts a standard provision and note about approved forms.

[3.920] Section 52 (1)

omit

, in writing,

Explanatory note

This amendment omits unnecessary words. The *Legislation Act 2001*, section 232 provides that a delegation must be made, or evidenced, in writing.

[3.921] Section 52 (1), new note

insert

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

Explanatory note

This amendment adds a standard note about delegations.

[3.922] Section 52 (2)

omit

may not

substitute

must not

Explanatory note

This amendment makes it clear that the requirement is mandatory.

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

[3.923] Sections 51 to 53

renumber as sections 49 to 51 when Act next republished under Legislation Act 2001

Explanatory note

This amendment is consequential on the omission of sections 49 and 50 by another amendment in this part.

[3.924] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- appoint
- contravene
- exercise
- function.

Explanatory note

This amendment adds standard dictionary notes.

Part 3.84 Unit Titles Act 2001

[3.925] Section 79

substitute

79 Service of documents on owners corporation

For this Act (including an application for a court order under this Act) a document may be served on an owners corporation by—

(a) if the address for service is the postal address of a building on the parcel—by placing it in the letterbox mentioned in section 78 (2); or

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

(b) serving it in another way approved by the corporation by ordinary resolution.

Note The methods of service provided for in this section are in addition to methods of service provided for in the *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment omits provisions relating to methods of service that are provided for in the *Legislation Act 2001* and removes references to 'giving' documents which are unnecessary when the expression 'served' is used (see *Legislation Act 2001*, section 245).

[3.926] Section 80 (1)

substitute

(1) For this Act (including an application for a court order under this Act) a document may be served on a unit owner, a part-owner of a unit or anyone else with an interest in a unit or the common property on a units plan—

(a) by sending it by prepaid post as a letter to the relevant address for correspondence recorded on the corporate register; or

(b) if the latest address for correspondence recorded in the corporate register is the postal address of a building or unit on the parcel—by placing it in a letterbox for mail addressed to the building or unit; or

(c) by serving it in another way directed by the person to be served.

Note The methods of service provided for in this section are in addition to methods of service provided for in the *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment omits provisions relating to methods of service that are provided for in the *Legislation Act 2001* and removes references to 'giving' documents which are unnecessary when the expression 'served' is used (see *Legislation Act 2001*, section 245).

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

[3.927] Section 80 (2) to (5)

omit

given to, or served on,

substitute

served on

Explanatory note

This amendment removes references to a document being given to a person which is unnecessary when the expression 'served' is used (see *Legislation Act 2001*, section 245).

[3.928] Section 89

substitute

89 Delegation by executive committee

(1) An executive committee may delegate its functions to 1 or more executive members.

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

(2) An owners corporation may, by ordinary resolution, impose conditions or restrictions on its executive committee's powers of delegation.

Explanatory note

This amendment updates the delegation provision, as follows:

- Existing section 89 (1):
  - the words 'in writing' have been omitted because the *Legislation Act 2001*, section 232 provides that a delegation must be made, or evidenced, in writing;
  - the words '(except this power of delegation)' have been omitted because the *Legislation Act 2001*, section 236 provides that a person cannot delegate the power to delegate unless the legislation creating the power authorises the delegation;
  - the words 'either generally or as provided by the delegation' have been omitted because the *Legislation Act 2001*, section 234 provides that the delegation instrument may provide that the delegation has effect in stated circumstances or

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

subject to stated conditions, limitations or directions or that all of the function, or a stated part of the function, is delegated.

- Existing section 89 (3) is unnecessary because the *Legislation Act 2001*, section 239 provides that a delegate must exercise the delegation subject to conditions, limitations etc in the delegation instrument.
- Existing section 89 (4) has been omitted because:
  - the words 'a delegation is revocable at will' are not necessary because the *Legislation Act 2001*, section 237 provides that the person who has delegated can amend or revoke the delegation in whole or part;
  - the words '(a delegation) does not prevent the executive committee from exercising a delegated function' are not necessary because the *Legislation Act 2001*, section 240 provides that the person who has delegated a function can exercise the delegated function.

This amendment also adds a standard note about delegations.

[3.929] Section 113 (6), penalty

substitute

Maximum penalty (subsection (6)): 5 penalty units.

