



Australian Capital Territory

Statute Law Amendment Act 2011 (No 2)

A2011-28

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Australian Capital Territory

Statute Law Amendment Act 2011 (No 2)

A2011-28

An Act to amend 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 2011 (No 2)*.

2 Commencement

- (1) This Act commences on the 21st day after its notification day.

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

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

- (3) In this section:

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

Example

An amendment followed by ‘(commencement: the later of the commencement of this Act and the *Road Transport (Alcohol and Drugs) Legislation Amendment Act 2011*)’ means that the amendment commences on the later of the commencement of this Act and the *Road Transport (Alcohol and Drugs) Legislation Amendment Act 2011*.

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

3 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.

6 Legislation repealed—sch 4

This Act repeals the legislation mentioned in schedule 4.

Schedule 1 Minor amendments

(see s 5)

Part 1.1 Road Transport (Alcohol and Drugs) Act 1977

[1.1] Section 41AA (2) (f) and note

substitute

- (f) that the person—
- (i) was unable to provide a sufficient sample of the person's oral fluid for analysis; or
 - (ii) failed to provide a sample of the person's oral fluid for analysis.

Note **Fail** includes refuse (see Legislation Act, dict, pt 1).

Explanatory note

Section 41AA (2) deals with the requirements relating to the evidentiary certificate given by a police officer in relation to a person who has not undergone an oral fluid test when requested to do so by the police officer. Currently, section 41AA (2) (f) refers to a statement by the police officer to the effect that the person failed to provide a sample of oral fluid for analysis. New paragraph (f) (i) relates to the situation in section 15 (1) (c) where a person may be required to allow a sample of blood to be taken because the person has been unable to provide a sufficient sample of the person's oral fluid for analysis.

[1.2] New section 41AA (5)

insert

- (5) A certificate that appears to be signed by a person who is a doctor or nurse (a **sample taker**) and states a matter relevant to any of the following is evidence of the matter:
- (a) that the person is a doctor or nurse;
 - (b) that the sample taker attended a person mentioned in the certificate (the **relevant person**) on a stated day, at a stated time, in a stated hospital or sampling facility;
 - (c) if the relevant person is a person mentioned in section 15 (1) (Taking blood samples from people in custody)—that a police officer has asked the sample taker to take a sample of the person's blood;
 - (d) that the sample taker took a sample of blood from the relevant person;
 - (e) that the sample taker placed the blood sample into a container;
 - (f) that the sample taker attached a label to the container that contained the following information:
 - (i) the sample taker's name;
 - (ii) the relevant person's name;
 - (iii) the date and time the blood sample was taken;
 - (g) that the sample taker sealed the container with a tamper-evident seal that had a stated unique identifying number marked on it;
 - (h) that the sample taker placed the sealed container into a one-way box;

- (i) if the sample was taken under section 15—that, when the sample was taken, the sample taker was of the opinion that the relevant person was, at that time, because of the person’s medical condition, incapable of giving or refusing permission to take a blood sample.

(commencement: the later of the commencement of this Act and the *Road Transport (Alcohol and Drugs) Legislation Amendment Act 2011*)

Explanatory note

This amendment inserts a new subsection in section 41AA setting out the information that must be included in an evidentiary certificate given by a doctor or nurse in relation to a blood sample taken from a person who has failed, or has been unable, to give a sample of oral fluid. Proposed paragraph (5) (b) refers to a ‘sampling facility’, which is a term inserted in the Act by the *Road Transport (Alcohol and Drugs) Legislation Amendment Act 2011*. A special commencement provision has been included in case the *Statute Law Amendment Act 2011 (No 2)* commences before the *Road Transport (Alcohol and Drugs) Legislation Amendment Act 2011*.

Schedule 2 Legislation Act 2001

(see s 5)

[2.1] Section 26 (1) (a)

omit

or the gazette

substitute

, the gazette or otherwise under section 28 (2) (b)

Explanatory note

This amendment is consequential on changes made to section 28 (2) (b) by another amendment.

[2.2] Section 26 (1) (b)

omit

or the gazette

substitute

, the gazette or otherwise under section 61 (2) (b)

Explanatory note

This amendment is consequential on changes made to section 61 (2) (b) by another amendment.

[2.3] Section 28 (2) (b)

substitute

- (b) if it is not practicable to notify the making of the proposed law in the register—notify the making of the law in another place the parliamentary counsel considers appropriate.

Examples—other places

- 1 another government website
- 2 the gazette
- 3 outside the Legislative Assembly

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

Under the Legislation Act, notification of a proposed law passed by the Legislative Assembly is necessary for it to become an Act. ‘Notification’ in this context means notification in the legislation register, or if that is not practicable, in the gazette (see s 28 (2)).

This amendment proposes to broaden the options available for the notification of the making of a proposed law if the legislation register is temporarily unavailable for technical or other reasons.

Under section 28 (2) (b) as revised by this amendment, a proposed law may be notified in another place the parliamentary counsel considers appropriate. The gazette is one example of a place that may be appropriate.

The legislation register has been in operation since 12 September 2001. To date, it has always been possible to notify material on the register on the date requested. However, it is a prudent and necessary part of risk management planning to have alternatives in place should the need arise. A similarly flexible approach has been taken in the equivalent NSW provision (see *Interpretation Act 1987* (NSW), s 45C).

[2.4] Section 28 (5) to (9)*substitute*

- (5) The making of the proposed law is notified under subsection (2) (b) by—
- (a) publishing the text of the law in the place decided by the parliamentary counsel under subsection (2) (b); or
 - (b) publishing in that place a statement that—
 - (i) the law has been passed by the Legislative Assembly; and
 - (ii) copies of the law can be obtained at a stated place or stated places (whether by purchase or otherwise).
- (6) If the making of the proposed law is notified under subsection (2) (b), the parliamentary counsel must as soon as practicable enter in the register—
- (a) a statement that the law—
 - (i) has been passed by the Legislative Assembly; and
 - (ii) was notified in the stated place on a stated date; and
 - (b) the text of the law.
- (7) If the making of the proposed law is notified by publishing the statement mentioned in subsection (5) (b), copies of the law must be available on the day of publication, or as soon as practicable after that day, at the stated place or each of the stated places.
- (8) If on that day no copies of the law are available at the stated place or any of the stated places, the parliamentary counsel must give the Minister a statement—
- (a) that copies of the law were not available; and
 - (b) explaining why they were not available.

- (9) The Minister must present the statement to the Legislative Assembly not later than 6 sitting days after receiving it.

Explanatory note

This amendment remakes section 28 (5) to (9) to make consequential amendments necessary to accommodate the changes made to section 28 (2) by the previous amendment.

[2.5] Sections 29 and 30

omit

or the gazette

substitute

, the gazette or otherwise under section 28 (2) (b)

Explanatory note

This amendment is consequential on changes made to section 28 (2) (b) by another amendment.

[2.6] Section 61 (2) (b)

substitute

- (b) if it is not practicable to notify the making of the instrument in the register—notify the making of the instrument in another place the parliamentary counsel considers appropriate.

Examples—other places

- 1 another government website
- 2 the gazette
- 3 outside the Legislative Assembly

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

Under the Legislation Act, a legislative instrument is not enforceable unless it is notified. ‘Notification’ in this context means notification in the legislation register, or if that is not practicable, in the gazette (see s 61 (2)).

This amendment proposes to broaden the options available for the notification of the making of a legislative instrument if the legislation register is temporarily unavailable for technical or other reasons.

Under section 61 (2) (b) as revised by this amendment, a legislative instrument may be notified in another place the parliamentary counsel considers appropriate. The gazette is one example of a place that may be appropriate.

The legislation register has been in operation since 12 September 2001. To date, it has always been possible to notify material on the register on the date requested. However, it is a prudent and necessary part of risk management planning to have alternatives in place should the need arise. A similarly flexible approach has been taken in the equivalent NSW provision (see *Interpretation Act 1987* (NSW), s 45C).

[2.7] Section 61 (4) to (8)

substitute

- (4) The making of the legislative instrument is notified under subsection (2) (b) by—
 - (a) publishing the text of the instrument in the place decided by the parliamentary counsel under subsection (2) (b); or
 - (b) publishing in that place a statement that—
 - (i) the instrument has been made; and
 - (ii) copies of the instrument can be obtained at a stated place or stated places (whether by purchase or otherwise).
- (5) If the making of the legislative instrument is notified under subsection (2) (b), the parliamentary counsel must as soon as practicable enter in the register—
 - (a) a statement that the instrument—
 - (i) has been made; and
 - (ii) was notified in the stated place on a stated date; and
 - (b) the text of the instrument.

- (6) If the making of the legislative instrument is notified by publishing the statement mentioned in subsection (4) (b), copies of the instrument must be available on the day of publication, or as soon as practicable after that day, at the stated place or each of the stated places.
- (7) If on that day no copies of the legislative instrument are available at the stated place or any of the stated places, the parliamentary counsel must give the Minister a statement—
 - (a) that copies of the instrument were not available; and
 - (b) explaining why they were not available.
- (8) The Minister must present the statement to the Legislative Assembly not later than 6 sitting days after receiving it.

Explanatory note

This amendment remakes section 61 (4) to (8) to make consequential amendments necessary to accommodate the changes made to section 61 (2) by the previous amendment.

[2.8] Section 63

omit

or gazette

substitute

, the gazette or otherwise under section 61 (2) (b)

Explanatory note

This amendment is consequential on changes made to section 61 (2) (b) by another amendment.

[2.9] Section 65A (2) (b)*substitute*

- (b) if it is not practicable to notify the disallowance in the register—notify the disallowance in another place the parliamentary counsel considers appropriate.

Examples—other places

- 1 another government website
- 2 the gazette
- 3 outside the Legislative Assembly

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

Under the Legislation Act, if a subordinate law or disallowable instrument is disallowed by resolution of the Legislative Assembly, the Speaker must ask the parliamentary counsel to notify the disallowance. ‘Notification’ in this context means notification in the legislation register, or if that is not practicable, in the gazette (see s 65A (2)).

This amendment proposes to broaden the options available for the notification of a disallowance if the legislation register is temporarily unavailable for technical or other reasons.

Under section 65A (2) (b) as revised by this amendment, a disallowance may be notified in another place the parliamentary counsel considers appropriate. The gazette is one example of a place that may be appropriate.

