



Australian Capital Territory

# Statute Law Amendment Act 2008

A2008-28

## Contents

---

|   | Page     |
|---|----------|
| 1 Name of Act                             | 2        |
| 2 Commencement                            | 2        |
| 3 Purpose                                 | 2        |
| 4 Notes                                   | 2        |
| 5 Legislation amended—schs 1–3            | 2        |
| <b>Schedule 1</b>                         |          |
| <b>Minor amendments</b>                   | <b>3</b> |
| <b>Part 1.1</b>                           |          |
| <b>Animal Diseases Act 2005</b>           | <b>3</b> |
| <b>Part 1.2</b>                           |          |
| <b>Cemeteries and Crematoria Act 2003</b> | <b>3</b> |
| <b>Part 1.3</b>                           |          |
| <b>Government Procurement Act 2001</b>    | <b>4</b> |
| <b>Part 1.4</b>                           |          |
| <b>Legal Profession Act 2006</b>          | <b>5</b> |

---

|                   |  | Page |
|-------------------|--|------|
| <b>Schedule 2</b> | <b>Legislation Act 2001</b>                              | 7    |
| <b>Schedule 3</b> | <b>Technical amendments</b>                              | 8    |
| <b>Part 3.1</b>   | <b>Adoption Act 1993</b>                                 | 8    |
| <b>Part 3.2</b>   | <b>Animal Diseases Regulation 2006</b>                   | 14   |
| <b>Part 3.3</b>   | <b>Animal Welfare Act 1992</b>                           | 15   |
| <b>Part 3.4</b>   | <b>Architects Act 2004</b>                               | 20   |
| <b>Part 3.5</b>   | <b>Associations Incorporation Regulation 1991</b>        | 21   |
| <b>Part 3.6</b>   | <b>Auditor-General Act 1996</b>                          | 22   |
| <b>Part 3.7</b>   | <b>Board of Senior Secondary Studies Act 1997</b>        | 25   |
| <b>Part 3.8</b>   | <b>Boxing Control Act 1993</b>                           | 25   |
| <b>Part 3.9</b>   | <b>Canberra Institute of Technology Act 1987</b>         | 26   |
| <b>Part 3.10</b>  | <b>Cemeteries and Crematoria Act 2003</b>                | 26   |
| <b>Part 3.11</b>  | <b>Civil Law (Sale of Residential Property) Act 2003</b> | 27   |
| <b>Part 3.12</b>  | <b>Civil Law (Wrongs) Act 2002</b>                       | 27   |
| <b>Part 3.13</b>  | <b>Clinical Waste Act 1990</b>                           | 28   |
| <b>Part 3.14</b>  | <b>Commercial Arbitration Act 1986</b>                   | 32   |
| <b>Part 3.15</b>  | <b>Community Title Act 2001</b>                          | 35   |
| <b>Part 3.16</b>  | <b>Construction Occupations (Licensing) Act 2004</b>     | 35   |
| <b>Part 3.17</b>  | <b>Consumer Credit (Administration) Act 1996</b>         | 36   |
| <b>Part 3.18</b>  | <b>Contractors Debts Act 1897</b>                        | 38   |
| <b>Part 3.19</b>  | <b>Crimes (Child Sex Offenders) Act 2005</b>             | 41   |
| <b>Part 3.20</b>  | <b>Crimes (Sentence Administration) Act 2005</b>         | 41   |
| <b>Part 3.21</b>  | <b>Cultural Facilities Corporation Act 1997</b>          | 42   |
| <b>Part 3.22</b>  | <b>Dangerous Substances Act 2004</b>                     | 42   |
| <b>Part 3.23</b>  | <b>Duties Act 1999</b>                                   | 43   |
| <b>Part 3.24</b>  | <b>Emergencies Act 2004</b>                              | 46   |

---

|                  |  | Page |
|------------------|--|------|
| <b>Part 3.25</b> | <b>Exhibition Park Corporation Act 1976</b>  | 47   |
| <b>Part 3.26</b> | <b>Financial Management Act 1996</b>   | 47   |
| <b>Part 3.27</b> | <b>Food Act 2001</b>   | 48   |
| <b>Part 3.28</b> | <b>Gambling and Racing Control Act 1999</b>  | 48   |
| <b>Part 3.29</b> | <b>Gaming Machine Act 2004</b>   | 49   |
| <b>Part 3.30</b> | <b>Gas Safety Act 2000</b>   | 50   |
| <b>Part 3.31</b> | <b>Guardianship and Management of Property Act 1991</b>  | 51   |
| <b>Part 3.32</b> | <b>Health Professionals Regulation 2004</b>  | 51   |
| <b>Part 3.33</b> | <b>Hemp Fibre Industry Facilitation Act 2004</b>   | 52   |
| <b>Part 3.34</b> | <b>Human Rights Commission Act 2005</b>  | 52   |
| <b>Part 3.35</b> | <b>Interactive Gambling Act 1998</b>   | 53   |
| <b>Part 3.36</b> | <b>Juries Act 1967</b>   | 53   |
| <b>Part 3.37</b> | <b>Legal Profession Act 2006</b>   | 54   |
| <b>Part 3.38</b> | <b>Long Service Leave (Building and Construction Industry) Act 1981</b>                            | 55   |
| <b>Part 3.39</b> | <b>Long Service Leave (Contract Cleaning Industry) Act 1999</b>                                    | 56   |
| <b>Part 3.40</b> | <b>Nature Conservation Act 1980</b>  | 58   |
| <b>Part 3.41</b> | <b>Occupational Health and Safety (Certification of Plant Users and Operators) Regulation 2000</b> | 59   |
| <b>Part 3.42</b> | <b>Ombudsman Act 1989</b>  | 59   |
| <b>Part 3.43</b> | <b>Planning and Development Act 2007</b>   | 61   |
| <b>Part 3.44</b> | <b>Planning and Development Regulation 2008</b>  | 69   |
| <b>Part 3.45</b> | <b>Public Trustee Act 1985</b>   | 70   |
| <b>Part 3.46</b> | <b>Race and Sports Bookmaking Act 2001</b>   | 71   |
| <b>Part 3.47</b> | <b>Radiation Protection Act 2006</b>   | 72   |
| <b>Part 3.48</b> | <b>Registrar-General Act 1993</b>  | 72   |
| <b>Part 3.49</b> | <b>Remuneration Tribunal Act 1995</b>  | 73   |

## Contents

---

|                  |   | Page |
|------------------|---|------|
| <b>Part 3.50</b> | <b>Residential Tenancies Act 1997</b>                         | 74   |
| <b>Part 3.51</b> | <b>Road Transport (Driver Licensing) Regulation 2000</b>      | 77   |
| <b>Part 3.52</b> | <b>Road Transport (General) Regulation 2000</b>               | 78   |
| <b>Part 3.53</b> | <b>Spent Convictions Act 2000</b>                             | 79   |
| <b>Part 3.54</b> | <b>Superannuation (Legislative Assembly Members) Act 1991</b> | 79   |
| <b>Part 3.55</b> | <b>Supervised Injecting Place Trial Act 1999</b>              | 80   |
| <b>Part 3.56</b> | <b>Territory Records Act 2002</b>                             | 81   |
| <b>Part 3.57</b> | <b>Training and Tertiary Education Act 2003</b>               | 82   |
| <b>Part 3.58</b> | <b>Utilities Act 2000</b>                                     | 83   |
| <b>Part 3.59</b> | <b>Victims of Crime (Financial Assistance) Act 1983</b>       | 84   |
| <b>Part 3.60</b> | <b>Victims of Crime Regulation 2000</b>                       | 86   |
| <b>Part 3.61</b> | <b>Witness Protection Act 1996</b>                            | 86   |
| <b>Part 3.62</b> | <b>Workers Compensation Act 1951</b>                          | 87   |
| <b>Part 3.63</b> | <b>Workers Compensation Regulation 2002</b>                   | 87   |



Australian Capital Territory

# **Statute Law Amendment Act 2008**

**A2008-28**

---

An Act to amend certain legislation for the purpose of statute law revision

---

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

**1 Name of Act**

This Act is the *Statute Law Amendment Act 2008*.

**2 Commencement**

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

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

**3 Purpose**

The purpose of this Act is to improve the quality of the statute law of the Territory by amending legislation 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 the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

**5 Legislation amended—schs 1–3**

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

## **Schedule 1      Minor amendments**

(see s 5)

### **Part 1.1              Animal Diseases Act 2005**

#### **[1.1]      Section 21 (e)**

*substitute*

- (e) if there are restrictions on sale in the ACT of an animal, animal product or other thing that has, at any time during a stated period, been in the area—those restrictions; and

#### **Explanatory note**

Section 21 sets out the matters that must be included in a quarantine declaration under section 19 or section 20. This amendment makes paragraph (e) more precise by ensuring that if there are no restrictions on sale, the declaration does not need to include anything about restrictions on sale.

### **Part 1.2              Cemeteries and Crematoria Act 2003**

#### **[1.2]      Section 9 (3) (b)**

*substitute*

- (b) any other charitable purpose approved by the Minister.

#### **Explanatory note**

Section 9 (3) establishes a perpetual care trust for the maintenance of cemeteries and crematoria (see section 9 (3) (a)) and for any other purpose approved by the Minister (see section 9 (3) (b)). This amendment confirms that the Minister may approve only charitable purposes.





**[1.5] Section 11 (c) and (d)**

*substitute*

- (c) 3 public employee members;
- (d) 4 non-public employee members.

**Explanatory note**

This amendment increases the membership of the Government Procurement Board to 9 members, comprising 5 public employee members (including the chair and deputy chair) and 4 non-public employee members.

## **Part 1.4 Legal Profession Act 2006**

**[1.6] Section 249 (1) and (2)**

*substitute*

- (1) The costs of an examination are payable—
  - (a) for an examination under section 241 (1)—by the law practice that appointed the external examiner; and
  - (b) for an examination under section 241 (2)—out of the fidelity fund.
- (2) However, for an examination under section 241 (2), the licensing body may decide—
  - (a) that all or part of the costs of the examination are payable by the law practice to the licensing body; and

(b) the amount payable.