(commencement: 5 October 2001)

Explanatory note

This amendment confirms a minor correction to the penalty provision made under the *Legislation (Republication) Act 1996*.

[3.930] Section 121 (1)

omit

may not

substitute

must not

Explanatory note

This amendment makes it clear that the requirement is mandatory.

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

[3.931] Section 142 (1), new note

insert

Note For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Explanatory note

This amendment adds a standard appointments note.

[3.932] Section 145

substitute

145 Delegation by administrator

The administrator of an owners corporation may delegate the administrator's functions to anyone else.

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4 .

Explanatory note

This amendment updates the delegation provision and brings it into line with section 89 which is updated by another amendment.

[3.933] Section 180 (2)

insert

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

Explanatory note

This amendment adds a standard note about approved forms.

[3.934] Section 194

substitute

194 Expiry of pt 16

This part expires on 5 April 2003.

Explanatory note

This amendment states the actual date when the part expires.

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

[3.935] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- appoint
- contravene
- exercise
- function.

Explanatory note

This amendment adds standard dictionary notes.

Part 3.85 Unit Titles Regulations 2001

[3.936] Regulation 18 (2)

substitute

(2) On request, the Minister may appoint a conciliator to help the owners corporation to resolve the dispute.

Note For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Explanatory note

This amendment brings the appointment provision into line with current drafting practice and adds a standard note about appointments. The *Legislation Act 2001*, section 206 provides that an appointment must be made, or evidenced, in writing.

[3.937] Regulation 20 (2)

substitute

(2) On request, the Minister may appoint a conciliator to help the owners corporation to resolve the matters set out in the request.

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

Explanatory note

This amendment brings the appointment provision into line with current drafting practice and adds a standard note about appointments. The *Legislation Act 2001*, section 206 provides that an appointment must be made, or evidenced, in writing.

[3.938] Schedule 2, clause 2 (1), new note

insert

Note For how documents may be served, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.939] Schedule 3, clause 3 (1), new note

insert

Note For how documents may be served, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

Part 3.86 University of Canberra Act 1989

[3.940] Title

substitute

An Act about the University of Canberra

Explanatory note

This amendment revises the long title to reflect the fact that the university has already been established.

[3.941] Section 1

substitute

1 Name of Act

This Act is the *University of Canberra Act 1989*.

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

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 words and expressions 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 2001*, 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 2001*, s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment brings the naming provision of the Act into line with current drafting practice and adds standard dictionary and notes provisions. A new dictionary is inserted by another amendment.

[3.942] Section 3, definitions

relocate to the dictionary

Explanatory note

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

[3.943] Section 3, remainder

omit

Explanatory note

This amendment omits the remainder of existing section 3 consequentially on the insertion of a dictionary by another amendment.

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

[3.944] Section 4 (5)

omit

Explanatory note

This amendment omits a provision that requires judicial notice to be taken of the university's seal on a document. It is unnecessary because the *Evidence Act 1995* (Cwlth), section 150 provides that if the imprint of a seal appears on a document and purports to be the imprint of the seal of a stated kind of body, including a body created under a Territory law, it is presumed that the imprint is the imprint of that seal and that the document was duly sealed. The *Evidence Act 1995* (Cwlth) applies to proceedings under Territory laws.

[3.945] Sections 6 (2), 6A (e) and 7 (1)

omit

performance

substitute

exercise

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.946] Section 7 (2) (p) and (q)

substitute

(p) to exercise any other function given to it under this Act or another Territory law; and

(q) to do anything incidental to its functions.

Explanatory note

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

[3.947] Section 7 (4)

substitute

(4) The functions of the university may be exercised outside the ACT and Australia.

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

Explanatory note

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

[3.948] Section 11 (2)

omit

perform

substitute

exercise

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.949] Section 11 (2), new note

insert

Note For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Explanatory note

This amendment adds a note about appointments.

[3.950] Section 15 (1) (f)

omit

Explanatory note

This amendment omits a redundant provision that refers to section 11 (1) (c). That paragraph was omitted by the *University of Canberra (Transfer) Act 1997*, section 7 (b). Republication 2 of the *University of Canberra Act 1989* renumbered the paragraphs of section 11 (1) so that they formed a single sequence. Accordingly, the paragraph numbered section 11 (1) (c) in that republication is not the paragraph to which section 15 (1) (f) refers.