The legislation register has been in operation since 12 September 2001. To date, it has always been possible to notify material on the register on the date requested. However, it is a prudent and necessary part of risk management planning to have alternatives in place should the need arise.

[2.10] Section 65A (5)

omit

in the gazette by publishing in the gazette

substitute

under subsection (2) (b) by publishing in the place decided by the parliamentary counsel under that subsection

Explanatory note

This amendment is consequential on changes made to section 65A (2) (b) by another amendment.

[2.11] Section 65A (6)

omit

in the gazette,

substitute

under subsection (2) (b),

Explanatory note

This amendment is consequential on changes made to section 65A (2) (b) by another amendment.

[2.12] Section 65A (6) (b)

omit

in the gazette

substitute

under subsection (2) (b) in a stated place

Explanatory note

This amendment is consequential on changes made to section 65A (2) (b) by another amendment.

[2.13] Section 69 (2) (b)*substitute*

- (b) if it is not practicable to notify the amendment in the register—
notify the amendment in another place the parliamentary
counsel considers appropriate.

Examples—other places

- 1 another government website
- 2 the gazette
- 3 outside the Legislative Assembly

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

Under the Legislation Act, if a subordinate law or disallowable instrument is amended by resolution of the Legislative Assembly, the Speaker must ask the parliamentary counsel to notify the amendment. ‘Notification’ in this context means notification in the legislation register, or if that is not practicable, in the gazette (see s 69 (2)).

This amendment proposes to broaden the options available for the notification of an amendment if the legislation register is temporarily unavailable for technical or other reasons.

Under section 69 (2) (b) as revised by this amendment, an amendment may be notified in another place the parliamentary counsel considers appropriate. The gazette is one example of a place that may be appropriate.

The legislation register has been in operation since 12 September 2001. To date, it has always been possible to notify material on the register on the date requested. However, it is a prudent and necessary part of risk management planning to have alternatives in place should the need arise.

[2.14] Section 69 (5)

omit

in the gazette by publishing in the gazette

substitute

under subsection (2) (b) by publishing in the place decided by the parliamentary counsel under that subsection

Explanatory note

This amendment is consequential on changes made to section 69 (2) (b) by another amendment.

[2.15] Section 69 (6)

omit

in the gazette,

substitute

under subsection (2) (b),

Explanatory note

This amendment is consequential on changes made to section 69 (2) (b) by another amendment.

[2.16] Section 69 (6) (b)

omit

in the gazette

substitute

under subsection (2) (b) in a stated place

Explanatory note

This amendment is consequential on changes made to section 69 (2) (b) by another amendment.

[2.17] Section 100 (2) (b)

omit

or gazette

substitute

, the gazette or otherwise under section 61 (2) (b)

Explanatory note

This amendment is consequential on changes made to section 61 (2) (b) by another amendment.

[2.18] Section 302 (2) and (3)

omit

Explanatory note

This amendment is consequential on changes made to sections 28, 61, 65A and 69 by other amendments.

[2.19] Dictionary, part 1, new definition of *bank holiday*

insert

bank holiday means a day that is a bank holiday in the ACT under the *Holidays Act 1958*, section 4.

Explanatory note

This amendment inserts a definition of ***bank holiday***, a commonly-used term. The insertion of the definition in the Legislation Act, dictionary, part 1, will help users of legislation to find out which days are bank holidays in the ACT.

[2.20] Dictionary, part 1, definition of *business day*, paragraph (b)

omit

under the *Holidays Act 1958*

Explanatory note

This amendment omits words that are now redundant as a consequence of the insertion of definitions of ***bank holiday*** and ***public holiday*** in the Legislation Act, dictionary, part 1 by other amendments.

[2.21] Dictionary, part 1, definition of *dental technician*

omit

Explanatory note

This amendment is consequential on amendments of the *Health Professionals Regulation 2004* by the *Health Professionals Amendment Regulation 2010 (No 2)* which had the effect of deregulating dental technicians. Because the term is no longer commonly used in laws or statutory instruments, a definition of *dental technician* is not needed in the Legislation Act, dictionary, part 1. A new definition of *dental technician* is inserted in the *Health Act 1993*, dictionary by another amendment.

[2.22] Dictionary, part 1, new definition of *public holiday*

insert

public holiday means a day that is a public holiday in the ACT under the *Holidays Act 1958*, section 3.

Explanatory note

This amendment inserts a definition of *public holiday*, a commonly-used term. The insertion of the definition in the Legislation Act, dictionary, part 1, will help users of legislation to find out which days are public holidays in the ACT.

[2.23] Dictionary, part 1, definition of *working day*, paragraph (b)

omit

under the *Holidays Act 1958*

Explanatory note

This amendment omits words that are now redundant as a consequence of the insertion of definitions of *bank holiday* and *public holiday* in the Legislation Act, dictionary, part 1 by other amendments.

Schedule 3 Technical amendments

(see s 5)

Part 3.1 Aboriginal and Torres Strait Islander Elected Body Act 2008

[3.1] Dictionary, note 2

insert

- public holiday

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment inserts a new defined term in the list of terms defined in the Legislation Act as a consequence of the insertion of a definition of *public holiday* in the Legislation Act, dictionary, part 1 by another amendment.

Part 3.2 Annual Leave Act 1973

[3.2] Section 7 (4)

omit

, in writing,

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 206 (1), which requires all appointments to be made or evidenced by writing.

[3.3] Section 16 (1)

omit

, in writing,

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

[3.4] New section 18

insert

18 Transitional—Fair Work Act (Cwlth)

- (1) For the dictionary, definition of ***agreement***, a reference to an enterprise agreement made under the *Fair Work Act 2009* (Cwlth) includes a reference to an agreement-based transitional instrument within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth), schedule 3, part 2.
- (2) For the dictionary, definition of ***award***, a reference to a modern award made under the *Fair Work Act 2009* (Cwlth) includes a reference to an award-based transitional instrument within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth), schedule 3, part 2.
- (3) This section expires 1 year after the day it commences.

Explanatory note

This amendment inserts transitional arrangements to ensure that transitional instruments under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth), schedule 3, part 2 are included in the definitions of ***agreement*** and ***award***. Those definitions are updated by other amendments to take account of changes to the workplace relations system by the *Fair Work Act 2009* (Cwlth). The *Fair Work Act 2009* (Cwlth) replaced significant parts of the *Workplace Relations Act 1996* (Cwlth).

[3.5] Dictionary, note 2

insert

- public holiday

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment inserts a new defined term in the list of terms defined in the Legislation Act as a consequence of the insertion of a definition of *public holiday* in the Legislation Act, dictionary, part 1 by another amendment.

[3.6] Dictionary, definition of *agreement*

substitute

agreement means an enterprise agreement made under the *Fair Work Act 2009* (Cwlth).

Explanatory note

This amendment updates the definition as a consequence of changes made to the workplace relations system by the *Fair Work Act 2009* (Cwlth), which replaced significant parts of the *Workplace Relations Act 1996*.

[3.7] Dictionary, definition of *award*

substitute

award means a modern award made under the *Fair Work Act 2009* (Cwlth).

Explanatory note

This amendment updates the definition as a consequence of changes made to the workplace relations system by the *Fair Work Act 2009* (Cwlth), which replaced significant parts of the *Workplace Relations Act 1996*.

[3.8] Dictionary, definition of *shiftworker*

substitute

shiftworker means—

- (a) a person who is a shiftworker within the meaning of an award;
or
- (b) a person who is a shiftworker within the meaning of an agreement; or
- (c) a person (other than a person to whom an award or an agreement applies) who—
 - (i) is rostered or required to start work after 8 pm and before 6.30 am; or
 - (ii) having started work before 8 pm, is required, for the purpose of completing the person's ordinary hours of work, to continue work until after that time.

Explanatory note

This amendment updates the definition as a consequence of changes made to the definition of *agreement* by another amendment.

Part 3.3 Associations Incorporation Act 1991

[3.9] Section 14 (2) (e)

substitute

- (e) is capable of applying for registration as an organisation under the *Fair Work (Registered Organisations) Act 2009* (Cwlth), chapter 2, part 2.

Explanatory note

This amendment updates a cross-reference as a consequence of amendments of the *Workplace Relations Act 1996* (Cwlth). The *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth) changed the name of the *Workplace Relations Act 1996* (Cwlth) to the *Fair Work (Registered Organisations) Act 2009* (Cwlth) and made other amendments.

[3.10] Section 83 (8)

omit

in writing

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

[3.11] New section 99 (2)

insert

- (2) In this section:

bankers' books means—

- (a) books of a banking corporation, including any documents used in the ordinary business of a banking corporation; and
- (b) cheques, orders for the payment of money, bills of exchange and promissory notes in the possession or under the control of a banking corporation; and

- (c) securities or documents of title to securities in the possession or under the control of a banking corporation whether by way of pledge or otherwise.

Explanatory note

This amendment relocates from the dictionary a definition of a term that is used only in section 99. This is in line with current legislative drafting practice. The definition is omitted from the dictionary by another amendment.

[3.12] Section 121 (1)

omit 2nd mention of

in the ACT

Explanatory note

This amendment omits words that are unnecessary as a consequence of the inclusion of a definition of *public holiday* in the Legislation Act, dictionary, part 1. The definition makes it clear that a reference to ‘public holiday’ in an Act or statutory instrument is a reference to a public holiday in the ACT.

[3.13] Dictionary, note 2

insert

- public holiday

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment inserts a new defined term in the list of terms defined in the Legislation Act as a consequence of the insertion of a definition of *public holiday* in the Legislation Act, dictionary, part 1 by another amendment.

[3.14] Dictionary, definition of *banker’s books*

omit

Explanatory note

This amendment is consequential on the inclusion of a definition of *bankers’ books* in section 99 by another amendment.

[3.15] Dictionary, definitions of *books*

substitute

books—

- (a) for this Act generally—includes any register or other record of information and any accounts or accounting records, however compiled, recorded or stored and any other document; and
- (b) for part 8 (Investigation of association's affairs)—see section 99 (1).

Explanatory note

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

[3.16] Dictionary, definition of *commencement date*

omit

Explanatory note

This amendment is consequential on the amendment of the definition of *repealed Act* by another amendment.