**Explanatory note**

This amendment corrects the *Legal Profession Act 2006*, section 249 (1) in relation to the costs of an external examination under that Act, subdivision 3.1.3.2 (External examinations). If a law practice appoints an external examiner under the *Legal Profession Act 2006*, section 241 (1) to examine its trust records, the law practice must pay the costs of the examination. However, if the licensing body appoints an external examiner under the *Legal Profession Act 2006*, section 241 (2) to examine a law practice's trust records, the costs of the examination are payable out of the fidelity fund. The amount paid out of the fidelity fund is a debt owing to the licensing body by the law practice that has been examined.

The *Legal Profession Regulation 2007* was amended on 1 April 2008 to include a modification of the *Legal Profession Act 2006* to achieve the same effect as proposed section 249 (1). The modification will expire on the commencement of this Act, section 5.

To date, no claims for costs of an examination under section 241 (1) to be paid out of the fidelity fund have been made under section 249 (1).

Section 249 (2) is consequentially amended to make it clear that it applies to an examination under section 241 (2). The amendment also omits the existing note, which is not needed for section 249 (2).

## Schedule 2      Legislation Act 2001

(see s 5)

### **[2.1]      Dictionary, part 1, definition of *territory authority***

*substitute*

***territory authority*** means a body established for a public purpose under an Act, but does not include a body declared by regulation not to be a territory authority.

#### **Explanatory note**

This amendment makes clear that, for a body to be a territory authority, it must be established under an Act for a public purpose.

## Schedule 3      Technical amendments

(see s 5)

### Part 3.1      Adoption Act 1993

#### [3.1]      Section 4 (1), definition of *adoption order*

*substitute*

*adoption order* means an order for the adoption of a child under section 9.

#### Explanatory note

This amendment remakes the definition as a consequence of other amendments omitting redundant references to provisions of repealed laws.

#### [3.2]      Section 4 (1), definitions of *charitable organisation, child, general consent and instrument of consent*

*substitute*

*charitable organisation* means a body carried on for a charitable, benevolent, philanthropic or religious purpose, other than a body carried on for the financial benefit of its members.

*child* means an individual who is—

- (a) under 18 years old; or
- (b) 18 years or older but for whom an adoption order is sought or has been made.

*general consent* means a general consent under section 29 (2).

*instrument of consent* means an instrument of consent to an adoption under section 30.

#### Explanatory note

This amendment updates language in line with current legislative drafting practice.

**[3.3] Section 4 (1), definition of *interim order***

*substitute*

*interim order* means an order under section 50.

**Explanatory note**

This amendment remakes the definition as a consequence of other amendments omitting redundant references to provisions of repealed laws.

**[3.4] Section 4 (1), definitions of *limited consent* and *principal officer***

*substitute*

*limited consent* means a limited consent under section 29 (3).

*principal officer*, for a private adoption agency, means the person stated as its principal officer in—

- (a) its application for approval under section 81; or
- (b) its latest notification to the chief executive under section 83.

**Explanatory note**

This amendment updates language in line with current legislative drafting practice.

**[3.5] Section 4 (1), definition of *relative***

*substitute*

*relative*, of a child, means a grandparent, brother, sister, uncle or aunt of the child, whether or not the relationship is—

- (a) traced through birth or depends on adoption; or
- (b) for a brother or sister—of the whole blood or half-blood.

**Explanatory note**

This amendment remakes the definition to incorporate the substance of existing section 4 (2) (which is omitted by another amendment) in an updated form as paragraphs (a) and (b) of the definition.

**[3.6]        Section 4 (1), definition of *repealed laws***

*omit*

**Explanatory note**

This amendment is consequential on the omission, by other amendments, of redundant references to repealed laws.

**[3.7]        Section 4 (1), definitions (as amended)**

*relocate to dictionary*

**Explanatory note**

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

**[3.8]        Section 4, remainder**

*substitute*

**2            Dictionary**

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

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

For example, the signpost definition ‘*adoptive relative*, for part 5 (Access to information)—see section 58.’ means that the term ‘adoptive relative’ 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, 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 the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

#### **Explanatory note**

This amendment inserts standard dictionary and notes provisions consequent on the insertion of a new dictionary by another amendment.

The definitions in existing section 4 (1) are updated and relocated to the dictionary by other amendments.

Existing section 4 (2) is remade in an updated form as part of the definition of *relative* by another amendment.

Existing section 4 (3) provides that, unless the contrary intention appears, a reference to the birth or adoptive parents of a child, or to applicants, if there is only 1 birth or adoptive parent, or 1 applicant, is a reference to that birth or adoptive parent or that applicant. This provision is unnecessary because the Legislation Act, section 145 provides to the same effect.

#### **[3.9] Section 22 (1), new note**

*insert*

*Note* See approved form 3.29 (Notice of application for adoption order), approved under the *Court Procedures Act 2004*, s 8.

#### **Explanatory note**

This amendment inserts a note to help users of the legislation find the relevant approved form under the *Court Procedures Act 2004*.

#### **[3.10] Section 26 (5), new note**

*insert*

*Note* See approved form 3.36 (Notice of application for discharge of adoption order), approved under the *Court Procedures Act 2004*, s 8.

#### **Explanatory note**

This amendment inserts a note to help users of the legislation find the relevant approved form under the *Court Procedures Act 2004*.

**[3.11]    Section 35 (1), new note**

*insert*

*Note*     See approved form 3.31 (Application for dispensing with consent to adoption), approved under the *Court Procedures Act 2004*, s 8.

**Explanatory note**

This amendment inserts a note to help users of the legislation find the relevant approved form under the *Court Procedures Act 2004*.

**[3.12]    New section 44 (6)**

*insert*

(6) In this section:

***repealed laws*** means the following Acts or the Ordinances repealed by any of the following Acts:

- (a) *Adoption of Children Act 1965*;
- (b) *Adoption of Children Act 1974*;
- (c) *Adoption of Children (Amendment) Act 1979*;
- (d) *Adoption of Children (Amendment) Act 1983*;
- (e) *Adoption of Children (Amendment) Act 1988*;
- (f) *Adoption of Children (Amendment) Act 1991*.

**Explanatory note**

This amendment is consequential on the omission, by another amendment, of the definition of ***repealed laws*** in the general interpretation provision. As a consequence of the omission of redundant references to repealed laws in other amendments, section 44 (4) is the only provision that refers to repealed laws.



### **[3.13] Section 120**

*omit*

#### **Explanatory note**

This amendment omits a transitional provision which is redundant because of the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc).

Existing section 120 (1) deals with orders and proceedings made or begun before the commencement of the Act.

Existing section 120 (2) deals with consents for adoption given before the commencement of the Act.

Existing section 120 (3) and (4) deals with the application of the Act, section 43 and section 44 to an adoption order made under the repealed laws and the effect of disposition of property in relation to an adoption order made under the repealed laws.

### **[3.14] New dictionary**

*insert*

## **Dictionary**

(see s 2)

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

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

- administrative appeals tribunal
- administrative unit
- chief executive (see s 163)
- contravene
- document
- domestic partner (see s 169 (1))
- Executive
- file
- function
- instrument (see s 14)
- proceeding

- Supreme Court.

*adoptive relative*, for part 5 (Access to information)—see section 58.

*associated person*, for part 5 (Access to information)—see section 58.

*birth parent*, for part 5 (Access to information)—see section 58.

*birth relative*, for part 5 (Access to information)—see section 58.

*country*, for part 4 (Recognition of adoptions)—see section 53.

*identifying information*, for part 5 (Access to information)—see section 58.

*information*, for part 5 (Access to information)—see section 58.

*relevant authority*, for part 5 (Access to information)—see section 58.

**Explanatory note**

This amendment inserts a new dictionary in accordance with current drafting practice. It includes signpost definitions for terms that are not included in the existing interpretation section.

## **Part 3.2                            Animal Diseases Regulation 2006**

### **[3.15]    Section 34 (2) (b)**

*omit*

reasonably suspects

*insert*

suspects on reasonable grounds

**Explanatory note**

This amendment updates language in line with current legislative drafting practice.

**[3.16] Section 35 (2)**

*omit*

reasonably believes

*insert*

believes on reasonable grounds

**Explanatory note**

This amendment updates language in line with current legislative drafting practice.

## **Part 3.3 Animal Welfare Act 1992**

**[3.17] Section 42 (1)**

*substitute*

- (1) The animal ethics committee must give a person who holds an authorisation an identity certificate stating the person's name and that the person is an authorisation holder.

*Note* If a form is approved under s 110A for an identity certificate, the form must be used.

**Explanatory note**

This amendment is consequential on the replacement of *authorised person* with *authorisation holder* by another amendment.

**[3.18] Section 42 (6)**

*substitute*

- (6) For this section, if a person holds more than 1 authorisation, the person *stops being an authorisation holder* only if each authorisation that the person holds is suspended or cancelled, or has been surrendered, under this Act.

**Explanatory note**

This amendment is consequential on the replacement of *authorised person* with *authorisation holder* by another amendment.

**[3.19] Section 75**

*substitute*

**75 Protection from liability**

- (1) A person is not personally liable for conduct done honestly and without recklessness—
  - (a) in the exercise of a function under this part; or
  - (b) in the reasonable belief that the conduct was in the exercise of a function under this part.
- (2) Any liability that would, apart from this section, attach to the person attaches instead to the Territory.
- (3) In this section:

***conduct*** means an act or an omission to do an act.

**Explanatory note**

This amendment replaces the current indemnity provision with a protection from liability provision in line with current legislative drafting practice.

**[3.20] New section 78 (1A)**

*before section 78 (1), insert*

- (1A) This section applies to a person holding any of the following positions:
  - (a) inspector (other than a police officer);
  - (b) authorised officer;
  - (c) the authority;
  - (d) delegate of the authority with any delegated powers of an inspector.