[3.951] Section 15 (1) (g) and (h)

renumber as section 15 (1) (f) and (g)

Explanatory note

This amendment is consequential on the omission of section 15 (1) (f).

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

[3.952] Sections 17 and 18

substitute

17 Delegation by council

(1) The council may delegate its functions under this Act to—

(a) a member of the council; or

(b) a committee that includes a member of the council; or

(c) a member of the staff of the university.

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

(2) However, the council must not delegate its power to make statutes.

(3) A function delegated to a committee mentioned in subsection (1) (b) must be exercised by a majority of the members of the committee acting together.

Explanatory note

This amendment brings the delegation provisions into line with current drafting practice. In particular:

- the words 'in writing' have been omitted because the *Legislation Act 2001*, section 232 provides that a delegation must be made, or evidenced, in writing;
- the references to 'powers' have been omitted because ***function*** is defined in the *Legislation Act 2001*, dictionary, part 1 to include power and duty;
- the provisions for the revocation of delegations have been omitted because the *Legislation Act 2001*, section 237 (1) provides that a delegation may be amended or revoked by the person giving the delegation.

This amendment also adds a standard note about delegations.

[3.953] Sections 20, 24 (1) and 24A (1), new note

insert

Note For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

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

Explanatory note

This amendment adds a standard note about appointments.

[3.954] Section 24A (3) (b)

omit

perform

substitute

exercise

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.955] Section 25 (2) (b)

omit

powers and duties

substitute

functions

Explanatory note

This amendment brings the section into line with current drafting practice by removing a reference to powers and duties. ***Function*** is defined in the *Legislation Act 2001*, dictionary, part 1 to include power and duty.

[3.956] Section 27

omit

Explanatory note

This amendment omits an unnecessary provision about acting appointments for the following reasons:

- section 27 (1) is unnecessary because the *Legislation Act 2001*, section 209 (1) provides that a power to make an appointment includes power to appoint a person to act in the position during a vacancy, whether or not an appointment had previously been made and during any periods when the person holding the position cannot exercise the functions of the position;

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

- section 27 (2) is unnecessary because the *Legislation Act 2001*, section 221 (1) provides that a person may not act for more than 1 year;
- section 27 (3) is unnecessary because the *Legislation Act 2001*, section 225 provides that an acting appointment, or anything done under an acting appointment, is not invalid only because of a defect or irregularity in the appointment.

[3.957] Section 29 (2)

omit

on the ground that

substitute

because of

Explanatory note

This amendment updates language.

[3.958] Section 29 (2) (c) and (d)

substitute

(c) a defect in the convening of a meeting.

Explanatory note

Section 29 (2) (d) is unnecessary because the *Legislation Act 2001*, 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.

[3.959] Section 29A

omit

in good faith in the performance or purported performance

substitute

honestly in the exercise, or purported exercise,

Explanatory note

Exercise a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions. This amendment also updates language.

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

[3.960] Section 35

substitute

35 Application of Financial Management Act, pt 6 and pt 8

(1) The *Financial Management Act 1996*, part 6 (Borrowing and guarantees) applies in relation to the university as if section 45 (Loans to be paid into Territory banking account) were omitted.

(2) The *Financial Management Act 1996*, part 8 (Financial provisions relating to Territory authorities) applies in relation to the university as if—

(a) a reference in that part to the chief executive officer of a Territory authority were a reference to the council; and

(b) the part were modified as set out in schedule 1.

Explanatory note

This amendment brings the section into line with current drafting practice and is consequent on the insertion of new schedule 1 by another amendment.

[3.961] Section 40 (2) (e) (iv)

substitute

(iv) the appointment and functions of a chairperson at a meeting; and

Explanatory note

This amendment removes references to powers and duties. ***Function*** is defined in the *Legislation Act 2001*, dictionary, part 1 to include power and duty.

[3.962] Section 40 (2) (e) (vii)

substitute

(vii) the quorum for a committee meeting and the functions of a committee;

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

Explanatory note

This amendment removes references to powers and duties. ***Function*** is defined in the *Legislation Act 2001*, dictionary, part 1 to include power and duty.