[3.17] Dictionary, definition of *repealed Act*

omit

the commencement date

substitute

1 January 1992

Explanatory note

This amendment replaces the term 'commencement date' with the date that is defined in the dictionary as being the commencement date. The term 'commencement date' is used only in the definition of *repealed Act*.

Part 3.4 Casino Control Act 2006

[3.18] Section 143 (1)

omit

, in writing,

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable instruments to be in writing.

[3.19] Dictionary, note 2

insert

- public holiday

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment inserts a new defined term in the list of terms defined in the Legislation Act as a consequence of the insertion of a definition of *public holiday* in the Legislation Act, dictionary, part 1 by another amendment.

Part 3.5 Children and Young People Act 2008

[3.20] Section 3, note 1

substitute

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

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

Explanatory note

This amendment updates the note to include a different example of a signpost definition. The current example, 'mental health disorder', is omitted from the dictionary by another amendment.

[3.21] Section 19 (6), new definition of *health care assessment*

insert

health care assessment, of a child or young person, means an assessment of the child's or young person's physical or mental wellbeing (including admission to hospital).

Explanatory note

This amendment relocates from the dictionary a definition of a term that is used only in section 19. This is in line with current legislative drafting practice. The definition is omitted from the dictionary by another amendment.

[3.22] New section 898 (3)

insert

(3) In this section:

body includes an agency or organisation.

Explanatory note

This amendment relocates the definition of *body* from the dictionary. *Body* is only used in the context of the definition in section 898 (2) (b). All other references to ‘body’ in the Act are in the context of the human body.

[3.23] Dictionary, note 2

insert

- public holiday

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment inserts a new defined term in the list of terms defined in the Legislation Act as a consequence of the insertion of a definition of *public holiday* in the Legislation Act, dictionary, part 1 by another amendment.

[3.24] Dictionary, note 2

omit

- children and young people commissioner
- director of corrective services

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment omits terms that have been included in the list but are not used in this Act and, in the case of the term ‘director of corrective services’, is not defined in the Legislation Act, dictionary, part 1.

[3.25] Dictionary, definition of *accredited person*, paragraph (b)

substitute

- (b) for a child or young person in therapeutic protection, for division 16.3.3 (Visits by accredited people)—see section 576.

Explanatory note

This amendment updates the language of paragraph (b) to be consistent with current legislative drafting style.

[3.26] Dictionary, definition of *behaviour management consequence*, paragraph (b)

omit

charged

substitute

charge

Explanatory note

This amendment corrects a cross-reference.

[3.27] Dictionary, definition of *body*

omit

Explanatory note

This amendment is consequential on the inclusion of a definition of *body* in section 898 by another amendment.

[3.28] Dictionary, definitions of *body search* and *care and protection appraisal*

substitute

body search—

- (a) of a young detainee, for chapter 7 (Criminal matters—search and seizure at detention places)—see section 246; and
- (b) of a child or young person, for part 16.3 (Children and young people in therapeutic protection)—see section 588.

care and protection appraisal, for the care and protection chapters—see section 366.

Explanatory note

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

[3.29] Dictionary, definition of *childcare service licence*, *childcare worker*, *child concern report* and *child welfare law*

substitute

childcare service licence, for chapter 20 (Childcare services)—see section 728 (2).

childcare worker, for chapter 20 (Childcare services)—see section 728 (1).

child concern report—see section 353.

child welfare law—see section 640 (1).

Explanatory note

This amendment revises definitions to correct cross-references.

[3.30] Dictionary, definition of *court cell*

omit

Explanatory note

This amendment omits a redundant definition. The term ‘court cell’ is mentioned in a note to section 100 as part of a cross-reference to the *Corrections Management Act 2007*, section 33 and section 33A. As the term appears only in the heading to each of those provisions, it does not need to be defined for the Act.

[3.31] Dictionary, definition of *criminal matters chapters*

omit

chapters

substitute

chapter

Explanatory note

This amendment corrects a typographical error.

[3.32] Dictionary, definitions of *divulge* and *family member*

substitute

divulge, for chapter 25 (Information secrecy and sharing)—see section 842 (2).

family member, of a child or young person—see section 13.

Explanatory note

This amendment revises definitions to correct cross-references.

[3.33] Dictionary, definition of *health care assessment*

omit

Explanatory note

This amendment is consequential on the inclusion of a definition of *health care assessment* in section 19 (6) by another amendment.

[3.34] Dictionary, definition of *information and information sharing entity*

substitute

information, for chapter 25 (Information secrecy and sharing)—see section 842 (2).

information sharing entity, for part 25.3 (Sharing protected information)—see section 859 (1).

Explanatory note

This amendment revises definitions to correct cross-references.

[3.35] Dictionary, definitions of *in need of care and protection* and *in need of emergency therapeutic protection*

substitute

in need of care and protection, for the care and protection chapters—see section 345 (1).

in need of emergency therapeutic protection, for the care and protection chapters—see section 404.

Explanatory note

This amendment revises the definitions to clarify that the terms are defined for the care and protection chapters only.

[3.36] Dictionary, definitions of *intention to cancel notice*, *interstate child welfare order*, *interstate law*, *interstate leave permit*, *interstate officer*, *interstate proceedings transfer order*, *licensed childcare service*, *licensed proprietor*, *long-term care responsibility provision*, *mental dysfunction*

substitute

intention to cancel notice, for chapter 20 (Childcare services)—see section 764 (2).

interstate child welfare order—see section 666 (1).

interstate law, for chapter 17 (Care and protection—interstate transfer of orders and proceedings)—see section 641 (1).

interstate leave permit—see section 242 (1).

interstate officer, for chapter 17 (Care and protection—interstate transfer of orders and proceedings)—see section 642 (1).

interstate proceedings transfer order—see section 672 (1).

licensed childcare service, for chapter 20 (Childcare services)—see section 728 (2).

licensed proprietor, of a childcare service, for chapter 20 (Childcare services)—see section 728 (2).

long-term care responsibility, for a child or young person—see section 20.

mental dysfunction—see section 530 (1).

Explanatory note

This amendment revises the definitions to correct cross-references.

[3.37] Dictionary, definition of *mental health order*

omit

Explanatory note

This amendment omits a redundant definition. The term ‘mental health order’ is mentioned only in an example for section 863 (2) (c) by reference to the *Mental Health (Treatment and Care) Act 1994*. The term, therefore, does not need to be defined for the Act.

[3.38] Dictionary, definitions of *mental illness* and *neglect*

substitute

mental illness—see section 530 (1).

neglect, of a child or young person—see section 343.

Explanatory note

This amendment revises the definitions to correct cross-references and to update the language of the definitions in line with current legislative drafting practice.

[3.39] Dictionary, definition of *paediatrician*

omit

Explanatory note

This amendment omits a redundant definition.

[3.40] Dictionary, definition of *parental responsibility*

substitute

parental responsibility—see section 15.

Explanatory note

This amendment revises the definition to correct a cross-reference.

[3.41] Dictionary, definitions of *parties* and *party*

substitute

parties—

- (a) for a family group conference, for this Act generally—see section 73; and
- (b) for an application, for the care and protection chapters—see section 700 (1).

party, for chapter 12 (Care and protection—voluntary agreements to transfer or share parental responsibility)—see section 396 (1).

Explanatory note

This amendment revises the definitions to correct cross-references and to update the language of the definitions in line with current legislative drafting practice.

[3.42] Dictionary, definition of *police cell*

omit

Explanatory note

This amendment omits a redundant definition.

[3.43] Dictionary, definition of *protected information*

substitute

protected information—see section 844 (1).

This amendment revises the definition to correct a cross-reference.

[3.44] Dictionary, definition of *protection order*

omit

Explanatory note

This amendment omits a redundant definition.

[3.45] Dictionary, definitions of *registered*, *research project*, *reviewable decision*, *significant harm*, *suitable entity*, *therapeutic protection person* and *youth justice principles*

substitute

registered, for a family group conference agreement, for Chapter 12 (Care and protection—voluntary agreements to transfer or share parental responsibility)—see section 389 (2).

research project, for chapter 22 (Research involving children and young people)—see section 806.

reviewable decision, for division 24.1.3 (Notification and review of decisions)—see section 839.

significant harm, for the care and protection chapters—see section 341 (2).

suitable entity, for a stated purpose—see section 61.

therapeutic protection person, for chapter 16 (Care and protection—therapeutic protection of children and young people)—see section 530 (2).

youth justice principles, for the criminal matters chapters—see section 94.

Explanatory note

This amendment revises the definitions to correct cross-references.

[3.46] Further amendments, mentions of *in writing*

omit

, in writing,

in

- section 115 (3)
- section 640 to 642

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

Part 3.6 Crimes (Forensic Procedures) Act 2000

[3.47] Dictionary, note 2

omit

- dental technician

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment is consequential on the omission of the definition of *dental technician* from the Legislation Act, dictionary, part 1 by another amendment.

[3.48] Dictionary, new definition of *dental technician*

insert

dental technician—see the *Health Act 1993*, dictionary.

Explanatory note

This amendment is consequential on insertion of a new definition of *dental technician* in the *Health Act 1993*, dictionary by another amendment.

Part 3.7 Dangerous Substances (Explosives) Regulation 2004

[3.49] Dictionary, note 2

insert

- public holiday

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment inserts a new defined term in the list of terms defined in the Legislation Act as a consequence of the insertion of a definition of *public holiday* in the Legislation Act, dictionary, part 1 by another amendment.

[3.50] Dictionary, definitions of AS 1768 and AS 4326

omit

Explanatory note

This amendment omits redundant definitions.

[3.51] Dictionary, new definition of *exempt storage*

insert

exempt storage, of an explosive mentioned in table 124—see section 124.

Explanatory note

This amendment updates the dictionary by inserting a signpost definition for a term defined in section 124.

Part 3.8 Discrimination Act 1991

[3.52] Sections 30 (2) and 52 (2)

omit

, in writing,

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

[3.53] Section 57B (3), definition of *award*

substitute

award means a modern award made under the *Fair Work Act 2009* (Cwlth).

Explanatory note

This amendment updates the definition as a consequence of changes made to the workplace relations system by the *Fair Work Act 2009* (Cwlth), which replaced significant parts of the *Workplace Relations Act 1996*.