**Explanatory note**

This amendment inserts a new provision consequential on the omission of the definition of ***authorised person*** in section 78 by another amendment.

**[3.21] Section 78 (1)**

*omit*

an authorised person

*substitute*

the person

**Explanatory note**

This amendment omits the reference to ‘authorised person’ as a consequence of the omission of the definition of *authorised person* in section 78 by another amendment.

**[3.22] Section 78 (3)**

*omit*

an authorised person

*substitute*

a person to whom this section applies

**Explanatory note**

This amendment omits the reference to ‘authorised person’ as a consequence of the omission of the definition of *authorised person* in section 78 by another amendment.

**[3.23] Section 78 (5)**

*omit*

**Explanatory note**

This amendment omits the definition of *authorised person* to help distinguish references to people to whom section 78 applies from references to ‘authorised officers’ appointed under section 77 and authorisation holders under the Act generally.

**[3.24]      Dictionary, new definition of *authorisation holder***

*insert*

***authorisation holder*** means the holder of an authorisation.

**Explanatory note**

This amendment is consequential on the replacement of *authorised person* with *authorisation holder* by another amendment.

**[3.25]      Dictionary, definition of *authorised person***

*omit*

**Explanatory note**

This amendment is consequential on the replacement of *authorised person* with *authorisation holder* by another amendment.

**[3.26]      Further amendments, mentions of *authorised person* etc**

| column 1<br>item | column 2<br>provision | column 3<br><i>omit</i>      | column 4<br><i>substitute</i>              |
|------------------|-----------------------|------------------------------|--|
| 1                | section 25 (2)        | authorised person            | authorisation holder                       |
| 2                | section 42 heading    | <b>authorised<br/>people</b> | <b>authorisation<br/>holders</b>           |
| 3                | section 42 (3)        | An authorised<br>person      | A person who is an<br>authorisation holder |
| 4                | section 42 (4)        | authorised person            | authorisation holder                       |
| 5                | section 43 heading    | <b>Authorised<br/>people</b> | <b>Authorisation<br/>holders</b>           |
| 6                | section 43            | authorised person            | authorisation holder                       |
| 7                | section 44 (1) (a)    | authorised person            | authorisation holder                       |
| 8                | section 44 (1) (b)    | the person's                 | the holder's                               |

| <b>column 1<br/>item</b> | <b>column 2<br/>provision</b>                                  | <b>column 3<br/>omit</b> | <b>column 4<br/>substitute</b> |
|--------------------------|--|--------------------------|--------------------------------|
| 9                        | section 45 heading   | <b>Authorised person</b> | <b>Authorisation holder</b>    |
| 10                       | section 45 (1)   | authorised person        | authorisation holder           |
| 11                       | section 45 (1)   | the person's             | the holder's                   |
| 12                       | section 45 (1)   | the person               | the authorisation holder       |
| 13                       | section 46   | authorised person        | authorisation holder           |
| 14                       | section 48 (1)   | authorised person        | authorisation holder           |
| 15                       | section 73A,<br>definition of<br><i>regulatory body</i>        | authorised person        | authorisation holder           |
| 16                       | section 73B (2),<br>definition of<br><i>relevant provision</i> | authorised person        | authorisation holder           |
| 17                       | section 73B (2),<br>definition of<br><i>relevant section</i>   | authorised person        | authorisation holder           |
| 18                       | section 73F (2)  | authorised person's      | authorisation holder's         |
| 19                       | dictionary,<br>definition of<br><i>animal ethics committee</i> | authorised person        | authorisation holder           |

**Explanatory note**

These amendments are to provide for more precise references to the holders of research or teaching authorisations, and to help distinguish them from references to authorised officers appointed under section 77.





**[3.29] Section 74 (2) (d)**

*substitute*

- (d) if the member becomes bankrupt, executes a personal insolvency agreement or otherwise applies to take the benefit of any law for the relief of bankrupt or insolvent debtors.

**Explanatory note**

This amendment brings the paragraph into line with the concept of personal insolvency agreement under the *Bankruptcy Act 1966* (Cwlth). Under that Act, personal insolvency agreements have replaced the concepts of deed of assignment, deed of arrangement and composition.

## **Part 3.5 Associations Incorporation Regulation 1991**

**[3.30] Schedule 1, section 20 (3) and (4)**

*omit*

**Explanatory note**

These provisions are redundant. The Legislation Act, section 199 (5) provides that the exercise of a function of a body is not affected only because of vacancies in the body's membership. The Legislation Act, section 212 provides that an appointment, or anything done under an appointment, is not invalid only because of a defect or irregularity in the appointment.

**[3.31]    Schedule 1, section 37**

*substitute*

**37        Service of notice**

For these rules, the association may serve a notice on a member by sending it by post to the member at the member's address shown in the register of members.

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

**Explanatory note**

This amendment brings the section into line with current legislative drafting practice. In particular, it omits subsection (2), which dealt with how a document under subsection (1) may be served, and replaces it with a standard note about service of documents.

## **Part 3.6                    Auditor-General Act 1996**

**[3.32]    Section 37**

*substitute*

**37        Protection of auditor-general etc from liability**

- (1) A protected person is not personally liable for conduct done honestly and without recklessness—
  - (a) in the exercise of a function under this Act or another law; or
  - (b) in the reasonable belief that the conduct was in the exercise of a function under this Act or another law.
- (2) Any liability that would, apart from this section, attach to the protected person attaches instead to the Territory.

(3) In this section:

*conduct* means an act or an omission to do an act.

*protected person* means a person who is or has been—

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

**Explanatory note**

This amendment replaces the current indemnity provision with a protection from liability provision in line with current legislative drafting practice.

**[3.33] Schedule 1, section 5 (2)**

*substitute*

- (2) The Executive must remove the auditor-general from office if the auditor-general becomes bankrupt, executes a personal insolvency agreement or otherwise applies to take the benefit of any law for the relief of bankrupt or insolvent debtors.

**Explanatory note**

This amendment brings the paragraph into line with the concept of personal insolvency agreement under the *Bankruptcy Act 1966* (Cwlth). Under that Act, personal insolvency agreements have replaced the concepts of deed of assignment, deed of arrangement and composition.

**[3.34] Further amendments, mentions of *shall***

*omit*

shall

*substitute*

must

*in*

- section 4
- section 6

- section 8 (first mention)
- section 11
- section 13
- section 18
- section 23
- sections 29 to 31
- schedule 1, section 1
- schedule 1, section 5

**Explanatory note**

This amendment updates language in line with current legislative drafting practice.

**[3.35] Further amendments, mentions of *shall***

*omit*

shall

*substitute*

may

*in*

- section 8 (2nd mention)
- section 12
- section 22

**Explanatory note**

This amendment updates language in line with current legislative drafting practice.

## **Part 3.7**                      **Board of Senior Secondary Studies Act 1997**

### **[3.36] Section 17 (2), new examples**

*insert*

**Examples**

a phone link, a satellite link, an internet or intranet link

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

**Explanatory note**

This amendment updates examples in line with current legislative drafting practice.

## **Part 3.8**                      **Boxing Control Act 1993**

### **[3.37] Section 8 (5)**

*substitute*

- (5) Compliance with the code of practice (if any) is a condition of an approval.

**Explanatory note**

This amendment updates language in line with current legislative drafting practice.

### **[3.38] Section 18 (1) (c)**

*omit*

**Explanatory note**

This amendment omits a reference to a decision that the Minister cannot make under the Act, section 8 (1).

## Part 3.9                      Canberra Institute of Technology Act 1987

### [3.39]      Section 44 (2), examples

*substitute*

#### Examples

a phone link, a satellite link, an internet or intranet link

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

#### Explanatory note

This amendment updates examples in line with current legislative drafting practice.

## Part 3.10                      Cemeteries and Crematoria Act 2003

### [3.40]      Section 29, new note

*insert*

*Note*      An appointment of a governing board member is an appointment under this section (see *Financial Management Act 1996*, s 78 (5) (b)).

#### Explanatory note

This amendment inserts a standard note to assist users of legislation.

## **Part 3.11**                      **Civil Law (Sale of Residential Property) Act 2003**

### **[3.41]      Section 19 (1) (c) and (2)**

*omit*

the report

*substitute*

the statement or report

#### **Explanatory note**

This amendment makes the terminology of section 19 (1) (c) and (2) consistent with section 19 (1) (b), which refers to a statement or report under section 9 (1) (h) (ii), (iii) or (iv).

## **Part 3.12**                      **Civil Law (Wrongs) Act 2002**

### **[3.42]      Schedule 4, section 4.43 (1) (e)**

*substitute*

- (e) becomes bankrupt, executes a personal insolvency agreement or otherwise applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or

#### **Explanatory note**

This amendment brings the paragraph into line with the concept of personal insolvency agreement under the *Bankruptcy Act 1966* (Cwlth). Under that Act, personal insolvency agreements have replaced the concepts of deed of assignment, deed of arrangement and composition.

## Part 3.13                      Clinical Waste Act 1990

### [3.43]      Section 22 (1)

*omit*

subject to section 24,

#### **Explanatory note**

This amendment restructures the section to bring it more closely into line with current legislative drafting practice.

### [3.44]      New section 22 (3A)

*insert*

(3A) This section is subject to section 24.

#### **Explanatory note**

This amendment inserts a subsection to bring the section more closely into line with current legislative drafting practice.

### [3.45]      Section 23

*substitute*

## **23                      Suspension or cancellation**

- (1) This section applies if a licensee—
  - (a) is found guilty of an offence against this Act; or
  - (b) contravenes a condition of the licence; or
  - (c) contravenes a requirement in the manual.
- (2) If the controller believes on reasonable grounds that it is necessary to do so in the interests of the health or safety of any person affected by the licensee's activities, the controller may, by written notice to the licensee—



- (a) suspend the licence for a stated period of not longer than 6 months; or
  - (b) cancel the licence.
- (3) The suspension or cancellation of the licence takes effect—
- (a) on the day the notice of the suspension or cancellation is given to the licensee; or
  - (b) if a later day is stated in the notice—the later day.
- (4) This section is subject to section 24.

