



Australian Capital Territory

Statute Law Amendment Act 2011

A2011-3

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Australian Capital Territory

Statute Law Amendment Act 2011

A2011-3

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*.

2 Commencement

This Act commences on the 7th day after its notification day.

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

3 Purpose

The purpose of this Act is to improve the quality of the statute law of the Territory by amending legislation for the purpose of statute law revision.

4 Notes

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

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

5 Legislation amended—schs 1 and 3

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

Schedule 1 Minor amendments

(see s 5)

Part 1.1 Canberra Institute of Technology Act 1987

[1.1] Section 15 (c)

substitute

(c) if the director becomes bankrupt or personally insolvent; or

Explanatory note

This amendment substitutes language in relation to bankruptcy with the term ‘bankrupt or personally insolvent’, which is defined in the Legislation Act, dictionary, part 1. The definition covers the range of circumstances in which an individual may be considered bankrupt or insolvent.

[1.2] Section 33 (1) (c)

substitute

(c) if the member becomes bankrupt or personally insolvent; or

Explanatory note

This amendment substitutes language in relation to bankruptcy with the term ‘bankrupt or personally insolvent’, which is defined in the Legislation Act, dictionary, part 1. The definition covers the range of circumstances in which an individual may be considered bankrupt or insolvent.

[1.3] Dictionary, note 2

insert

- bankrupt or personally insolvent

Explanatory note

This amendment inserts a new defined term in the list of terms defined in the Legislation Act as a consequence of the insertion of the new term in section 15 and section 33 by other amendments.

Part 1.2 Casino Control Act 2006

[1.4] Section 7 (2) (d)

substitute

- (d) the individual is, or at any time in the last 5 years has been, bankrupt or personally insolvent;

Note ***Bankrupt or personally insolvent***—see the Legislation Act, dictionary, pt 1.

Explanatory note

This amendment substitutes language in relation to bankruptcy with the term ‘bankrupt or personally insolvent’, which is defined in the Legislation Act, dictionary, part 1. The definition covers the range of circumstances in which an individual may be considered bankrupt or insolvent.

[1.5] Dictionary, note 2

insert

- bankrupt or personally insolvent

Explanatory note

This amendment inserts a new defined term in the list of terms defined in the Legislation Act as a consequence of the insertion of the new term in section 7 by another amendment.

Part 1.3 Gaming Machine Act 2004

[1.6] Section 20 (3) (b)

substitute

- (b) the individual is, or at any time in the last 5 years has been, bankrupt or personally insolvent;

Note **Bankrupt or personally insolvent**—see the Legislation Act, dictionary, pt 1.

Explanatory note

This amendment substitutes language in relation to bankruptcy with the term ‘bankrupt or personally insolvent’, which is defined in the Legislation Act, dictionary, part 1. The definition covers the range of circumstances in which an individual may be considered bankrupt or insolvent.

Part 1.4 Mental Health (Treatment and Care) Act 1994

[1.7] Section 118

omit

, with the Minister’s approval,

Explanatory note

This amendment makes it possible for the chief psychiatrist to delegate functions under the Act without ministerial approval. It is not usual for ministerial approval to be required before a function is delegated.

[1.8] Section 120D (3) and note

omit

Explanatory note

This amendment removes the requirement for delegation of the care coordinator’s functions to be a notifiable instrument under the Legislation Act. It is not usual for delegations to be notifiable instruments.

Part 1.5 Racing Act 1999

[1.9] Schedule 1, section 1.4 (1) (b)

substitute

(b) becomes bankrupt or personally insolvent; or

Note **Bankrupt or personally insolvent**—see the Legislation Act, dictionary, pt 1.

Explanatory note

This amendment substitutes language in relation to bankruptcy with the term ‘bankrupt or personally insolvent’, which is defined in the Legislation Act, dictionary, part 1. The definition covers the range of circumstances in which an individual may be considered bankrupt or insolvent.

Part 1.6 Work Safety Act 2008

[1.10] Section 36 (c)

substitute

(c) a serious injury to a worker or another person;

Explanatory note

Section 36 sets out what is a serious event for the purposes of the Act, division 3.3. This amendment makes it clear that a serious event includes a serious injury to a worker as well as to any other person.

Schedule 2 Legislation Act 2001

Note Statute Law Amendment Acts may include a second schedule for amendments of the Legislation Act. This Act does not provide for such amendments but the schedule heading is retained to preserve the usual numbering of schedule 3, which provides for minor and technical amendments proposed by the parliamentary counsel.