[3.963] Section 41

substitute

41 Statutes about traffic

(1) The council may make statutes for the regulation or control of traffic (a ***traffic statute***) on land occupied by the university in the ACT, including—

(a) the parking, stopping, standing or leaving of vehicles; and

(b) the erection and effect of signs and markings.

(2) A traffic statute may create offences for contraventions of a traffic statute and prescribe maximum penalties of not more than 2 penalty units for the offences.

(3) A traffic statute must not be inconsistent with another Territory law.

(4) However, a traffic statute must not be treated as being inconsistent with another Territory law only because it makes provision in relation to a matter dealt with by the other Territory law if the provision can be complied with without contravening the other law.

Explanatory note

This amendment brings the section into line with current drafting practice, including changing a reference to a maximum fine of $200 to 2 penalty units.

[3.964] Section 42 (1) (b)

omit

shall transmit

substitute

must send

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

Explanatory note

This amendment updates language.

[3.965] Section 42 (3) and (5)

substitute

(3) A statute that has been approved by the Executive has the force of law from the day after the statute is notified under the *Legislation Act 2001*.

Explanatory note

This amendment brings the commencement of the university's statutes into line with the *Legislation Act 2001*, section 73. It also omits subsection (5) which provides for proof of university's statutes in court proceedings. Formal proof of documents of a legislative character is generally not required (see the *Legislation Act 2001*, section 26 and the *Evidence Act 1995* (Cwlth), section 143). The *Evidence Act 1995* (Cwlth) applies to proceedings under Territory laws.

[3.966] New schedule 1

insert

Schedule 1 Modifications of Financial Management Act 1996, part 8

(see s 35 (2) (b))

[1.1] Section 54 (3) (b) and (d)

omit

[1.2] Section 55 (3)

omit

[1.3] Section 56 (1) (d)

substitute

(d) in any investment prescribed under the financial management guidelines for this paragraph; or

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

(e) on deposit with an eligible money market dealer under the Corporations Act; or

(f) in bills of exchange that—

(i) have been accepted by an authorised deposit-taking institution (an ***ADI***); and

(ii) have been endorsed by 1 or more such institutions; and

(iii) have not been endorsed by anyone other than an ADI.

[1.4] Section 58

omit

[1.5] Section 59 (1) and (2)

substitute

(1) A Territory authority must prepare annual financial statements relating to its operations during each year.

(2) The annual financial statements for a year must be prepared within—

(a) 2 months after 31 December in each year; or

(b) any further period that the Minister allows in writing.

(3) The annual financial statements must be prepared in accordance with generally accepted accounting practice.

[1.6] Section 59 (3) (b)

omit

[1.7] Section 59 (4)

omit

[1.8] Section 61 (1)

substitute

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

(1) The chief executive officer of a Territory authority must give a copy of each annual financial statement to the auditor-general within 2 weeks after preparing the statement.

[1.9] Section 63 (1)

substitute

(1) The responsible Minister may, in writing, direct the chief executive officer of a Territory authority to provide the Minister with financial statements relating to the authority.

(1A) The Minister must present a copy of the direction to the Legislative Assembly within 5 sitting days after the day when the Minister gives the direction.

Explanatory note

This amendment updates the modifications of the *Financial Management Act 1996* to the university to bring them into line with current drafting practice and by:

- omitting a redundant modification of section 56 (1) (c);
- updating the modification made by the insertion of section 56 (1) (e) consequential on the *Corporations Act 2001* (Cwlth);
- revising the modifications made by the insertion of section 56 (1) (f) and (4) to bring them into line with current drafting practice;
- updating the modification of section 59 (3) consequential on an amendment made by the *Financial Management Amendment Act 2001 (No 3)* No 95.

[3.967] New dictionary

insert

Dictionary

(see s 2)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

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

- appoint
- exercise
- function.

Explanatory note

This amendment adds a new dictionary consequent on the omission of the definition section (section 3) by another amendment.

Part 3.87 Unlawful Games Act 1984

[3.968] Section 3, definitions of *public place* or *place of public resort*

omit

within the meaning of the *Public Parks Act 1928*

Explanatory note

This amendment omits a reference to a repealed Act.