**Explanatory note**

This amendment restructures the section to bring it more closely into line with current legislative drafting practice.

**[3.46] Section 25**

*substitute*

**25 Emergency suspension**

- (1) This section applies if—
- (a) a licensee—
    - (i) is found guilty of an offence under this Act; or
    - (ii) contravenes a condition of the licence; or
    - (iii) contravenes a requirement in the manual; and
  - (b) the controller believes on reasonable grounds that it is necessary, to prevent or remove an imminent risk of death, serious illness or serious injury to a person (whether identified or not), to suspend the licence.

- (2) The controller may, by written notice to the licensee, suspend the licence for a stated period of not longer than 6 months.
- (3) The suspension takes effect on the day the notice is given to the licensee.

**Explanatory note**

This amendment restructures the section to bring it more closely into line with current legislative drafting practice.

**[3.47]    Section 27 (1) (d) and (e)**

*substitute*

- (d) under section 23 (2) (a) or section 25 (2) to suspend a licence;  
or
- (e) under section 23 (2) (b) to cancel a licence.

**Explanatory note**

This amendment is consequential on other amendments.

**[3.48]    Section 37 (1)**

*omit*

with such assistance and by such force as is necessary and reasonable

*substitute*

with any assistance and force that is necessary and reasonable

**Explanatory note**

This amendment brings the section more closely into line with current legislative drafting practice.

**[3.49] Dictionary, definition of *clinical waste***

*substitute*

***clinical waste*** means any of the following, other than waste the treatment of which is completed in accordance with the manual:

- (a) waste consisting of a catheter, hypodermic needle, intravenous set, pipette or scalpel;
- (b) waste consisting of any other instrument or object that has been used in the taking of blood, the testing, processing or handling of blood or blood products, the investigation of human or animal diseases or in analysis or research that involves the use of tissue or fluid specimens, whether human or animal;
- (c) sanitary waste that originates from or has been in contact with a person who has a transmissible notifiable condition within the meaning of the *Public Health Act 1997*;
- (d) waste resulting from the investigation or analysis of tissue or fluid specimens, whether human or animal;
- (e) biological or chemical waste resulting from the investigation of human or animal diseases;
- (f) waste derived from a prescribed activity, being waste that includes or included human blood, or animal blood in any form other than food waste;
- (g) human or animal tissue or body fluids, removed during surgery or an autopsy;
- (h) waste consisting of a cytotoxic substance or waste that is, or is likely to be, contaminated by a cytotoxic substance;
- (i) waste consisting of anything that has been in contact with waste mentioned in a previous paragraph;
- (j) waste derived from the preparation of a human body for burial or cremation;

- (k) waste declared by the Minister under section 3 (Declarations of clinical waste and prescribed activity) to be clinical waste.

**Explanatory note**

This amendment restructures the definition to bring it more closely into line with current legislative drafting practice.

## Part 3.14            Commercial Arbitration Act 1986

### [3.50]    Section 12 (1)

*omit*

shall do so forthwith

*substitute*

must do so

**Explanatory note**

This amendment updates language in line with current legislative drafting practice and the Legislation Act, section 151B (Doing things for which no time is fixed).

### [3.51]    Section 16 (1)

*omit*

forthwith

**Explanatory note**

This amendment updates language in line with current legislative drafting practice and the Legislation Act, section 151B (Doing things for which no time is fixed).

### [3.52]    Section 18 (1)

*substitute*

- (1) Unless a contrary intention is expressed in an arbitration agreement, a party to the agreement, or the arbitrator or umpire, may apply to the court for an order under this section against a person who—

- (a) fails to appear before the arbitrator or umpire when required by subpoena or the arbitrator or umpire; or
  - (b) as a witness, fails to do any of the following when required by the arbitrator or umpire:
    - (i) take an oath;
    - (ii) make an affidavit;
    - (iii) answer a question;
    - (iv) produce a document or thing;
    - (v) any other thing.
- (1A) On the hearing of the application, the court may order the person to attend before the court—
- (a) for examination; or
  - (b) to produce the document or thing; or
  - (c) to do the relevant thing.

**Explanatory note**

This amendment restructures the provision to bring it more closely into line with current legislative drafting practice.

**[3.53] Section 18 (2)**

*omit*

subsection (1)

*insert*

subsection (1A)

**Explanatory note**

This amendment updates a cross-reference, consequential on the insertion of a new subsection by another amendment.

**[3.54]    Section 18 (3)**

*substitute*

- (3) Subsection (4) applies if a party to an arbitration agreement—
- (a) fails to attend before the umpire or arbitrator for examination when required by subpoena or the arbitrator or umpire; or
  - (b) fails to comply with a requirement of the arbitrator or umpire within a stated time or, if no time is stated, a reasonable time.
- (4) The umpire or arbitrator may continue an arbitration proceeding in a case mentioned in subsection (3) if, in a similar default in a proceeding before the Supreme Court, the court could continue the proceeding.

**Explanatory note**

This amendment restructures the provision to bring it more closely into line with current legislative drafting practice.

**[3.55]    Section 34 (4)**

*omit*

thereupon the arbitrator or umpire shall

*substitute*

on receiving the application, the arbitrator or umpire must

**Explanatory note**

This amendment updates language in line with current legislative drafting practice.

**[3.56]    Dictionary, note 2, new dot point**

*insert*

- oath

**Explanatory note**

This amendment inserts a new term to assist users. Dictionary note 2 is an aid to users which lists examples of terms used in the Act that are defined in the Legislation Act, dictionary, part 1.

## **Part 3.15                      Community Title Act 2001**

### **[3.57]      Section 8 (5)**

*substitute*

- (5) The documents that comprise the scheme must comply with any requirement prescribed by regulation.

#### **Explanatory note**

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

### **[3.58]      Dictionary, definition of *scheme***

*substitute*

*scheme*—

- (a) for this Act generally—means a community title scheme; and  
(b) for division 12.2—see section 88.

#### **Explanatory note**

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

## **Part 3.16                      Construction Occupations (Licensing) Act 2004**

### **[3.59]      Section 54 (1) (d)**

*substitute*

- (d) if the licensee is an individual—the licensee has executed a personal insolvency agreement;

#### **Explanatory note**

This amendment brings the paragraph into line with the concept of personal insolvency agreement under the *Bankruptcy Act 1966* (Cwlth). Under that Act, personal insolvency agreements have replaced the concepts of deed of assignment, deed of arrangement and composition.





**[3.63] Dictionary, note 2, new dot point**

*insert*

- lawyer

**Explanatory note**

This amendment is consequential on other amendments in this part. Dictionary note 2 is an aid to users that lists examples of terms used in the Act that are defined in the Legislation Act, dictionary, part 1.

**[3.64] Further amendments, references to *legal practitioner***

*omit*

legal practitioner

*substitute*

lawyer

*in*

- section 29 (c)
- section 83
- section 98 (2)
- section 111 (2) (b)
- section 113 (3) (b)
- section 114 (3) (b) (ii)

**Explanatory note**

This amendment updates language in line with current legislative drafting practice.

## Part 3.18                      Contractors Debts Act 1897

### [3.65]      Section 3 (3)

*omit*

chattel

*substitute*

article of property

#### Explanatory note

This amendment updates language in line with current legislative drafting practice.

### [3.66]      Section 4 (1)

*substitute*

- (1) This section applies if—
  - (a) a court has given a certificate under section 3 to a plaintiff (the ***worker or tradesperson***) in relation to an amount; and
  - (b) the amount is, or may become, payable to the defendant (the ***contractor***) by a third person (the ***contractee***) under a contract with the contractee for all or part of the work done, or materials supplied, by the worker or tradesperson.
- (1A) The worker or tradesperson may claim the amount mentioned in the certificate from the contractee by serving on the contractee—
  - (a) a written notice of the debt; and
  - (b) a copy of the certificate.

*Note 1*    If a form is approved under s 15 for this provision, the form must be used.

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

#### Explanatory note

This amendment restructures the subsection to bring it more closely into line with current legislative drafting practice.

**[3.67] Section 5 (1)**

*omit*

at the time of service of the notice of debt

*substitute*

when the notice of debt is served

**Explanatory note**

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

**[3.68] Section 9 heading**

*substitute*

**9 Attachment after notice of proceeding**

**Explanatory note**

This amendment updates language in line with current legislative drafting practice.

**[3.69] Section 9 (1)**

*omit*

issues an originating process

*substitute*

starts a proceeding

**Explanatory note**

This amendment updates language in line with current legislative drafting practice.

**[3.70]    Section 9**

*omit*

action

*substitute*

proceeding

**Explanatory note**

This amendment updates language in line with current legislative drafting practice.

**[3.71]    Section 10 heading**

*substitute*

**10        Application for leave to serve notice of proceeding**

**Explanatory note**

This amendment updates language in line with current legislative drafting practice.

**[3.72]    Section 10 (1)**

*omit*

action

*substitute*

proceeding

**Explanatory note**

This amendment updates language in line with current legislative drafting practice.

**[3.73]    Dictionary, definition of *amount of the debt***

*omit*

**Explanatory note**

This amendment is consequential on the remaking of section 4 (1) by another amendment.

## **Part 3.19**                      **Crimes (Child Sex Offenders) Act 2005**

### **[3.74] Section 75 (1) (b)**

*omit*

reasonably satisfied

*substitute*

satisfied on reasonable grounds

#### **Explanatory note**

This amendment updates language in line with current legislative drafting practice.

## **Part 3.20**                      **Crimes (Sentence Administration) Act 2005**

### **[3.75] Section 187 (3), examples**

*substitute*

#### **Examples**

a phone link, a satellite link, an internet or intranet link

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

#### **Explanatory note**

This amendment updates examples in line with current legislative drafting practice.