[3.54] New section 57B (4) and (5)

insert

- (4) For the definition of *award*, a reference to a modern award made under the *Fair Work Act 2009* (Cwlth) includes a reference to an award-based transitional instrument within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth), schedule 3, part 2.

- (5) Subsection (4) and this subsection expire 1 year after the day this subsection commences.

Explanatory note

This amendment inserts transitional arrangements in section 57B to ensure that transitional instruments under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth), schedule 3, part 2 are included in the definition of **award**. That definition is updated by another amendment to take account of changes to the workplace relations system by the *Fair Work Act 2009* (Cwlth). The *Fair Work Act 2009* (Cwlth) replaced significant parts of the *Workplace Relations Act 1996* (Cwlth).

[3.55] Dictionary, note 2

omit

- external Territory
- individual

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment omits redundant terms.

Part 3.9 Districts Act 2002

[3.56] Section 5 (3)

omit

, in writing,

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

[3.57] Sections 12 (2) and 13 (3), new note

insert

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 inserts a standard note about examples.

[3.58] Section 14 (1)

omit

written

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

Part 3.10 Drugs In Sport Act 1999

[3.59] Long title

omit

Australian Sports Drug Agency

substitute

Australian Sports Anti-Doping Authority

Explanatory note

This amendment corrects a cross-reference. The Act was amended in 2007 to replace references to the Australian Sports Drug Agency (*ASDA*) with references to the Australian Sports Anti-Doping Authority as a consequence of the repeal of the *Australian Sports Drug Agency Act 1990* (Cwlth) and the enactment of the *Australian Sports Anti-Doping Authority Act 2006* (Cwlth). The reference to the Australian Sports Drug Agency in the long title was overlooked when the earlier amendments were made.

Part 3.11 Electoral Act 1992

[3.60] Section 12B (2), new definition of *judge*

insert

judge means—

- (a) a judge of the Supreme Court; or
- (b) a judge of the Supreme Court of a State or another Territory; or
- (c) a judge of the Federal Court or Family Court.

Explanatory note

This amendment relocates a definition of *judge* from the dictionary. Judge is mentioned only in section 12B. The definition is omitted from the dictionary by another amendment.

[3.61] Section 35 (2)

substitute

- (2) A determination may be made only after any investigation under section 52 (Objections to augmented electoral commission's proposal) is finished.

Explanatory note

This amendment remakes subsection (2) to omit words that are now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

[3.62] Section 119 (1)

omit

, in writing

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

[3.63] Section 125 (1)

omit

in writing

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable instruments to be in writing.

[3.64] Section 136B (1), definition of *relevant period*, paragraph (a)

omit

in the ACT

Explanatory note

This amendment omits words that are unnecessary as a consequence of the inclusion of a definition of *public holiday* in the Legislation Act, dictionary, part 1. The definition makes it clear that a reference to ‘public holiday’ in an Act or statutory instrument is a reference to a public holiday in the ACT.

[3.65] Section 136C (1), definition of *relevant period*, paragraph (a)

omit

in the ACT

Explanatory note

This amendment omits words that are unnecessary as a consequence of the inclusion of a definition of *public holiday* in the Legislation Act, dictionary, part 1. The definition makes it clear that a reference to ‘public holiday’ in an Act or statutory instrument is a reference to a public holiday in the ACT.

[3.66] Section 160 (2)

substitute

- (2) Subsection (2A) applies if—
- (a) the polling is suspended; and
 - (b) the commissioner believes on reasonable grounds that it is not reasonably practicable for an elector affected by the suspension to cast a vote at another polling place.
- (2A) The commissioner must determine a day (that is as soon as practicable, but within 21 days, after the suspension) as the day when polling is to resume.

Explanatory note

This amendment updates language in line with current legislative drafting practice. This amendment also omits words that are now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

[3.67] Section 198, definition of *registered industrial organisation*

omit

Workplace Relations Act 1996

substitute

Fair Work (Registered Organisations) Act 2009

Explanatory note

This amendment updates a cross-reference as a consequence of amendments of the *Workplace Relations Act 1996* (Cwlth). The *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth) changed the name of the *Workplace Relations Act 1996* (Cwlth) to the *Fair Work (Registered Organisations) Act 2009* (Cwlth) and made other amendments.

[3.68] Section 244 heading

substitute

244 Meaning of *internal review notice*—Act

Explanatory note

This amendment updates the heading to section 244 in line with current legislative drafting style.

[3.69] Section 291, new definition of *polling place*

insert

polling place includes—

- (a) a place where a vote may be made before an officer under section 136B (Ordinary or declaration voting in ACT before polling day) or section 136C (Declaration voting outside ACT on or before polling day); and
- (b) a place where mobile polling is taking place under division 10.5 (Mobile polling).

Explanatory note

This amendment relocates a definition of *polling place* for division 17.3 from the dictionary, in line with current legislative drafting practice.

[3.70] Dictionary, note 2

omit

- judge

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment omits a redundant term. A definition of the term is included in section 12B, and omitted from the dictionary, by other amendments.

[3.71] Dictionary, note 2

insert

- home address
- public holiday

Explanatory note

This amendment inserts new defined terms in the list of terms defined in the Legislation Act.

[3.72] Dictionary, note 2

omit

- Speaker

substitute

- Speaker (except for parts 13 and 16)

Explanatory note

This amendment alerts users of the legislation to the different meanings the term is given in the Act.

[3.73] Dictionary, definition of *Court of Disputed Elections*

substitute

Court of Disputed Elections, for part 16 (Disputed elections, eligibility and vacancies)—see section 252 (2).

Explanatory note

This amendment updates the definition of *Court of Disputed Elections* in line with current legislative drafting practice.

[3.74] Dictionary, definition of *judge*

omit

Explanatory note

This amendment is consequential on the insertion of a definition of *judge* in section 12B by another amendment.

[3.75] Dictionary, definition of *polling place*

substitute

polling place—

- (a) for the Act—means a place appointed as a polling place under section 119 (Polling places and scrutiny centres); and
- (b) for division 17.3 (Campaigning offences)—see section 291.

Explanatory note

This amendment updates the definition of *polling place* in line with current legislative drafting practice.

[3.76] Dictionary, definition of *roll*, new note

insert

Note Part 5 contains provisions about the keeping of electoral rolls.

Explanatory note

This amendment inserts a new note to assist users.

[3.77] Further amendments, mentions of *in writing*

omit

, in writing,

in

- section 8
- section 39
- section 101
- section 108
- sections 136B to 136C
- section 149A
- section 167B
- section 221
- section 230

- section 340A

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable and notifiable instruments to be in writing.

Part 3.12 Emergencies Act 2004

[3.78] Section 149 heading

substitute

149 Community communication and information plan

Explanatory note

This amendment substitutes a new heading that more accurately reflects the substance of the provision.

[3.79] Dictionary, note 2

insert

- adult
- chief executive
- Criminal Code
- disallowable instrument
- Executive
- fail
- may
- must
- notifiable instrument
- penalty unit
- police officer.

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment includes new defined terms in the list.

[3.80] Dictionary, definition of *contributor*

after

health

insert

benefits

Explanatory note

This amendment corrects a cross-reference.

[3.81] Dictionary, definition of *cooperative arrangement*

substitute

cooperative arrangement—see section 176.

Explanatory note

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

[3.82] Further amendments, mentions of *in writing*

omit

, in writing,

in

- section 11 (1st mention)
- section 62
- section 65
- section 72
- section 117
- section 119
- section 182

- section 195
- sections 200 to 201

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable and notifiable instruments to be in writing.

Part 3.13 Environment Protection Act 1997

[3.83] New section 2 (3)

insert

(3) In this section:

national scheme laws means—

- (a) the *National Environment Protection Council Act 1994* (Cwlth); and
- (b) the *National Environment Protection Council Act 1994*.

Explanatory note

This amendment relocates from the dictionary a definition of a term that is used only in section 2. This is in line with current legislative drafting practice. The definition is omitted from the dictionary by another amendment.

[3.84] Section 3, note 1

omit

Land Act, section 222

substitute

Planning and Development Act 2007, section 7

Explanatory note

This amendment corrects a cross-reference.

[3.85] New section 46 (2)

insert

(2) In this section:

environment improvement initiative means—

- (a) an environmental protection agreement that has as one of its terms a requirement that a party comply with a code of practice accredited under section 31; or
- (b) an environmental improvement plan accredited under section 72; or
- (c) a prescribed standard of the International Organization for Standardization; or
- (d) a prescribed initiative.

Explanatory note

This amendment relocates from the dictionary a definition of a term that is used only in section 46. This is in line with current legislative drafting practice. The definition is omitted from the dictionary by another amendment.

[3.86] Section 76A (1)

after

statement

insert

(a *site audit statement*)

Explanatory note

This amendment inserts a tag term after ‘statement’ to make it clear that the reference in section 76A (2) to a site audit statement is a reference to the statement under section 76A (1).

[3.87] New section 91I (4)

insert

(4) In this section:

financial controller means a receiver, manager or other person who has possession or control of land for the purpose of realising part or all of the value of the land to discharge an obligation secured over the land.

notional lessee, in relation to land—

(a) means a person who has vested rights in relation to the land that—

- (i) carry an entitlement to have the lease transferred to the person; or
- (ii) enable the person to dispose of or otherwise deal with the land;

so that the person is able to benefit from the value of the lease, or a substantial part of it, by the transfer, disposal or dealing; and

(b) includes a mortgagee in possession of the land the subject of the lease; but

(c) does not include—

- (i) a person having security over the lease; or
- (ii) a person who is a legal personal representative of a person who was the lessee of the land immediately before the appointment of the representative took effect or who was a lessee of the land immediately before his or her death; or
- (iii) the public trustee because of the operation of the *Public Trustee Act 1985*, section 19; or

- (iv) a person who would otherwise be a notional lessee if—
 - (A) the person has some security of the lease; and
 - (B) the person, or a financial controller appointed by the person, has entered into a contract to sell the land for the purpose of realising all or part of the value of the land to discharge an obligation so secured.

Explanatory note

This amendment relocates from the dictionary definition of terms that are used only in section 91I. This is in line with current legislative drafting practice. The definitions are omitted from the dictionary by another amendment and updated in line with current legislative drafting practice.

[3.88] Section 93 (3)

omit

Explanatory note

This amendment omits a provision that is now redundant because of the Legislation Act, section 42 (2), which requires disallowable instruments to be in writing.