Part 3.88 Utilities (Telecommunications Installations) Act 2001

[3.969] Section 6 (1) (a)

substitute

(a) the installation is for reticulated services; and

Explanatory note

This amendment remakes the paragraph omitting the definition of ***reticulated service*** which is relocated to section 6 (2) by another amendment.

[3.970] Section 6 (2), definition of *defined guideline or standard*

omit

regulation 21 (2)

substitute

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

regulation 40 (2)

Explanatory note

This amendment is consequential on the renumbering of a regulation in the regulations referred to in the section (definition of ***defined guideline or standard***).

[3.971] Section 6 (2), new definition of *reticulated services*

insert

reticulated services—see the *Land (Planning and Environment) Regulations 1992*, dictionary.

Explanatory note

This amendment relocates a definition that was in section 6 (1) (a) and changes it to a signpost definition in line with current drafting practice.

[3.972] Section 10 (1) (b)

omit

use the facility

insert

to use the facility

Explanatory note

This amendment corrects a minor omission.

[3.973] Section 12

substitute

12 Service of notices

A notice under section 11 may be served on a land-holder as follows:

(a) by leaving it in the letterbox on the land;

(b) by securing it in a conspicuous place on the land.

Note For other ways of serving documents, see *Legislation Act 2001*, pt 19.5.

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

Explanatory note

This amendment updates the section to take account of the *Legislation Act 2001*, part 19.5.

[3.974] Section 18 (1)

omit

, in writing,

Explanatory note

This amendment omits unnecessary words. The *Legislation Act 2001*, section 206 provides that an appointment must be made, or evidenced, in writing.

[3.975] Section 18 (1), new note

insert

Note For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Explanatory note

This amendment adds a standard note about appointments.

[3.976] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- exercise
- law (of the Territory)
- property
- Territory land.

Explanatory note

This amendment adds standard dictionary notes.

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

Part 3.89 Utility Networks (Public Safety) Regulations 2001

[3.977] Dictionary, new note

insert

Note The *Legislation Act 2001* contains definitions and other provisions relevant to these regulations.

Explanatory note

This amendment adds a standard note about definitions.

Part 3.90 Waste Minimisation Act 2001

[3.978] Section 6 (2)

substitute

(2) In this section:

ecologically sustainable development means the effective integration of economic and environmental considerations in decision-making processes achievable through implementation of the following principles:

(a) the precautionary principle;

(b) the inter-generational equity principle;

(c) conservation of biological diversity and ecological integrity;

(d) improved valuation and pricing of environmental resources.

the inter-generational equity principle means that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

the precautionary principle means that, if there is a threat of serious or irreversible environmental damage, a lack of full scientific

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

certainty should not be used as a reason for postponing measures to prevent environmental degradation.

Explanatory note

This amendment breaks a definition up into several definitions in line with current drafting practice.

[3.979] Section 11 (1), new note

insert

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.980] Section 11 (5), new penalty

insert

Maximum penalty (for each day): 50 penalty units.

Explanatory note

This amendment brings the penalty provision into line with current drafting practice.

[3.981] Section 11 (6)

omit

Explanatory note

This amendment omits a subsection that is unnecessary because of the amendment of section 11 (5) by another amendment.

[3.982] Section 18 (1), new note

insert

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.983] Section 18 (6), new penalty

insert

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

Maximum penalty (for each day): 50 penalty units.

Explanatory note

This amendment brings a penalty provision into line with current drafting practice.

[3.984] Section 18 (7)

omit

Explanatory note

This amendment omits a subsection that is unnecessary because of the amendment of section 18 (6) by another amendment.

[3.985] Section 28 (1)

substitute

(1) The chief executive may appoint a person as an authorised person for this Act.

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act 2001*, 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 updates the provision, as follows:

- the reference to the appointment being made 'in writing' is omitted because the *Legislation Act 2001*, section 206 provides that an appointment must be made, or evidenced, in writing;
- the reference to 'or a provision of this Act' is omitted because the *Legislation Act 2001*, section 205 (1) provides that an appointment may be for a function under an Act.

This amendment also adds standard appointments notes.

[3.986] Section 46 (2), new note

insert

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

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

Explanatory note

This amendment adds a standard note about approved forms.