## Part 3.21                            Cultural Facilities Corporation Act 1997

### [3.76]            Section 9, new note

*insert*

*Note*            An appointment of a governing board member is an appointment under this section (see *Financial Management Act 1996*, s 78 (5) (b)).

#### Explanatory note

This amendment inserts a standard note to assist users of legislation.

## Part 3.22                            Dangerous Substances Act 2004

### [3.77]            Section 138 (3)

*substitute*

- (3) If a sample of a substance taken by an inspector is in the form of separate or severable objects, the inspector may—
- (a) take a number of the objects; and
  - (b) divide them into 3 parts each consisting of 1 or more of the objects, or of the severable parts of the objects, and mark and either seal or fasten each part; and
  - (c) deal with the sample under subsection (2) (b) to (d).

#### Explanatory note

This amendment restructures the subsection so that the introductory words clearly apply to all 3 paragraphs.

## **Part 3.23**                      **Duties Act 1999**

### **[3.78]      Section 52 (1) (c) and (3), definition of *R***

*omit*

section 299

*substitute*

section 300

#### **Explanatory note**

This amendment is consequential on the reordering of the *Planning and Development Act 2007*, sections 299 and 300 by other amendments.

### **[3.79]      Part 3.6 heading**

*substitute*

## **Part 3.6**                      **Voluntary transfers under Financial Sector (Business Transfer and Group Restructure) Act 1999 (Cwlth)**

#### **Explanatory note**

This amendment is consequential on the renaming of the *Financial Sector (Transfers of Business) Act 1999 (Cwlth)* as the *Financial Sector (Business Transfer and Group Restructure) Act 1999 (Cwlth)* by the *Financial Sector Legislation Amendment (Restructures) Act 2007 (Cwlth)*, schedule 3, item 3.

**[3.80]      Section 115A, definition of *FS (TB) Act***

*substitute*

***FS (BTGR) Act*** means the *Financial Sector (Business Transfer and Group Restructure) Act 1999* (Cwlth).

**Explanatory note**

This amendment is consequential on the renaming of the *Financial Sector (Transfers of Business) Act 1999* (Cwlth) as the *Financial Sector (Business Transfer and Group Restructure) Act 1999* (Cwlth) by the *Financial Sector Legislation Amendment (Restructures) Act 2007* (Cwlth), schedule 3, item 3.

**[3.81]      Section 115A**

*omit*

FS (TB) Act

*insert*

FS (BTGR) Act

**Explanatory note**

This amendment is consequential on the substitution of a new definition of the Act by another amendment.

**[3.82]      Section 115B**

*omit*

FS (TB) Act

*insert*

FS (BTGR) Act

**Explanatory note**

This amendment is consequential on the substitution of a new definition of the Act by another amendment.



**[3.83] Dictionary, definition of *FS (TB) Act***

*substitute*

*FS (BTGR) Act*, for part 3.6 (Voluntary transfers under Financial Sector (Business Transfer and Group Restructure) Act 1999 (Cwlth))—see section 115A.

**Explanatory note**

This amendment is consequential on the substitution of a new definition of the Act by another amendment.

**[3.84] Further amendments, references to Financial Sector (Transfers of Business) Act 1999 (Cwlth)**

*omit*

*Financial Sector (Transfers of Business) Act 1999 (Cwlth)*

*substitute*

*Financial Sector (Business Transfer and Group Restructure) Act 1999 (Cwlth)*

*in*

- dictionary, definition of *asset*
- dictionary, definition of *business*
- dictionary, definition of *receiving body*
- dictionary, definition of *voluntary transfer*

**Explanatory note**

This amendment is consequential on the substitution of a new definition of the Act by another amendment.

## Part 3.24                            Emergencies Act 2004

### [3.85]            Section 134 (3), new examples

*insert*

**Examples**

a phone link, a satellite link, an internet or intranet link

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

**Explanatory note**

This amendment updates examples in line with current legislative drafting practice.

### [3.86]            Section 145 (5), new examples

*insert*

**Examples**

a phone link, a satellite link, an internet or intranet link

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

**Explanatory note**

This amendment updates examples in line with current legislative drafting practice.

### [3.87]            Section 161 (6), new examples

*insert*

**Examples**

a phone link, a satellite link, an internet or intranet link

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

**Explanatory note**

This amendment updates examples in line with current legislative drafting practice.

## **Part 3.25**                      **Exhibition Park Corporation Act 1976**

### **[3.88] Section 8, new note**

*insert*

*Note*     An appointment of a governing board member is an appointment under this section (see *Financial Management Act 1996*, s 78 (5) (b)).

#### **Explanatory note**

This amendment inserts a standard note to assist users of legislation.

### **[3.89] Section 12 heading**

*substitute*

## **12 Profits of corporation**

#### **Explanatory note**

This amendment omits a redundant cross-reference to ‘trust’ and replaces it with ‘corporation’. The Act (formerly the *National Exhibition Centre Trust Act 1976*) was amended by the *Financial Management Legislation Amendment Act 2005* to establish the Exhibition Park Corporation and to make consequential changes, including to the name of the Act.

## **Part 3.26**                      **Financial Management Act 1996**

### **[3.90] Section 97 (2), examples**

*substitute*

#### **Examples**

a phone link, a satellite link, an internet or intranet link

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

#### **Explanatory note**

This amendment updates examples in line with current legislative drafting practice.

## Part 3.27                      Food Act 2001

### [3.91]      Section 76 (3)

*substitute*

- (3) If a sample of food taken by an authorised officer is in the form of separate or severable objects, the authorised officer may—
- (a) take a number of the objects; and
  - (b) divide them into 3 parts each consisting of 1 or more of the objects, or of the severable parts of the objects, and mark and either seal or fasten each part; and
  - (c) deal with the sample under subsection (2) (b) to (d).

#### Explanatory note

This amendment restructures the subsection so that the introductory words apply to all 3 paragraphs.

## Part 3.28                      Gambling and Racing Control Act 1999

### [3.92]      Section 11, new note

*insert*

*Note*      An appointment of a governing board member is an appointment under this section (see *Financial Management Act 1996*, s 78 (5) (b)).

#### Explanatory note

This amendment inserts a standard note to assist users of legislation.

**[3.93] Dictionary, definition of *gaming officer***

*substitute*

*gaming officer*—

- (a) for this Act generally—means any of the following:
  - (i) a member of the governing board;
  - (ii) any other authorised officer;
  - (iii) anyone else engaged (whether as an officer or employee or otherwise) in the administration or enforcement of a gaming law; and
- (b) for division 4.4 (Secrecy)—see section 34.

**Explanatory note**

This amendment amends the definition of *gaming officer* to include a signpost definition in the dictionary about the extended meaning of *gaming officer* in division 4.4.

## **Part 3.29                      Gaming Machine Act 2004**

**[3.94] Section 20 (3) (b)**

*substitute*

- (b) the individual is an undischarged bankrupt or has obligations under a personal insolvency agreement or, at any time in the last 5 years—
  - (i) was an undischarged bankrupt; or
  - (ii) executed a personal insolvency agreement; or

- (iii) applied to take the benefit of any law for the relief of bankrupt or insolvent debtors;

**Explanatory note**

This amendment brings the paragraph into line with the concept of personal insolvency agreement under the *Bankruptcy Act 1966* (Cwlth). Under that Act, personal insolvency agreements have replaced the concepts of deed of assignment, deed of arrangement and composition.

## Part 3.30                            Gas Safety Act 2000

### [3.95]            Section 30 (3) and (4)

*substitute*

- (3) A person is not personally liable for conduct done honestly and without recklessness—
- (a) in the exercise of a function under this section; or
- (b) in the reasonable belief that the conduct was in the exercise of a function under this section.
- (4) Any liability that would, apart from this section, attach to the person attaches instead to the Territory.
- (5) In this section:

***conduct*** means an act or an omission to do an act.

**Explanatory note**

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

## **Part 3.31**                      **Guardianship and Management of Property Act 1991**

### **[3.96] Section 59 (2), new notes**

*insert*

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

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

#### **Explanatory note**

This amendment adds standard notes about appointments.

## **Part 3.32**                      **Health Professionals Regulation 2004**

### **[3.97] Section 101 (1), new examples**

*insert*

#### **Examples**

a phone link, a satellite link, an internet or intranet link

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

#### **Explanatory note**

This amendment updates examples in line with current legislative drafting practice.

## Part 3.33                            Hemp Fibre Industry Facilitation Act 2004

**[3.98]            Dictionary, definition of *affected by bankruptcy action*,  
paragraph (b)**

*substitute*

(b) has executed a personal insolvency agreement; or

**Explanatory note**

This amendment brings the paragraph into line with the concept of personal insolvency agreement under the *Bankruptcy Act 1966* (Cwlth). Under that Act, personal insolvency agreements have replaced the concepts of deed of assignment, deed of arrangement and composition.

## Part 3.34                            Human Rights Commission Act 2005

**[3.99]            Section 35 (1), examples**

*substitute*

**Examples**

a phone link, a satellite link, an internet or intranet link

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

**Explanatory note**

This amendment updates examples in line with current legislative drafting practice.



## **Part 3.35 Interactive Gambling Act 1998**

### **[3.100] Section 39 (1) (h)**

*substitute*

- (h) the licensed provider is bankrupt, has executed a personal insolvency agreement or otherwise taken, or applied to take, advantage of any law relating to bankruptcy; or

#### **Explanatory note**

This amendment brings the paragraph into line with the concept of personal insolvency agreement under the *Bankruptcy Act 1966* (Cwlth). Under that Act, personal insolvency agreements have replaced the concepts of deed of assignment, deed of arrangement and composition.

## **Part 3.36 Juries Act 1967**

### **[3.101] Section 22, new note**

*insert*

*Note* See approved form 1 (Jury precept), approved under the *Court Procedures Act 2004*, s 8.