Schedule 3 Technical amendments

(see s 5)

Part 3.1 Age of Majority Act 1974

[3.1] Section 5 (1)

omit

he or she

substitute

the person

Explanatory note

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

[3.2] Section 5 (2)

omit

his or her

substitute

the person's

Explanatory note

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

[3.3] Section 5 (3)

omit

that person as if he or she

substitute

the person as if the person

Explanatory note

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

[3.4] Section 6 (2)

omit

shall be construed

substitute

are to be interpreted

Explanatory note

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

[3.5] Section 7 (2)

omit

shall be construed

substitute

is to be interpreted

Explanatory note

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

Part 3.2 Associations Incorporation Act 1991

[3.6] Section 9

substitute

9 Registers

- (1) The registrar-general must keep a register of any matter the registrar-general considers necessary for this Act.
- (2) The register may include any information the registrar-general considers appropriate.
- (3) The register may be kept in any form, including electronically, that the registrar-general decides.

Explanatory note

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

[3.7] Section 55 (2)

omit

his or her

substitute

the agent's or attorney's

Explanatory note

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

[3.8] Section 59 (2)

omit

his or her

substitute

the public officer's

Explanatory note

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

[3.9] Section 62

omit

his or her

substitute

the member's

Explanatory note

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

[3.10] Section 63 (5)

omit

his or her

Explanatory note

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

[3.11] Section 64 (2) (f)

substitute

- (f) was convicted or released from imprisonment for an offence mentioned in section 63 (1) within 5 years immediately before the public officer's appointment, or is convicted of such an offence after taking office; or

Explanatory note

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

[3.12] Section 65 (1) (a) and (4) (b)

omit

him or her

substitute

the member

Explanatory note

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

[3.13] Section 75 (2)

omit

, in the course of the performance of his or her duties as auditor of an incorporated association

substitute

of an incorporated association

Explanatory note

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

[3.14] Section 77

substitute

77 Auditor's liability

An auditor of an incorporated association is not, in the absence of malice by the auditor, liable to any action for defamation in relation to any statement that the auditor makes, orally or in writing, in the exercise of functions as auditor of the association.

Explanatory note

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

[3.15] Section 78 (c)

omit

performance of his or her duties or the exercise of his or her powers

substitute

exercise of functions

Explanatory note

This amendment updates language in line with current legislative drafting practice. In particular, the amendment omits redundant references to 'performance', 'duties' and 'powers' because the Legislation Act, dictionary, part 1, definition of 'function' includes a duty and power and the definition of 'exercise', a function, includes perform the function.

[3.16] Section 93 (1) (f)

omit

he or she

substitute

the auditor

Explanatory note

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

[3.17] Section 95 (6) and 97 (2)

omit

he or she

substitute

the registrar-general

Explanatory note

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

[3.18] Section 101

omit everything after

the registrar-general may

substitute

make the investigations the registrar-general thinks appropriate for the administration of this Act.

Explanatory note

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

[3.19] Section 103 (2) (a) (iii)

omit

his or her

substitute

the registrar-general's

Explanatory note

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

[3.20] Section 103 (2) (b) (ii)

omit

his or her

substitute

the person's

Explanatory note

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

[3.21] Section 103 (3)

omit

he or she

substitute

the person

Explanatory note

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

[3.22] Section 103 (4)

omit

he or she

substitute

the registrar-general

Explanatory note

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

[3.23] Section 107 (2)

omit

he or she

substitute

the person

Explanatory note

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

[3.24] Section 107 (3)

omit

him or her

substitute

the person

Explanatory note

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

Part 3.3 Bail Act 1992

[3.25] Section 13 (1) (a)

omit

forthwith after being so charged

substitute

immediately after being charged

Explanatory note

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

[3.26] Section 13 (1) (b)

omit

to bring before a court forthwith

substitute

to bring immediately before a court

Explanatory note

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

[3.27] Section 13 (1) (c)

omit

shall inform the person, or cause the person to be informed,

substitute

must tell the person

Explanatory note

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

[3.28] Section 13 (1) (c) (ii)

omit

his or her

substitute

the person's

Explanatory note

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

[3.29] Section 13 (1) (c) (iv)

substitute

- (iv) communicate with someone else of the person's choice who may reasonably be expected to assist the person in relation to the provision of bail; and