[3.89] Schedule 1, section 1.1, definition of *blank fire firearm* and example

substitute

blank fire firearm—see the *Firearms Act 1996*, dictionary.

Explanatory note

This amendment substitutes the definition and example with a signpost definition to the *Firearms Act 1996*, dictionary. The definition is the same as the definition of the term in the *Firearms Act 1996*. Changing the definition to a signpost definition will ensure that any changes to the definition in the *Firearms Act 1996* will consequentially apply in relation to the Act.

[3.90] Schedule 1, table 1.2, item 47, note

substitute

Note A person commits an offence if the person operates a shooting range other than an approved shooting range. Also, a person commits an offence if the person operates an approved shooting range and is not licensed to operate the shooting range (see *Firearms Act 1996*, s 224).

Explanatory note

This amendment is consequential on amendments of the *Firearms Act 1996* made by the *Firearms Amendment Act 2008*, section 40. Those amendments commenced on 15 January 2009.

[3.91] Dictionary, note 2

insert

- chief executive (see s 163)
- disallowable instrument (see s 9)
- indictable offence (see s 190)
- national capital plan
- notifiable instrument (see s 10)
- penalty unit (see s 133)
- public holiday

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment inserts a number of new defined terms. The term **public holiday**, is included as a consequence of a new definition of **public holiday** being inserted in the Legislation Act, dictionary, part 1 by another amendment.

[3.92] Dictionary, new definitions

insert

airgun, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

aquifer, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

Explanatory note

This amendment updates the dictionary by including signpost definitions for terms defined in schedule 1, section 1.1.

[3.93] Dictionary, definition of AS 4013

before

section 2.1

insert

schedule 2,

Explanatory note

This amendment corrects a cross-reference.

[3.94] Dictionary, new definitions

insert

authorised concert venue, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

authorised motor racing venue, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

blank fire firearm, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

bore, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

clinical waste, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

concert, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

concert venue, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

environmental standards, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

Explanatory note

This amendment updates the dictionary by including signpost definitions for terms defined in schedule 1, section 1.1.

[3.95] Dictionary, definition of *environment improvement initiative*

omit

Explanatory note

This amendment is consequential on the inclusion of a definition of *environment improvement initiative* in section 46 by another amendment.

[3.96] Dictionary, definition of *financial controller*

omit

Explanatory note

This amendment is consequential on the inclusion of a definition of *financial controller* in section 91I by another amendment.

[3.97] Dictionary, new definition of *firearm*

insert

firearm, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

Explanatory note

This amendment updates the dictionary by including a signpost definition for a term defined in schedule 1, section 1.1.

[3.98] Dictionary, definition of *fuel-burning equipment*

before

section 2.1

insert

schedule 2,

Explanatory note

This amendment corrects a cross-reference.

[3.99] Dictionary, new definition of *ground water*

insert

ground water, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

Explanatory note

This amendment updates the dictionary by including a signpost definition for a term defined in schedule 1, section 1.1.

[3.100] Dictionary, definition of *inquiry*

substitute

inquiry, for part 10 (Functions of the Minister)—see the *Planning and Development Act 2007*, section 206 (Definitions—ch 8).

Explanatory note

This amendment updates the definition in line with current legislative drafting practice.

[3.101] Dictionary, new definitions

insert

live animal weight, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

logging, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

mobile plant, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

motor racing event, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

Explanatory note

This amendment updates the dictionary by including signpost definitions for terms defined in schedule 1, section 1.1.

[3.102] Dictionary, definition of *national capital plan*

omit

Explanatory note

This amendment omits a redundant definition. The term is defined in the Legislation Act, dictionary, part 1 and included in the dictionary, note 2 by another amendment.

[3.103] Dictionary, new definition of *National Electricity (ACT) Law*

insert

National Electricity (ACT) Law, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

Explanatory note

This amendment updates the dictionary by including a signpost definition for a term defined in schedule 1, section 1.1.

[3.104] Dictionary, definition of *national scheme laws*

omit

Explanatory note

This amendment is consequential on the inclusion of a definition of *national scheme laws* in section 2 by another amendment.

[3.105] Dictionary, definition of *notional lessee*

omit

Explanatory note

This amendment is consequential on the inclusion of a definition of *notional lessee* in section 91I by another amendment.

[3.106] Dictionary, new definitions

insert

paintball marker, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

receiving waters, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

regulated waste, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

residential premises, for schedule 2 (Specific offences)—see schedule 2, section 2.1.

road transport legislation, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

Explanatory note

This amendment updates the dictionary by including signpost definitions for terms defined in schedule 1, section 1.1 and schedule 2, section 2.1.

[3.107] Dictionary, definition of *sell*

before

section 2.1

insert

schedule 2,

Explanatory note

This amendment corrects a cross-reference.

[3.108] Dictionary, definition of *site audit statement*

omit

Explanatory note

This amendment is consequential on the inclusion of *site audit statement* as a tag term in section 76A (1) by another amendment.

[3.109] Dictionary, definition of *solid fuel-burning equipment*

before

section 2.1

insert

schedule 2,

Explanatory note

This amendment corrects a cross-reference.

[3.110] Dictionary, new definitions

insert

stock, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

stormwater, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

stormwater system, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

waste, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

wastewater, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

water, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

waterway, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

year, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

Explanatory note

This amendment updates the dictionary by including signpost definitions for terms defined in schedule 1, section 1.1.

[3.111] Further amendments, mentions of *in writing*

omit

, in writing,

in

- section 31 (1)
- section 41 (5)
- section 48 (6)
- section 50 (7)
- section 67A

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable and notifiable instruments to be in writing.

[3.112] Further amendments, mentions of *written*

omit

written

in

- section 21B (1)
- section 25 (1)
- section 41 (1)
- section 48 (1)
- section 50 (3)
- section 59 (1)

Explanatory note

This amendment omits a word that is now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

Part 3.14 Environment Protection Regulation 2005

[3.113] Dictionary, note 2

insert

- public holiday

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment inserts a new defined term in the list of terms defined in the Legislation Act as a consequence of the insertion of a definition of *public holiday* in the Legislation Act, dictionary, part 1 by another amendment.

[3.114] Dictionary, new definitions

insert

building intruder alarm, for schedule 2, part 2.3 (Noise conditions)—see schedule 2, part 2.3, section 2.2.

community facility zone, for schedule 2, part 2.1 (Noise zones)—see schedule 2, part 2.1, section 2.1.

Explanatory note

This amendment updates the dictionary by inserting signpost definitions for terms defined for schedule 2, part 2.1 and part 2.3.

[3.115] Dictionary, definition of *domestic article*

omit

Explanatory note

This amendment omits a redundant definition.

[3.116] Dictionary, new definitions

insert

habitable room, for schedule 2, part 2.3 (Noise conditions)—see schedule 2, part 2.3, section 2.2.

motor vehicle intruder alarm, for schedule 2, part 2.3 (Noise conditions)—see schedule 2, part 2.3, section 2.2.

national capital plan, for schedule 2, part 2.1 (Noise zones)—see schedule 2, part 2.1, section 2.1.

Explanatory note

This amendment updates the dictionary by inserting signpost definitions for terms defined for schedule 2, part 2.1 and part 2.3.

[3.117] Dictionary, definition of *public holiday*

omit

Explanatory note

This amendment is consequential on the insertion of a definition of *public holiday* in the Legislation Act, dictionary, part 1 by another amendment.

[3.118] Dictionary, new definition of *reserved area*

insert

reserved area, for schedule 2, part 2.3 (Noise conditions)—see the *Nature Conservation Act 1980*, dictionary.

Explanatory note

This amendment updates the dictionary by inserting a signpost definition for a term defined for schedule 2, part 2.3.

[3.119] Dictionary, definition of *territory lease*

omit

Explanatory note

This amendment omits a signpost definition for a term that is not defined in the regulation. The term is defined in the Legislation Act, dictionary, part 1, and is already included in dictionary, note 2.

[3.120] Dictionary, new definitions

insert

territory service, for schedule 2, part 2.3 (Noise conditions)—see the *Utilities Act 2000*, section 226.

utility service, for schedule 2, part 2.3 (Noise conditions)—see the *Utilities Act 2000*, dictionary.

Explanatory note

This amendment updates the dictionary by inserting signpost definitions for terms defined for schedule 2, part 2.3.

Part 3.15 Firearms Act 1996

[3.121] Section 224 (2), new note

insert

Note A person must not operate a firearm shooting range unless the person holds an environmental authorisation to operate the firearm shooting range (see *Environment Protection Act 1997*, s 41 and sch 1).

Explanatory note

This amendment is consequential on amendments of the *Environment Protection Act 1997*, schedule 1, table 1.2 made by the *Environment Protection Amendment Regulation 2008 (No 1)*.

Part 3.16 Gene Technology Regulation 2004

[3.122] Section 8 (2) (a)

omit

in the ACT

Explanatory note

This amendment omits words that are unnecessary as a consequence of the inclusion of a definition of *public holiday* in the Legislation Act, dictionary, part 1. The definition makes it clear that a reference to ‘public holiday’ in an Act or statutory instrument is a reference to a public holiday in the ACT.

[3.123] Dictionary, note 2

insert

- public holiday

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment inserts a new defined term in the list of terms defined in the Legislation Act as a consequence of the insertion of a definition of *public holiday* in the Legislation Act, dictionary, part 1 by another amendment.

Part 3.17 Guardianship and Management of Property Act 1991

[3.124] Section 8B (1), note

substitute

Note The ACAT may revoke the enduring power of attorney, or part of it, under s 62 (2) (c).

Explanatory note

This amendment corrects a cross-reference.

[3.125] New section 74 (4)

insert

(4) In this section:

executive officer, of a corporation, means a person, however called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the corporation's management.

Explanatory note

This amendment relocates from the dictionary a definition of a term that is used only in section 74. This is in line with current legislative drafting practice. The definition is omitted from the dictionary by another amendment.

[3.126] Dictionary, definition of *executive officer*

omit

Explanatory note

This amendment is consequential on the inclusion of a definition of *executive officer* in section 74 by another amendment.

[3.127] Dictionary, definition of *neurosurgery*

omit

Explanatory note

This amendment omits a redundant definition.