[3.987] Section 47

omit

, in writing,

Explanatory note

This amendment omits unnecessary words. The *Legislation Act 2001*, section 232 provides that a delegation must be made, or evidenced, in writing.

[3.988] Section 47, new note

insert

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

Explanatory note

This amendment adds a standard note about delegations.

[3.989] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- contravene
- corporation
- individual.

Explanatory note

This amendment adds standard dictionary notes.

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

Part 3.91 Waste Minimisation Regulations 2001

[3.990] Regulation 11 (2), new note

insert

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.

Explanatory note

This amendment adds a standard note about service of documents.

[3.991] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to these regulations.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- contravene
- the Territory.

Explanatory note

This amendment adds standard dictionary notes.

Part 3.92 Water and Sewerage Regulations 2001

[3.992] Dictionary, new notes

insert

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to these regulations.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- Australian standard
- chief executive
- the Territory.

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

Explanatory note

This amendment adds standard dictionary notes.

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

Schedule 4 Repeal of redundant or obsolete Acts

(see s 6)

Part 4.1 Act that is no longer needed

Explanatory note for pt 4.1

This part repeals an Act that is no longer needed.

The *Land Acquisition (Northbourne Oval) Act 1996* is obsolete. The circumstances that may have required urgent compulsory acquisition of the land no longer apply.

Land Acquisition (Northbourne Oval) Act 1996 No 84

Part 4.2 Amending Acts without substantive provisions

Explanatory note for pt 4.2

The Acts repealed by this part are amending Acts enacted before 1 January 2000 that do not include substantive provisions, that is, they do no more than amend other laws.

The purpose of the Acts in this part ended when the last of their amending provisions commenced. The effect of repealed amending Acts is preserved by the *Legislation Act 2001*, section 84.

The repeal of the pre-1 January 2000 amending Acts by this part complements the *Legislation Act 2001*, section 89 (and before that the *Interpretation Act 1967*, section 43 which commenced on 1 January 2000). These sections provide for the automatic repeal of amending and repealing Acts enacted after 1 January 2000 when all their provisions have commenced.

The repeals made by this part complete the repeal of the pre-1 January 2000 amending and repealing Acts. This will make it easier for users of ACT legislation to be certain they have found all legislation on a particular topic.

Children's Services Amendment Act (No 2) 1999 No 61

Public Health (Consequential Amendments) Act 1999 No 20

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

Part 4.3 Amending Acts with substantive provisions

Explanatory note for pt 4.3

The *Financial Sector Reform (ACT) Act 1999* is an amending Act that, in conjunction with complementary Commonwealth legislation, transferred the regulation of building societies and credit unions from the ACT to the Commonwealth. The *Legislation Act 2001*, section 88 (1) saves the effect of transitional provisions that are repealed. However, to remove any doubt about the ongoing operation of savings and transitional provisions, the effect of the Act is saved by the application of the *Legislation Act 2001*, section 88 (see section 6 (2) of this Act).

The *University of Canberra (Transfer) Act 1997* is an amending Act providing for the transfer of responsibility for the University from the Commonwealth to the Territory. The remaining substantive provisions deal with savings and transitional matters. The *Legislation Act 2001*, section 88 (1) saves the effect of transitional provisions that are repealed. However, to remove any doubt about the ongoing operation of savings and transitional provisions, the effect of the Act is saved by the application of the *Legislation Act 2001*, section 88 (see section 6 (2) of this Act).

The *Utilities (Consequential Provisions) Act 2000* includes a regulation-making power. Accordingly, the *Legislation Act 2001*, section 89, which provides for the automatic repeal of amending and repealing Acts enacted after 1 January 2000 when all their provisions have commenced, does not apply to it. No regulations have been made under the Act.

Financial Sector Reform (ACT) Act 1999 No 33

University of Canberra (Transfer) Act 1997 No 74

Utilities (Consequential Provisions) Act 2000 No 66

Endnote

Republications of amended laws

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

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

[Presentation speech made in Assembly on 9 May 2002]

I certify that the above is a true copy of the Statute Law Amendment Bill 2002 which was passed by the Legislative Assembly on 29 August 2002.

Clerk of the Legislative Assembly

© Australian Capital Territory 2002

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