#### **Explanatory note**

This amendment inserts a note to help users of the legislation find the relevant approved form under the *Court Procedures Act 2004*.

### **[3.102] Section 26, new note**

*insert*

*Note* See approved form 2 (Jury summons), approved under the *Court Procedures Act 2004*, s 8.

#### **Explanatory note**

This amendment inserts a note to help users of the legislation find the relevant approved form under the *Court Procedures Act 2004*.



## Part 3.38 Long Service Leave (Building and Construction Industry) Act 1981

### [3.107] Section 13, new note

*insert*

*Note* An appointment of a governing board member is an appointment under this section (see *Financial Management Act 1996*, s 78 (5) (b)).

#### Explanatory note

This amendment inserts a standard note to assist users of legislation.

### [3.108] Section 74 (2), definition of *designated day*

*substitute*

*designated day* means—

- (a) if the registered worker is taking long service leave—the day the leave begins; and
- (b) if the registered worker is being paid instead of taking long service leave—the day the payment is made.

#### Explanatory note

This amendment brings the definition of *designated day* into line with the *Long Service Leave (Contract Cleaning Industry) Act 1999*, section 78 (2) (the corresponding provision in that Act).

## Part 3.39 Long Service Leave (Contract Cleaning Industry) Act 1999

### [3.109] Section 15, new note

*insert*

*Note* An appointment of a governing board member is an appointment under this section (see *Financial Management Act 1996*, s 78 (5) (b)).

#### Explanatory note

This amendment inserts a standard note to assist users of legislation.

### [3.110] Section 78 (2)

*substitute*

(2) In this section:

***D*** means the number of days service credited to the registered worker in the workers register to which the payment relates.

***designated day*** means—

- (a) if the registered worker is taking long service leave—the day the leave begins; and
- (b) if the registered worker is being paid instead of taking long service leave—the day the payment is made.

***R*** is the highest of the weekly averages of the ordinary remuneration received by the registered worker during each of the following periods that applies to the worker:

- (a) the most recent 2 quarters of service as a registered worker before the designated day;
- (b) the most recent 4 quarters of service as a registered worker before the designated day;
- (c) the most recent 20 quarters of service as a registered worker before the designated day;

- (d) the most recent 40 quarters of service as a registered worker before the designated day.

**Example—R**

Henry has worked in the cleaning industry for 7 years. The periods in paragraphs (a), (b) and (c) apply to Henry because he has completed more than 20 quarters (or 5 years), but less than 40 quarters (or 10 years), relevant service.

Henry's average weekly income for the 2 quarters before the designated day is \$283. His weekly averages for the 4 and 20 quarters before the designated day are \$427 and \$375, respectively. Accordingly, **R** is \$427 because it is the highest of the weekly averages.

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

**Explanatory note**

This amendment replaces *employee* with *worker* to bring it into line with the rest of the Act. It also brings the definition of *designated day* into line with the *Long Service Leave (Building and Construction Industry) Act 1981*, section 74 (2) (the corresponding provision in that Act), which is being amended by another amendment.

**[3.111] Section 79 (1) (a)**

*omit*

contractor

*substitute*

worker

**Explanatory note**

This amendment replaces *contractor* with *worker* to be consistent with the terminology of the Act.

**[3.112] Section 79 (4), definition of *designated day***

*omit*

77

*substitute*

78

**Explanatory note**

This amendment corrects a cross-reference.

## **Part 3.40                            Nature Conservation Act 1980**

**[3.113] Dictionary, definitions of *serious harm***

*substitute*

*serious harm*—

- (a) to a reserved area—
  - (i) for division 8.2 (Clearing native vegetation in reserved areas)—see section 75; and
  - (ii) for division 8.3 (Damaging land in reserved areas)—see section 84; and
- (b) to a person—see the Criminal Code, dictionary.

**Explanatory note**

This amendment combines 2 existing definitions of *serious harm* in the dictionary in line with current legislative drafting practice.

## **Part 3.41 Occupational Health and Safety (Certification of Plant Users and Operators) Regulation 2000**

### **[3.114] Section 12 (2) (b)**

*omit*

reasonably believes

*insert*

believes on reasonable grounds

#### **Explanatory note**

This amendment updates language in line with current legislative drafting practice.

## **Part 3.42 Ombudsman Act 1989**

### **[3.115] Section 6A**

*substitute*

#### **6A Discretion to refer complaint to another statutory office-holder**

- (1) This section applies if—
  - (a) the ombudsman forms the opinion that the action to which a complaint under this Act relates is such that—
    - (i) a complaint about the action, or an application or request for the action to be investigated or reviewed, could have been made to a statutory office-holder other than the ombudsman; and
    - (ii) the matter could be more conveniently or effectively dealt with by the statutory office-holder; and

- (iii) it would otherwise be appropriate in all the circumstances for the complaint to be referred to the statutory office-holder; and
- (b) the statutory office-holder consents to the reference.
- (2) The ombudsman may decide not to investigate, or further investigate, the action.
- (3) If the ombudsman decides not to investigate, or further investigate, the action, the ombudsman must refer the complaint, together with any relevant documents or information in the ombudsman's possession or control, to the statutory office-holder.
- (4) In this section:

*statutory office-holder* means the holder of an office established by a law of the Territory, the Commonwealth, a State or another Territory.

**Explanatory note**

This amendment restructures the section in line with current legislative drafting practice to improve its clarity and readability. In particular, it ensures that existing section (1) (d), see new section (1) (b), follows on from the section's headwords.

**[3.116] Section 6B heading**

*substitute*

**6B Mandatory referral of complaints to other entities**

**Explanatory note**

This amendment updates the heading to make it more explanatory and to bring it into line with the heading to section 6A.



## **Part 3.43**                      **Planning and Development Act 2007**

### **[3.117] Section 28 (1) (a) (ix)**

*substitute*

- (ix) whether the Minister has decided to establish an inquiry panel to inquire about an EIS for the development proposal to which the application relates;

*Note*      Inquiry panels are established under pt 8.3.

#### **Explanatory note**

This amendment makes it clear that the panel mentioned in the provision is an inquiry panel established under the Act, part 8.3 (see the new signpost definition of *inquiry panel* which is inserted into section 228 (1) by another amendment) and brings the reference to the panel in the existing subparagraph into line with other references in the Act to inquiry panels (eg see s 209 (1) (c)).

### **[3.118] Section 30 (1) (p)**

*omit*

if a panel conducts an inquiry

*substitute*

if an inquiry panel inquires

#### **Explanatory note**

This amendment makes it clear that the panel mentioned in the provision is an inquiry panel established under the Act, part 8.3 (see the new signpost definition of *inquiry panel* which is inserted into section 228 (1) by another amendment) and brings the reference to the panel in the existing paragraph into line with other references in the Act to inquiry panels (eg see s 209 (1) (c)).

**[3.119]    Section 134 (8), definitions of *consolidation* and *subdivision***

*omit*

**Explanatory note**

This amendment omits redundant definitions. The terms are defined for the section but are not otherwise used in it.

**[3.120]    Section 139 (2) (h)**

*omit*

**Explanatory note**

This amendment omits an unnecessary paragraph. Section 139 applies to an application for development approval. Section 139 (2) (h) purports to impose information requirements on an application for approval of a development that is a lease variation to pay out land rent for land. However, the Act, section 7 (1), definition of *development*, paragraph (f) makes it clear that a variation that reduces the rent payable to a nominal rent is not development for the purposes of the Act. The pay out of land rent is dealt with under the Act, section 272A to section 273 so there are no circumstances in which section 139 (2) (h) can apply.

**[3.121]    Section 139 (4), definitions of *current site value* and *market value***

*omit*

**Explanatory note**

This amendment is consequential on the omission of section 139 (2) (h) by another amendment.

**[3.122] Section 207 (2), definition of *defined decision*, paragraphs (a) and (b)**

*substitute*

- (a) to direct that an EIS be prepared; or
- (b) to establish an inquiry panel to inquire about the EIS.

*Note* Inquiry panels are established under pt 8.3.

**Explanatory note**

This amendment brings the reference to an environmental impact statement in existing paragraph (a) into line with similar references in chapter 8 to the term. The term ‘EIS’ is defined in section 208.

Paragraph (b) is amended to make it clear that the panel mentioned in the provision is an inquiry panel established under the Act, part 8.3 (see the new signpost definition of *inquiry panel* which is inserted into section 228 (1) by another amendment) and brings the reference to the panel in the existing paragraph into line with other references in the Act to inquiry panels (eg see s 209 (1) (c)).

**[3.123] Section 209 (1) (b)**

*substitute*

- (b) the Minister has not decided to establish an inquiry panel to inquire about the EIS; or

**Explanatory note**

This amendment makes it clear that the panel mentioned in the provision is an inquiry panel established under the Act, part 8.3 (see the new signpost definition of *inquiry panel* which is inserted into section 228 (1) by another amendment) and brings the reference to the panel in the existing paragraph into line with other references in the Act to inquiry panels (eg see s 209 (1) (c)).

**[3.124]    Section 212 (1), new note**

*insert*

*Note*     If a form is approved under s 425 for the application, the form must be used.

**Explanatory note**

This amendment inserts a note to assist users of the Act to make it clear that if a form is approved for an application under the section, the form must be used.

**[3.125]    Section 226 (1) (c)**

*substitute*

- (c) the Minister decides not to establish an inquiry panel to inquire about the EIS.

**Explanatory note**

This amendment makes it clear that the panel mentioned in the provision is an inquiry panel established under the Act, part 8.3 (see the new signpost definition of *inquiry panel* which is inserted into section 228 (1) by another amendment) and brings the reference to the panel in the existing paragraph into line with other references in the Act to inquiry panels (eg see s 209 (1) (c)).