Part 3.18 Health Act 1993

[3.128] Dictionary, note 2

omit

- dental technician

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment is consequential on the omission of the definition of *dental technician* from the Legislation Act, dictionary, part 1 by another amendment.

[3.129] Dictionary, new definitions

insert

dental technical work means work involving the making, altering, repairing or maintaining of dental prosthetic appliances.

Example—dental technical work

shade-taking for dental prosthetic appliances

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).

dental technician means a person who does dental technical work and either—

- (a) is a graduate of a course of education in dental technical work accredited by the Council of Regulating Authorities for Dental Technicians and Dental Prosthetists (*CORA*); or
- (b) has—
 - (i) completed a course of education or training in dental prosthetic work outside Australia that is accredited by *CORA*; and

- (ii) passed an exam in dental prosthetic work accredited by CORA.

Explanatory note

This amendment is consequential on the repeal of schedule 8 (which dealt with the regulation and registration of dental technicians) to the *Health Professionals Regulation 2004*. Because the Act includes dental technicians as an example of a ‘health service provider’, a definition of the term is still needed for the Act. The proposed definitions are based on the definitions of *dental technician* and *dental technical work*, and section 8.4 (which dealt with the qualifications an individual required to practise as a dental technician in the ACT) in the *Health Professionals Regulation 2004*, schedule 8 (Dental technicians) as in force on 1 November 2010, immediately before it was repealed by the *Health Professionals Amendment Regulation 2010 (No 2)*.

[3.130] Dictionary, definition of *protected information*

substitute

protected information, for part 8 (Secrecy)—see section 123.

Explanatory note

This amendment updates the definition in line with current legislative drafting practice.

Part 3.19 Health Professionals (Special Events Exemptions) Act 2000

[3.131] Dictionary, note 2

omit

- dental technician

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment is consequential on the omission of the definition of *dental technician* from the Legislation Act, dictionary, part 1 by another amendment.

[3.132] Dictionary, definition of *health care services*, paragraph (a)

omit

dental technicians,

Explanatory note

This amendment omits a reference to a group that is no longer regulated by the *Health Professionals Act 2004* as a consequence of the repeal, on 2 November 2010, of the *Health Professionals Regulation 2004*, schedule 8 (which dealt with the regulation and registration of dental technicians). The group is not regulated by the *Health Practitioner National Law (ACT)* either so is no longer a group to which the Act applies.

Part 3.20 Lands Acquisition Act 1994

[3.133] Sections 19, 21 and 24

omit

in writing

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable and notifiable instruments to be in writing.

[3.134] Section 25 (3)

omit

written

Explanatory note

This amendment omits a word that is now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

[3.135] Section 30 (3)

omit

Explanatory note

This amendment omits a redundant provision. The term *working day* is defined in the Legislation Act, dictionary, part 1. A standard note referring users to that definition is included in section 30 by the previous amendment.

[3.136] New section 32 (5)

insert

(5) In this section:

public park means land that, under a Territory law, is dedicated or reserved, or is vested in trustees, as a public park or national park or otherwise is for the purposes of public recreation.

Explanatory note

This amendment relocates from the dictionary a definition of a term that is used only in section 32. This is in line with current legislative drafting practice. The definition is omitted from the dictionary by another amendment.

[3.137] Section 33 etc

omit

, in writing,

in

- section 33
- section 40 (1)
- sections 117 and 118

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable and notifiable instruments to be in writing.

[3.138] Dictionary, note 2

insert

- working day

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment inserts a new defined term in the list of terms defined in the Legislation Act, dictionary, part 1.

[3.139] Dictionary, definition of *public park*

omit

Explanatory note

This amendment is consequential on the inclusion of the definition in section 32 by another amendment.

Part 3.21 Legal Aid Act 1977

[3.140] Section 32AA (4)

omit

section 32

substitute

section 31C (Fees for services of private legal practitioners)

Explanatory note

This amendment corrects a cross-reference.

[3.141] Section 68A (9), definition of *relevant staff organisation*, paragraph (a)

substitute

- (a) within the meaning of the *Fair Work (Registered Organisations) Act 2009* (Cwlth); and

Explanatory note

This amendment updates a cross-reference as a consequence of amendments of the *Workplace Relations Act 1996* (Cwlth). The *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth) changed the name of the *Workplace Relations Act 1996* (Cwlth) to the *Fair Work (Registered Organisations) Act 2009* (Cwlth) and made other amendments.

[3.142] Section 84B

omit

, in writing,

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 206 (1), which requires appointments to be made or evidenced in writing.

[3.143] Section 84B (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, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).
- Note 3* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

Explanatory note

This amendment inserts standard notes about appointments in line with current legislative drafting practice.

[3.144] Section 99 (1)

omit

, in writing,

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

[3.145] New section 102

insert

102 Expiry—pt 14

This part expires 3 years after the day it commences.

Explanatory note

This amendment inserts a standard expiry provision for part 14. Part 14 was inserted by the *Justice and Community Safety Amendment Act 2009 (No 2)* (the **Amendment Act**) and contains only section 101. Section 101 provides for the continuation of appointments made under the Act, section 7 (3) before it was repealed by the Amendment Act. The effect of section 101 is that a person appointed under section 7 (3) continues to hold office for the remainder of the person's period of appointment as if appointed under the Act, section 16. The period of appointment for commissioners who were appointed under section 7 (3), before the commencement of the Amendment Act, was not changed by the Amendment Act.

The last of the appointments under the current instruments of appointment to which section 101 applies will end in April 2012. Part 14 will then expire in September 2012.

[3.146] Dictionary, new definitions

insert

approved negotiation, for part 5A (Dispute resolution)—see section 35A.

convener, for part 5A (Dispute resolution)—see section 35A.

negotiation session, for part 5A (Dispute resolution)—see section 35A.

Explanatory note

This amendment updates the dictionary by inserting signpost definitions for terms defined in section 35A.

Part 3.22 Legal Profession Regulation 2007

[3.147] Dictionary, note 2

insert

- public holiday

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment inserts a new defined term in the list of terms defined in the Legislation Act as a consequence of the insertion of a definition of *public holiday* in the Legislation Act, dictionary, part 1 by another amendment.

[3.148] Dictionary, new definitions

insert

BSB number, for part 6 (Trust money and trust accounts)—see section 30.

matter description, for part 6 (Trust money and trust accounts)—see section 30.

matter reference, for part 6 (Trust money and trust accounts)—see section 30.

Explanatory note

This amendment updates the dictionary by inserting signpost definitions for terms defined for part 6.

Part 3.23 **Legislative Assembly (Members' Staff) Act 1989**

[3.149] Section 8 (6)

omit

by writing

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable instruments to be in writing.

[3.150] Section 13 (5)

omit

, by writing

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable instruments to be in writing.

[3.151] Section 14 (4)

omit

Workplace Relations Act 1996

substitute

Fair Work (Registered Organisations) Act 2009

Explanatory note

This amendment updates a cross-reference as a consequence of amendments of the *Workplace Relations Act 1996* (Cwlth). The *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth) changed the name of the *Workplace Relations Act 1996* (Cwlth) to the *Fair Work (Registered Organisations) Act 2009* (Cwlth) and made other amendments.

[3.152] Sections 16 (1), 18 (7) and 21 (6)

omit

, by writing,

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable instruments to be in writing.

[3.153] Dictionary, note 2

omit

- Executive instrument
- sitting day

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment omits redundant terms.

[3.154] Dictionary, note 2

insert

- chief executive (see s 163)
- individual
- Minister
- Speaker

Explanatory note

This amendment inserts terms used in the Act and defined in the Legislation Act, dictionary, part 1.

[3.155] Dictionary, definitions of *classification, commissioner, officer and relevant chief executive*

after

PSM Act

insert

, dictionary

Explanatory note

This amendment updates the definitions in line with current legislative drafting practice.

[3.156] Further amendments, mentions of *in writing*

omit

, in writing,

in

- sections 4 to 6
- sections 10 and 11
- section 14
- section 17
- section 20

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable instruments to be in writing.

Part 3.24 Long Service Leave (Portable Schemes) Act 2009

[3.157] Section 91 (1)

omit

, in writing,

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable instruments to be in writing.

[3.158] Schedule 3, section 3.19 (3), definition of *industry holiday*

substitute

industry holiday means a day that is a holiday for people employed in the community sector industry under a fair work instrument made under the *Fair Work Act 2009* (Cwlth).

Explanatory note

This amendment updates the definition as a consequence of changes made to the workplace relations system by the *Fair Work Act 2009* (Cwlth), which replaced significant parts of the *Workplace Relations Act 1996*.

[3.159] Schedule 3, new section 3.19 (4) and (5)

insert

- (4) For the definition of *industry holiday*, a reference to a fair work instrument made under the *Fair Work Act 2009* (Cwlth) includes a reference to an agreement-based instrument and an award-based instrument within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth), schedule 3, part 2.

- (5) Subsection (4) and this subsection expire 1 year after the day this subsection commences.

Explanatory note

This amendment inserts transitional arrangements in schedule 3, section 3.19 to ensure that transitional instruments under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth), schedule 3, part 2 are included in the reference to *fair work instrument* in the definition of *industry holiday*. That definition is updated by another amendment to take account of changes to the workplace relations system by the *Fair Work Act 2009* (Cwlth). The *Fair Work Act 2009* (Cwlth) replaced significant parts of the *Workplace Relations Act 1996* (Cwlth).

[3.160] Dictionary, note 2

insert

- public holiday

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment inserts *public holiday* as a consequence of a definition of that term being inserted in the Legislation Act, dictionary, part 1 by another amendment.

[3.161] Dictionary, definition of *at premises*

substitute

at premises, for part 8 (Enforcement)—see section 70.

Explanatory note

This amendment updates the definition in line with current legislative drafting practice.

[3.162] Dictionary, definition of *governing board*

after

the authority

insert

established under section 20

Explanatory note

This amendment makes it clear under which provision of the Act the governing board of the authority is established.

[3.163] Dictionary, new definition of *occupier*

insert

occupier, for part 8 (Enforcement)—see section 70.

Explanatory note

This amendment updates the dictionary by including a signpost definition for a term defined in section 70.

[3.164] Dictionary, definition of *working director*

omit

a employee

substitute

an employee

Explanatory note

This amendment corrects a grammatical error.

Part 3.25 Long Service Leave Act 1976

[3.165] New section 9 (3)

insert

(3) In this section:

award holiday means a day that is, under an award or agreement, a holiday for people employed in an industry.

Explanatory note

This amendment relocates from the dictionary a definition of a term that is mentioned only in section 9. This is in line with current legislative drafting practice. The definition is omitted from the dictionary by another amendment.

[3.166] New section 11C (3)

insert

(3) In this section:

minimum retiring age, in relation to a person, means—

- (a) if a minimum retiring age applies to the person under an award or agreement—the age fixed by the award or agreement; and
- (b) in any other case—the age of 65 years.

Explanatory note

This amendment relocates from the dictionary a definition of a term that is used only in section 11C. This is in line with current legislative drafting practice. The definition is omitted from the dictionary by another amendment.

[3.167] Section 17 (1)

omit

, in writing,

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

[3.168] New section 19

insert

19 Transitional—Fair Work Act (Cwlth)

- (1) For the dictionary, definition of ***agreement***, a reference to an enterprise agreement made under the *Fair Work Act 2009* (Cwlth) includes a reference to an agreement-based transitional instrument within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth), schedule 3, part 2.
- (2) For the dictionary, definition of ***award***—
 - (a) a reference to a modern award made under the *Fair Work Act 2009* (Cwlth) includes a reference to an award-based transitional instrument within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth), schedule 3, part 2; and
 - (b) a reference to a workplace determination made under the *Fair Work Act 2009* (Cwlth) includes a reference to a collective agreement-based transitional instrument within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth), schedule 3, part 2.
- (3) This section expires 1 year after the day it commences.

Explanatory note

This amendment provides for transitional instruments under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth), schedule 3, part 2 to be included in the definitions of ***agreement*** and ***award***, both of which are updated by other amendments to take account of changes to the workplace relations system by the *Fair Work Act 2009* (Cwlth), which replaced significant parts of the *Workplace Relations Act 1996* (Cwlth).

[3.169] Dictionary, note 2

insert

- public holiday

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment inserts a new defined term in the list of terms defined in the Legislation Act as a consequence of the insertion of a definition of *public holiday* in the Legislation Act, dictionary, part 1 by another amendment.

[3.170] Dictionary, definition of *agreement*

substitute

agreement means an enterprise agreement made under the *Fair Work Act 2009* (Cwlth).

Explanatory note

This amendment updates the definition as a consequence of changes made to the workplace relations system by the *Fair Work Act 2009* (Cwlth), which replaced significant parts of the *Workplace Relations Act 1996* (Cwlth).

[3.171] Dictionary, definition of *award*

substitute

award means a modern award or workplace determination made under the *Fair Work Act 2009* (Cwlth).

Explanatory note

This amendment updates the definition as a consequence of changes made to the workplace relations system by the *Fair Work Act 2009* (Cwlth), which replaced significant parts of the *Workplace Relations Act 1996* (Cwlth).

[3.172] Dictionary, definition of *award holiday*

omit

Explanatory note

This amendment is consequential on the inclusion of a definition of *award holiday* in section 9 by another amendment.

[3.173] Dictionary, definition of *determination*

omit

Explanatory note

This amendment omits a definition that is redundant as a consequence of changes made to the definition of *award* by another amendment.

[3.174] Dictionary, definition of *minimum retiring age*

omit

Explanatory note

This amendment is consequential on the inclusion of a definition of *minimum retiring age* in section 11C by another amendment.

[3.175] Dictionary, definition of *trainee*

omit

Explanatory note

This amendment omits a redundant definition.

Part 3.26 Magistrates Court Act 1930

[3.176] Division 3.5.1

omit

Explanatory note

This amendment omits a redundant division. Division 3.5.1 contains only 1 provision, which defines the term *jury* for part 3.5. References to ‘jury’ were omitted from part 3.5 when the Act was amended in 2009 by the *Crimes Legislation Amendment Act 2008*.

[3.177] Section 116E (2)

substitute

- (2) The court, in deciding a proceeding under subsection (1), must have regard to any matter drawn to its attention in the plea of guilty and give the matter the weight it considers appropriate.

Explanatory note

This amendment corrects a minor typographical error and brings language into line with current legislative drafting practice.

[3.178] Sections 128 (1), 166B (1) and 291A (4)

omit

, in writing,

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable and notifiable instruments to be in writing.

[3.179] Dictionary, note 2

substitute

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

- ACAT
- ACT
- adult
- Attorney-General
- child
- chief executive (see s 163)
- correctional centre
- Commonwealth
- Criminal Code
- director of public prosecutions
- disallowable instrument (see s 9)
- document

- Executive
- exercise, a function
- external territory
- fail
- file
- function
- home address
- individual
- in relation to
- instrument (see s 14)
- judge
- lawyer
- may (see s 146)
- month
- must
- notifiable instrument (see s 10)
- NSW correctional centre
- oath
- parent
- penalty unit (see s 133)
- police officer
- prescribed
- proceeding
- sign
- summary offence (see s 190)
- statutory declaration
- territory law
- under.

Explanatory note

This amendment replaces dictionary, note 2, which lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act.

[3.180] Dictionary, new definition of *ACT court*

insert

ACT court, for division 2.2.3A (Judicial officers exchange)—see section 9C.

Explanatory note

This amendment updates the dictionary by including a signpost definition for a term defined in section 9C.

[3.181] Dictionary, definition of *certified copies*

omit

certified copies

substitute

certified copy

Explanatory note

This amendment corrects a correct reference. The definition of ‘certified copies’ is a signpost definition to a term defined in section 105A. However, the term defined in that section is ‘certified copy’.

[3.182] Dictionary, new definitions

insert

corresponding court, for division 2.2.3A (Judicial officers exchange)—see section 9C.

court, for division 2.2.3A (Judicial officers exchange)—see section 9C.

Explanatory note

This amendment updates the dictionary by including signpost definitions for terms defined in section 9C.

[3.183] Dictionary, definition of *infringement notice*

substitute

infringement notice—

- (a) for part 3.8 (Infringement notices for certain offences)—see section 117; and
- (b) for division 3.8.3 (Additional provisions for vehicle-related offences)—see section 131A.

Explanatory note

This amendment adds the new signpost definition at paragraph (b).

[3.184] Dictionary, new definitions

insert

judicial exchange arrangement, for division 2.2.3A (Judicial officers exchange)—see section 9C.

judicial officer, for division 2.2.3A (Judicial officers exchange)—see section 9C.

Explanatory note

This amendment updates the dictionary by including signpost definitions for terms defined in section 9C.

[3.185] Dictionary, definition of *jury*

omit

Explanatory note

This amendment is consequential on the omission of division 3.5.1 by another amendment.

[3.186] Dictionary, new definition of *participating jurisdiction*

insert

participating jurisdiction, for division 2.2.3A (Judicial officers exchange)—see section 9C.

Explanatory note

This amendment updates the dictionary by including a signpost definition for a term defined in section 9C.

[3.187] Dictionary, new definitions

insert

prescribed period, for division 3.4.2 (Warrants for witnesses)—see section 62.

reporting officer, for division 3.4.2 (Warrants for witnesses)—see section 62.

Explanatory note

This amendment updates the dictionary by including signpost definitions for terms defined in section 62.

[3.188] Dictionary, definition of *review appeal*

omit

division 1.10.3

substitute

division 3.10.3

Explanatory note

This amendment corrects a cross-reference.

[3.189] Dictionary, new definition of *this jurisdiction*

insert

this jurisdiction, for division 2.2.3A (Judicial officers exchange)—see section 9C.

Explanatory note

This amendment updates the dictionary by including a signpost definition for a term defined in section 9C.

[3.190] Dictionary, new definition of *warrant*

insert

warrant, for division 3.4.2 (Warrants for witnesses)—see section 62.

Explanatory note

This amendment updates the dictionary by including a signpost definition for a term defined in section 62.

Part 3.27 Nature Conservation Act 1980

[3.191] New section 38 (6)

insert

(6) In this section:

vulnerable, in relation to a species, means a species that within the next 25 years is likely to become endangered unless the circumstances and factors threatening its abundance, survival or evolution cease.

Explanatory note

This amendment relocates from the dictionary a definition of a term that is used only in section 38. This is in line with current legislative drafting practice. The definition is omitted from the dictionary by another amendment.

[3.192] Section 39 (2) (a)

omit

Explanatory note

This amendment omits a paragraph that is now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

[3.193] New section 59 (4)

insert

(4) In this section:

statutory authority means an authority established by or under a law of the Commonwealth or the Territory.

Explanatory note

This amendment relocates from the dictionary a definition of a term that is used only in section 59. This is in line with current legislative drafting practice. The definition is omitted from the dictionary by another amendment.

[3.194] Dictionary, note 2

insert

- chief executive (see s 163)
- disallowable instrument (see s 9)
- Executive
- notifiable instrument (see s 10)
- penalty unit (see s 133)
- working day

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment inserts new examples of terms defined in the Legislation Act, dictionary, schedule 1 and used in this Act.

[3.195] Dictionary, definitions of *statutory authority*, *vulnerable* and *working day*

omit

Explanatory note

This amendment omits the definitions because—

- *statutory authority* is mentioned only in section 59, consequentially, the definition is relocated to section 59 by another amendment; and
- *vulnerable* is mentioned only in section 38, consequentially, the definition is relocated to section 38 by another amendment; and
- the definition of *working day* is redundant. The Legislation Act, dictionary, part 1 includes a definition of *working day*.

[3.196] Further amendments, mentions of *in writing*

omit

, in writing,

in

- sections 33 to 36
- section 38
- section 55
- section 62

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable and notifiable instruments to be in writing.

[3.197] Further amendments, mentions of *written*

omit

written

in

- section 27 (1st mention)
- section 28

- section 29 (3rd mention)
- section 31
- section 41 (1st mention)

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

Part 3.28 Planning and Development Act 2007

[3.198] New section 63 (3A)

insert

- (3A) If the notifiable instrument does not state when the instrument expires, the instrument expires 6 months after the day it is notified.

Explanatory note

This amendment relocates an existing provision to assist users to understand how consultation notices and extension notices operate.

[3.199] New section 68 (3A)

insert

- (3A) If the notifiable instrument does not state when the instrument expires, the instrument expires 6 months after the day it is notified.