**[3.126]    Section 228 (1) (a) and (b) and note**

*substitute*

- (a) decide whether to establish a panel (an *inquiry panel*) to inquire about the EIS; and
- (b) if the Minister decides to establish an inquiry panel—tell the planning and land authority about the decision.

*Note*     If the Minister decides not to establish an inquiry panel and not to present the EIS to the Legislative Assembly, the Minister must give the planning and land authority written notice of the decision (see s 226).

**Explanatory note**

This amendment inserts a new signpost definition of *inquiry panel* for the Act.

**[3.127] Section 228 (2)**

*omit*

a panel to conduct an inquiry

*substitute*

an inquiry panel to inquire

**Explanatory note**

This amendment makes it clear that the panel mentioned in the provision is an inquiry panel established under the Act, part 8.3 (see the new signpost definition of *inquiry panel* which is inserted into section 228 (1) by another amendment) and brings the reference to the panel in the existing paragraph into line with other references in the Act to inquiry panels (eg see s 209 (1) (c)).

**[3.128] Section 228 (3)**

*omit*

must establish a panel to conduct an inquiry

*substitute*

must establish an inquiry panel to inquire

**Explanatory note**

This amendment is consequential on the insertion into section 228 (1) of a new signpost definition of *inquiry panel* by another amendment.

**[3.129] Section 228 (4)**

*substitute*

- (4) If the Minister establishes an inquiry panel to inquire about an EIS, the Minister must, in writing—
- (a) prepare terms of reference for the inquiry; and

- (b) give notice of the inquiry to the proponent of the development proposal to which the EIS relates.

*Note*     The power to prepare terms of reference for the inquiry includes the power to amend or repeal the terms of reference (see Legislation Act, s 46).

**Explanatory note**

This amendment simplifies language consequent on the insertion into section 228 (1) of a new signpost definition of *inquiry panel* by another amendment and makes it clear that the reference to ‘the proponent’ in existing section (4) (b) is to the proponent of the development proposal to which the EIS relates.

**[3.130] Section 230 (1)**

*substitute*

- (1) This section applies if the Minister establishes an inquiry panel to inquire about an EIS.

**Explanatory note**

This amendment makes it clear that the panel mentioned in the provision is an inquiry panel established under the Act, part 8.3 (see the new signpost definition of *inquiry panel* which is inserted into section 228 (1) by another amendment) and brings the reference to the panel in the existing subsection into line with other references in the Act to inquiry panels (eg see s 209 (1) (c)).

**[3.131] Section 283 (3) (a)**

*omit*

Minister

*substitute*

planning and land authority

**Explanatory note**

This amendment is for the paragraph to refer correctly to the approved form for land management agreements being approved by the planning and land authority under section 425.

**[3.132] Section 299**

*renumber as section 300*

**Explanatory note**

This amendment, and the next, reorder existing sections 299 and 300 in line with the more typical sequence of events: ie the surrender or termination of a lease happening before any associated refund.

**[3.133] Section 300**

*relocate as section 299*

**Explanatory note**

This amendment, and the previous, reorder existing sections 299 and 300 in line with the more typical sequence of events: ie the surrender or termination of a lease happening before any associated refund.

**Schedule 3**      Technical amendments  
**Part 3.43**      Planning and Development Act 2007

Amendment [3.134]

---

**[3.134] Schedule 1, items 37 to 39**

*substitute*

|    |   |                             |  |  |
|----|---|-----------------------------|--|--|
| 37 | decision under s 299 (2) to refuse to accept the surrender of a lease, or part of land comprised in lease               | planning and land authority | person surrendering lease or part of land comprised in lease |  |
| 38 | decision under s 299 (2) to accept the surrender of a lease, or part of land comprised in lease, subject to a condition | planning and land authority | person surrendering lease or part of land comprised in lease |  |
| 39 | decision under s 300 to refuse to authorise payment of prescribed amount for surrendered or terminated lease            | planning and land authority | person surrendering lease or whose lease is terminated       |  |

**Explanatory note**

This amendment is consequential on the reordering of sections 299 and 300 by other amendments.



**[3.135] Dictionary, new definition of *inquiry panel***

*insert*

*inquiry panel*—see section 228 (1) (a).

**Explanatory note**

This amendment is consequential on the insertion into section 228 (1) of a new signpost definition of *inquiry panel* by another amendment.

## **Part 3.44 Planning and Development Regulation 2008**

**[3.136] Section 70, definition of *inquiry panel***

*omit*

**Explanatory note**

This amendment is consequential on the insertion into the *Planning and Development Act 2007*, section 228 (1) of a new signpost definition of *inquiry panel* by another amendment.

**[3.137] Section 210 heading**

*substitute*

### **210 Amount of refund on surrender or termination of certain leases—Act, s 300 (2)**

**Explanatory note**

This amendment is consequential on the reordering of the *Planning and Development Act 2007*, sections 299 and 300 by other amendments.

**[3.138] Section 211 heading**

*substitute*

**211 Limitations for refund on surrender or termination of leases—Act, s 300 (3)**

**Explanatory note**

This amendment is consequential on the reordering of the *Planning and Development Act 2007*, sections 299 and 300 by other amendments.

**[3.139] Dictionary, note 3, new dot point**

*insert*

- inquiry panel

**Explanatory note**

This amendment is consequential on the insertion into the *Planning and Development Act 2007*, section 228 (1) of a new signpost definition of *inquiry panel* by another amendment.

**[3.140] Dictionary, definition of *inquiry panel***

*omit*

**Explanatory note**

This amendment is consequential on the insertion into the *Planning and Development Act 2007*, section 228 (1) of a new signpost definition of *inquiry panel* by another amendment.

## **Part 3.45 Public Trustee Act 1985**

**[3.141] Section 25 (7) (b)**

*substitute*

- (b) money payable as compensation under the *Workers Compensation Act 1951* by way of a weekly payment.

**Explanatory note**

This amendment is consequential on the omission of the *Workers Compensation Act 1951*, schedule 1, clause 9A by a previous amendment of that Act.

**[3.142] Section 54D (2), examples**

*substitute*

**Examples**

a phone link, a satellite link, an internet or intranet link

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

**Explanatory note**

This amendment updates examples in line with current legislative drafting practice.

## **Part 3.46 Race and Sports Bookmaking Act 2001**

**[3.143] Dictionary, new definitions of *agent*, *betting dispute* and *bookmaker***

*insert*

*agent*, for division 6.2 (Betting disputes referred to commission)—see section 56.

*betting dispute*, for division 6.2 (Betting disputes referred to commission)—see section 56.

*bookmaker*, for division 6.2 (Betting disputes referred to commission)—see section 56.

**Explanatory note**

This amendment inserts signpost definitions in the dictionary for division 6.2 definitions.

## Part 3.47                            Radiation Protection Act 2006

### [3.144]    Section 84 (2), examples

*substitute*

#### Examples

a phone link, a satellite link, an internet or intranet link

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

#### Explanatory note

This amendment updates examples in line with current legislative drafting practice.

## Part 3.48                            Registrar-General Act 1993

### [3.145]    Section 8

*substitute*

#### 8                            Protection of registrar-general etc from liability

- (1) A protected person is not personally liable for conduct engaged in honestly and without recklessness—
  - (a) in the exercise of a function under this Act; or
  - (b) in the reasonable belief that the conduct was in the exercise of a function under this Act.

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

- (2) Any liability that would, apart from this section, attach to the protected person attaches instead to the Territory.
- (3) In this section:

***conduct*** means an act or an omission to do an act.

*protected person* means a person who is, or has been—

- (a) the registrar-general; or
- (b) the deputy registrar-general.

**Explanatory note**

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

## **Part 3.49                      Remuneration Tribunal Act 1995**

### **[3.146]    Section 4 (2), new notes**

*insert*

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

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

**Explanatory note**

This amendment adds standard notes about appointments.

### **[3.147]    Section 4 (3)**

*substitute*

- (3) An appointment must be 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, s 208 and dict, pt 1, def *appoint*).

**Explanatory note**

This amendment updates language in line with current legislative drafting practice and adds a standard note about appointments.

## Part 3.50            Residential Tenancies Act 1997

### [3.148]    Section 48 (1) (a) (i)

*omit*

due and payable

*substitute*

that has become payable

#### **Explanatory note**

This amendment updates language in line with current drafting practice.

### [3.149]    Section 49 (1) (a)

*omit*

due and payable

*substitute*

that has become payable

#### **Explanatory note**

This amendment updates language in line with current drafting practice.

### [3.150]    Section 49 (2) (a)

*substitute*

- (a) the tenant has paid any rent that has become payable and is, in the tribunal's opinion, reasonably likely to pay future rent as it becomes payable; and

#### **Explanatory note**

This amendment updates language in line with current drafting practice.

**[3.151] Section 49 (3)**

*substitute*

- (3) Subsection (3A) applies if—
- (a) the tenant is, in the tribunal’s opinion, reasonably likely to pay the rent that has become payable as well as pay future rent as it becomes payable; and
  - (b) the tenant agrees to pay the rent that has become payable, and undertakes to pay future rent as it becomes payable, as required by the tribunal.
- (3A) Instead of making a termination and possession order under subsection (1), the tribunal may order (***conditional termination and possession order***) that if the tenant fails to pay the rent that has become payable, or future rent as it becomes payable, as required by the tribunal—
- (a) the tenancy terminates at a stated hour on the day after the day when any rent becomes payable and is not paid; and
  - (b) the lessor becomes entitled to possession of the premises and all rent payable is payable immediately.

**Explanatory note**

This amendment updates language and structure in line with current drafting practice.

**[3.152] Section 112 (1) and (2)**

*substitute*

- (1) The president must be a magistrate appointed by the Minister.

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

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

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

(2) An appointment must be 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, s 208 and dict, pt 1, def *appoint*).

**Explanatory note**

This amendment updates language in line with current legislative drafting practice and adds standard notes about appointments.

**[3.153] Section 112 (4)**

*omit*

, in writing,

**Explanatory note**

This amendment omits the requirement for appointments to be in writing. This requirement is now in the Legislation Act, section 206 (1).