Explanatory note

This amendment relocates an existing provision to assist users to understand how a withdrawal of a draft plan variation operates.

[3.200] New section 70 (2A)

insert

- (2A) If the notifiable instrument does not state when the instrument expires, the instrument expires 6 months after the day it is notified.

Explanatory note

This amendment relocates an existing provision to assist users to understand how a public availability notice operates.

[3.201] New section 76 (6A)

insert

- (6A) If the notifiable instrument does not state when the instrument expires, the instrument expires 6 months after the day it is notified.

Explanatory note

This amendment relocates an existing provision to assist users to understand how an approval direction or notice under section 76 operates.

[3.202] New section 82 (4A)

insert

- (4A) If the notifiable instrument does not state when the instrument expires, the instrument expires 6 months after the day it is notified.

Explanatory note

This amendment relocates an existing provision to assist users to understand how a notice under section 82 operates.

[3.203] New section 84 (4A)

insert

- (4A) If the notifiable instrument does not state when the instrument expires, the instrument expires 6 months after the day it is notified.

Explanatory note

This amendment relocates an existing provision to assist users to understand how a withdrawal under section 84 operates.

[3.204] New section 102 (4A)

insert

- (4A) If the notifiable instrument does not state when the instrument expires, the instrument expires 6 months after the day it is notified.

Explanatory note

This amendment relocates an existing provision to assist users to understand how a notice under section 102 operates.

[3.205] Section 421

omit

Explanatory note

This amendment is consequential on the relocation of subsection (2) into the sections mentioned in subsection (1) to assist users to understand how particular notifiable instruments operate.

[3.206] Dictionary, note 2

insert

- working day

Explanatory note

Dictionary, note 2 lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment inserts a new defined term in the list of terms defined in the Legislation Act.

[3.207] Dictionary, definition of *business hours*, paragraph (a), note

omit

Explanatory note

This amendment omits the note as a consequence of the insertion of *working day* in the dictionary, note 2 (which lists examples of terms that are included in the Legislation Act, dictionary, part 1) by another amendment.

**[3.208] Dictionary, definition of *community organisation*,
paragraph (c)**

omit

Liquor Act 1975

substitute

Liquor Act 2010

Explanatory note

This amendment updates a cross-reference as a consequence of the repeal of the *Liquor Act 1975* and the enactment of the *Liquor Act 2010*.

Part 3.29 Residential Tenancies Act 1997

[3.209] Section 12 (4)

insert

asbestos advice—see the *Dangerous Substances Act 2004*, section 47J.

asbestos assessment report, for premises—see the *Dangerous Substances Act 2004*, section 47K.

Explanatory note

This amendment relocates definitions from the dictionary to section 12 because the defined terms are mentioned only in section 12.

[3.210] Section 42 (1), note

omit

section 49 (3)

substitute

section 49 (4)

Explanatory note

This amendment corrects a cross-reference.

[3.211] Sections 126 (1) and 133 (1)

omit

, in writing,

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

[3.212] Dictionary, note 2

substitute

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

- ACAT
- administrative unit
- adult
- calendar month
- child
- chief executive (see s 163)
- commissioner for fair trading
- corporation
- Criminal Code
- disallowable instrument (see s 9)
- document
- domestic partner (see s 169 (1))
- entity
- Executive
- expire
- fail
- housing commissioner
- individual
- in relation to
- instrument (see s 14)
- may (see s 146)

- Minister
- month
- must
- notifiable instrument (see s 10)
- oath
- penalty unit (see s 133)
- police officer
- prescribed
- public holiday
- sign
- statutory instrument
- under.

Explanatory note

This amendment replaces dictionary, note 2, which lists examples of terms that are included in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. In particular, *public holiday* is included as a consequence of a new definition of *public holiday* being inserted in the Legislation Act, dictionary, part 1 by another amendment.

[3.213] Dictionary, definition of *asbestos advice* and *asbestos assessment report*

omit

Explanatory note

This amendment is consequential on the insertion of the definitions in section 12 (4) by another amendment.

[3.214] Dictionary, definition of *conditional termination and possession order*

omit

section 49 (3)

substitute

section 49 (4)

Explanatory note

This amendment corrects a cross-reference.

[3.215] Dictionary, definition of *occupancy dispute*

omit

, for part 6 (Resolution of residential tenancy and occupancy disputes)

Explanatory note

This amendment omits redundant words. Section 73 makes it clear that the term ‘occupancy dispute’ is defined for the Act.

[3.216] Dictionary, definition of *tenancy database*

substitute

tenancy database, for part 6A (Tenancy databases)—see section 107B.

Explanatory note

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

Part 3.30 Road Transport (Third-Party Insurance) Act 2008

[3.217] Sections 14A (g), 177 (1) and 269 (1), example, paragraph (a)

omit

motor vehicle

substitute

motor

Explanatory note

This amendment corrects references to ‘motor vehicle accident’ and ‘motor vehicle accidents’. The correct term is ‘motor accident’, which is defined in the Act, section 7.

Part 3.31 Training and Tertiary Education Act 2003

[3.218] Section 9 (1)

omit

, in writing,

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires notifiable instruments to be in writing.

[3.219] Section 55B (4), definition of *industrial arrangement*, paragraphs (a) and (b)

substitute

- (a) a fair work instrument made under the *Fair Work Act 2009* (Cwlth); or

Explanatory note

This amendment updates the definition as a consequence of changes made to the workplace relations system by the *Fair Work Act 2009* (Cwlth), which replace significant parts of the *Workplace Relations Act 1996* (Cwlth).

[3.220] New section 55B (5) and (6)

insert

- (4) For the definition of *industrial arrangement*, a reference to a fair work instrument made under the *Fair Work Act 2009* (Cwlth) includes a reference to an agreement-based instrument and an award-based instrument within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth), schedule 3, part 2.
- (5) Subsection (4) and this subsection expire 1 year after the day this subsection commences.

Explanatory note

This amendment provides for transitional arrangements under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth), schedule 3, part 2 to be included in the definition of *industrial arrangement*. That definition is updated by another amendment to take account of changes to the workplace relations system by the *Fair Work Act 2009* (Cwlth). That Act replaced significant parts of the *Workplace Relations Act 1996* (Cwlth).

[3.221] Section 88 (1)

omit

, in writing,

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable instruments to be in writing.

[3.222] Sections 93 (2) and 98 (2)

omit

, in writing

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable instruments to be in writing.

[3.223] Section 111 (1)

omit

, in writing,

Explanatory note

This amendment omits words that are now redundant because of the Legislation Act, section 42 (2), which requires disallowable instruments to be in writing.

Part 3.32 Work Safety Act 2008

[3.224] Section 61, definition of *office*

substitute

office, in relation to an organisation or a branch of an organisation—see the *Fair Work (Registered Organisations) Act 2009* (Cwlth), section 9.

Explanatory note

This amendment updates a cross-reference as a consequence of amendments of the *Workplace Relations Act 1996* (Cwlth). The *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth) changed the name of the *Workplace Relations Act 1996* (Cwlth) to the *Fair Work (Registered Organisations) Act 2009* (Cwlth) and made other amendments.

[3.225] Section 192 (2) (a)

omit

has

substitute

the member has

Explanatory note

This amendment corrects a minor drafting error.

[3.226] Dictionary, definition of *registered organisation*

substitute

registered organisation means an organisation registered under the *Fair Work (Registered Organisations) Act 2009* (Cwlth).

Explanatory note

This amendment updates a cross-reference as a consequence of amendments of the *Workplace Relations Act 1996* (Cwlth). The *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth) changed the name of the *Workplace Relations Act 1996* (Cwlth) to the *Fair Work (Registered Organisations) Act 2009* (Cwlth) and made other amendments.

Part 3.33 Workers Compensation Act 1951

[3.227] Section 36G, new definition of *statutory floor*

insert

statutory floor means the national minimum wage set by a national minimum wage order in an annual wage review by Fair Work Australia under the *Fair Work Act 2009* (Cwlth).

Explanatory note

This amendment relocates the definition of statutory floor from the dictionary because the term is mentioned only in part 4.3. This amendment also updates the definition as a consequence of changes made to the workplace relations system by the *Fair Work Act 2009* (Cwlth), which replaced significant parts of the *Workplace Relations Act 1996* (Cwlth).

[3.228] New section 36G (1)

insert

(2) In this section:

annual wage review—see the *Fair Work Act 2009* (Cwlth), section 12.

Fair Work Australia—see the *Fair Work Act 2009* (Cwlth), section 12.

national minimum wage order—see the *Fair Work Act 2009* (Cwlth), section 12.

Explanatory note

This amendment inserts definitions of terms mentioned in the definition of *statutory floor*, as inserted in section 36G by another amendment.

[3.229] Section 41 (1) (b), note

omit

Explanatory note

This amendment omits a note that is redundant as a consequence of the insertion of a definition of statutory floor in section 36G by another amendment.

[3.230] Dictionary, definition of *statutory floor*

substitute

statutory floor, for part 4.3 (Weekly compensation)—see section 36G (1).

Explanatory note

This amendment is consequential on the insertion of a definition of *statutory floor* in section 36G by another amendment.

Schedule 4 Repeals

(see s 6)

Explanatory note

This schedule repeals notifiable and disallowable instruments made under the *Health Professionals Regulation 2004* in relation to standards for dental technicians and appointments to the ACT Dental Technicians and Dental Prosthetists Board. The instruments are obsolete as a consequence of amendments of the *Health Professionals Regulation 2004* in 2010 which repealed provisions relating to the regulation and registration of dental technicians.

Health Professionals (ACT Dental Technicians and Dental Prosthetists Board Standards Statements) Approval 2008 (No 1) (NI2008-577)

Health Professionals (Dental Technicians and Dental Prosthetists Board) Appointment 2008 (No 1) (DI2008-49)

Health Professionals (Dental Technicians and Dental Prosthetists Board) Appointment 2010 (No 1) (DI2010-70)

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 5 May 2011.

2 Notification

Notified under the Legislation Act on 31 August 2011.

3 Republications of amended laws

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

I certify that the above is a true copy of the Statute Law Amendment Bill 2011 (No 2), which originated in the Legislative Assembly as the Statute Law Amendment Bill 2011 and was passed by the Assembly on 18 August 2011.

Clerk of the Legislative Assembly

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