**[3.154] Section 113**

*omit*

**Explanatory note**

This amendment omits an unnecessary provision. The Legislation Act, section 209 provides for the making of acting appointments. A standard note about acting appointments has been included in section 112 by another amendment.

**[3.155] Section 116 (1), new notes**

*insert*

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

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

**Explanatory note**

This amendment inserts standard notes about appointments.



**[3.156] Section 116 (3) and (4)**

*omit*

**Explanatory note**

This amendment omits the requirement for appointments and ending of appointments to be in writing. This requirement is now in the Legislation Act, section 206 (1) and section 208.

**[3.157] Section 119**

*omit*

**Explanatory note**

This amendment omits a provision about deputy registrars. Section 114 already deals with deputy registrars.

**[3.158] Section 123A (2), new note**

*insert*

*Note* For other provisions about forms, see the Legislation Act, section 255.

**Explanatory note**

This amendment inserts a standard note about forms.

## **Part 3.51 Road Transport (Driver Licensing) Regulation 2000**

**[3.159] Dictionary, note 3, new dot point**

*insert*

- public vehicle

**Explanatory note**

This amendment inserts a term in the list of terms used in the regulation that are defined in the *Road Transport (Driver Licensing) Act 1999*.

**[3.160]    Dictionary, definition of *public vehicle***

*omit*

**Explanatory note**

This amendment omits the definition of *public vehicle*, which is defined by reference to the *Road Transport (General) Act 1999*, section 158. That section is in the *Road Transport (General) Act 1999*, part 10, which is to be omitted by the *Road Transport (Third-party Insurance) Act 2008*. The *Road Transport (Driver Licensing) Act 1999*, dictionary currently defines *public vehicle* by reference to the *Road Transport (Public Passenger Services) Act 2001*. Consequently, another amendment inserts the term ‘public vehicle’ in the dictionary, note 3. That note lists terms used in the regulation that are defined in the *Road Transport (Driver Licensing) Act 1999*.

## **Part 3.52                            Road Transport (General)    Regulation 2000**

**[3.161]    Section 29 (2)**

*omit*

reasonably believes

*insert*

believes on reasonable grounds

**Explanatory note**

This amendment updates language in line with current legislative drafting practice.

## **Part 3.53                      Spent Convictions Act 2000**

### **[3.162]    Section 19 (6)**

*omit*

Section 6

*insert*

Section 16

#### **Explanatory note**

This amendment corrects a cross-reference.

## **Part 3.54                      Superannuation (Legislative Assembly Members) Act 1991**

### **[3.163]    Sections 8 and 9**

*substitute*

#### **8                      Chair of board**

The Speaker or, in the absence of the Speaker, the Deputy Speaker is the chair of the board.

#### **9                      Secretary of board**

The chief executive of the administrative unit responsible for the *Financial Management Act 1996* is the secretary of the board.

#### **Explanatory note**

This amendment updates these sections in line with current drafting practice. In particular:

- ‘chair’ rather than ‘chairperson’ is used in section 8;
- section 8 is clarified by omitting the reference to ‘where applicable’ and substituting ‘in the absence of the Speaker’ for consistency with section 7;
- the redundant reference to ‘under Treasurer’ in section 9 is updated.

**[3.164] Sections 10 and 11**

*omit*

chairperson

*substitute*

chair

**Explanatory note**

This amendment is consequential on the remaking of section 9 and section 10 by another amendment.

## **Part 3.55                      Supervised Injecting Place Trial Act 1999**

**[3.165] Section 11 (2)**

*omit*

*Crimes Act 1900*, part 9

*substitute*

Criminal Code, section 717 (Accessory after the fact)

**Explanatory note**

This amendment updates a cross-reference to the *Crimes Act 1900*, part 9 (which dealt only with the offence of being an accessory after the fact in relation to an offence). That part was omitted by the *Criminal Code (Administration of Justice Offences) Amendment Act 2005*.

**[3.166] Section 22 (2) (a)**

*substitute*

- (a) becomes bankrupt, executes a personal insolvency agreement or otherwise applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or

**Explanatory note**

This amendment brings the paragraph into line with the concept of personal insolvency agreement under the *Bankruptcy Act 1966* (Cwlth). Under that Act, personal insolvency agreements have replaced the concepts of deed of assignment, deed of arrangement and composition.

## **Part 3.56 Territory Records Act 2002**

**[3.167] Section 36 (b)**

*substitute*

- (b) if the director becomes bankrupt, executes a personal insolvency agreement or otherwise applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or

**Explanatory note**

This amendment brings the paragraph into line with the concept of personal insolvency agreement under the *Bankruptcy Act 1966* (Cwlth). Under that Act, personal insolvency agreements have replaced the concepts of deed of assignment, deed of arrangement and composition.

## Part 3.57                            Training and Tertiary Education Act 2003

### [3.168]    Section 13 (2) (d)

*substitute*

- (d) if the member becomes bankrupt, executes a personal insolvency agreement or otherwise applies to take the benefit of any law for the relief of bankrupt or insolvent debtors.

#### **Explanatory note**

This amendment brings the paragraph into line with the concept of personal insolvency agreement under the *Bankruptcy Act 1966* (Cwlth). Under that Act, personal insolvency agreements have replaced the concepts of deed of assignment, deed of arrangement and composition.

### [3.169]    Section 60 (3) (b) (ii)

*omit*

reasonably satisfied

*substitute*

satisfied on reasonable grounds

#### **Explanatory note**

This amendment updates language in line with current legislative drafting practice.

## Part 3.58 Utilities Act 2000

### [3.170] Section 180

*substitute*

#### 180 Protection of council members etc from liability

- (1) A protected person is not personally liable for conduct engaged in honestly and without recklessness—
- (a) in the exercise of a function of the council under this Act; or
  - (b) in the reasonable belief that the conduct was in the exercise of a function under this Act.

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

- (2) Any liability that would, apart from this section, attach to a protected person attaches instead to the Territory.
- (3) In this section:

***conduct*** means an act or an omission to do an act.

***protected person*** means a person who is, or has been—

- (a) a member of the council; or
- (b) the registrar; or
- (c) a public servant acting under an arrangement mentioned in section 179.

#### Explanatory note

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

## Part 3.59                      Victims of Crime (Financial Assistance) Act 1983

### [3.171] Section 67 heading

*substitute*

#### 67                      Extended meaning of *convicted*—pt 5

##### Explanatory note

This amendment corrects the heading.

### [3.172] Dictionary, definitions of *amount of financial assistance, applicant, application, assisted person, convicted, conviction, defendant, notice of objection, order for restriction, provisional order for restriction, recovery proceedings and related crime*

*substitute*

*amount of financial assistance*, if section 5 (References to applications and awards made on behalf of other people) applies—see section 5 (2) (c).

*applicant*, if section 5 (References to applications and awards made on behalf of other people) applies—see section 5 (2) (a).

*application*—

- (a) for this Act generally—means an application to the Magistrates Court for an award of financial assistance under this Act; and
- (b) if section 5 (References to applications and awards made on behalf of other people) applies—see section 5 (2) (b).

*assisted person*, for part 4 (Recovery of financial assistance)—see section 52.



**convicted**, of an offence—

- (a) if section 6 (References to convictions—finding of proof without proceeding to conviction) applies—see section 6 (2) (a); and
- (b) for part 5 (Compensation levy)—see section 67.

**conviction**, if section 6 (References to convictions—finding of proof without proceeding to conviction) applies—see section 6 (2) (b).

**defendant**, for part 4 (Recovery of financial assistance)—see section 52.

**notice of objection**, for part 4 (Recovery of financial assistance)—see section 52.

**order for restitution**, for part 4 (Recovery of financial assistance)—see section 52.

**provisional order for restitution**, for part 4 (Recovery of financial assistance)—see section 52.

**recovery proceedings**, for part 4 (Recovery of financial assistance)—see section 52.

**related crime**, for part 4 (Recovery of financial assistance)—see section 52.

**Explanatory note**

This amendment revises definitions to correct references to the relevant provisions.

## Part 3.60                            Victims of Crime Regulation 2000

### [3.173]    Section 11 (3) (b)

*substitute*

- (b) if the member becomes bankrupt, executes a personal insolvency agreement or otherwise applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or

#### **Explanatory note**

This amendment brings the paragraph into line with the concept of personal insolvency agreement under the *Bankruptcy Act 1966* (Cwlth). Under that Act, personal insolvency agreements have replaced the concepts of deed of assignment, deed of arrangement and composition.

## Part 3.61                            Witness Protection Act 1996

### [3.174]    Section 27

*substitute*

#### **27            Protection from liability**

- (1) A person is not personally liable for conduct engaged in honestly and without recklessness—
- (a) in the exercise of a function under this Act; or
- (b) in the reasonable belief that the conduct was in the exercise of a function under this Act.

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

- (2) Any liability that would, apart from this section, attach to the person attaches instead to the Territory.

(3) In this section:

*conduct* means an act or an omission to do an act.

**Explanatory note**

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

## **Part 3.62 Workers Compensation Act 1951**

### **[3.175] Schedule 3, section 3.18 (2), examples**

*substitute*

**Examples**

a phone link, a satellite link, an internet or intranet link

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

**Explanatory note**

This amendment updates examples in line with current legislative drafting practice.

## **Part 3.63 Workers Compensation Regulation 2002**

### **[3.176] Section 40 (2)**

*omit*

reasonably believes

*insert*

believes on reasonable grounds

**Explanatory note**

This amendment updates language in line with current legislative drafting practice.

---

## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 26 June 2008.

**2 Notification**

Notified under the Legislation Act on 12 August 2008.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

---

I certify that the above is a true copy of the Statute Law Amendment Bill 2008, which was passed by the Legislative Assembly on 5 August 2008.

Clerk of the Legislative Assembly

© Australian Capital Territory 2008