Explanatory note

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

[3.30] Section 13 (1) (c)

omit everything after subparagraph (iv), substitute

if the person asks for facilities to do so, must provide the person with reasonable facilities to enable the person to communicate with a lawyer, an interpreter or someone else; and

Explanatory note

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

[3.31] Section 13 (1) (d)

omit

shall inform the person, or cause the person to be informed, of

substitute

must tell the person about

Explanatory note

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

[3.32] Sections 13 (1) (e) and 13 (2)

omit

shall

substitute

must

Explanatory note

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

[3.33] Section 13 (4)

omit everything before paragraph (a), substitute

- (4) A police officer who charges or arrests a person need not comply with subsection (1) (c) (ii), (iii) or (iv) if the police officer believes on reasonable grounds that non-compliance is necessary to prevent—

Explanatory note

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

[3.34] Section 13 (5)

substitute

- (5) If a police officer who charges or arrests a person does not comply with subsection (1) (c) (ii), (iii) or (iv) for a reason mentioned in subsection (4), the police officer must record the reason.

Explanatory note

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

[3.35] Sections 15, 16 (1) and 16 (2)

omit

shall

substitute

must

Explanatory note

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

[3.36] Section 16 (3)

omit everything before paragraph (a), substitute

- (3) An authorised officer who refuses to grant bail to an accused person need not comply with subsection (1) (e) or (f) and subsection (2) if the authorised officer believes on reasonable grounds that non-compliance is necessary to prevent—

Explanatory note

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

[3.37] Section 16 (4)

substitute

- (4) If an authorised officer does not comply with subsection (1) (e) or (f) and subsection (2) for a reason mentioned in subsection (3), the authorised officer must record the reason.

Explanatory note

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

[3.38] Section 17

omit

shall

substitute

must

Explanatory note

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

[3.39] Section 18 (1)

omit

shall, if it is reasonably practicable to do so, cause the person to be provided with, and allowed to use—

substitute

must, if it is reasonably practicable to do so, provide the person with, and allow the person to use—

Explanatory note

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

[3.40] Section 19 (3)

substitute

- (3) An application to a court in relation to bail must be dealt with as soon as practicable.

Explanatory note

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

[3.41] Sections 21 (a) and (b) (i)

omit

shall

substitute

must

Explanatory note

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

[3.42] Section 21 (b) (iii)

omit

shall

Explanatory note

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

[3.43] Section 25 etc

omit

shall

substitute

must

in

- section 25
- section 26 and 27
- section 30 (3).

Explanatory note

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

[3.44] Section 30 (6)

omit

shall not be taken

substitute

is not taken

Explanatory note

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

[3.45] Section 34 (1) to (3)

substitute

- (1) A court or authorised officer granting bail to an accused person—
 - (a) must give the accused person a written notice setting out—
 - (i) the person's obligations under the person's bail conditions; and
 - (ii) the consequences of any failure by the person to comply with the conditions; and
 - (b) must be satisfied, before releasing the accused person, that the person will comply with the conditions.

Note If a form is approved under s 58 for a notice under this section, the form must be used.
- (2) A court or authorised officer granting bail to an accused person with a surety for the accused person's appearance to answer the charges against the person —
 - (a) must give the surety written notice of—
 - (i) the accused person's obligations under the person's bail conditions; and
 - (ii) the consequences of any failure by the person to comply with the conditions; and

- (b) must be satisfied, before releasing the accused person, that the surety understands—
 - (i) the nature and extent of the accused person's obligations under the person's bail conditions; and
 - (ii) the consequences of any failure by the person to comply with the conditions.
- (3) If a bail condition is imposed or varied on a review under part 6 of a decision made in relation to bail, the court or authorised officer imposing or varying the condition—
 - (a) must give the accused person a written notice setting out—
 - (i) the person's obligations under the condition; and
 - (ii) the consequences of any failure by the person to comply with the condition; and
 - (b) must be satisfied that the accused person will comply with the condition; and
 - (c) if there is a surety for the appearance of the accused person to answer the charges against the accused person—
 - (i) must give the surety a written notice setting out—
 - (A) the accused person's obligations under the condition; and

- (B) the consequences of any failure by the person to comply with the condition; and
- (ii) must be satisfied that the surety understands—
 - (A) the nature and extent of the accused person's obligations under the condition; and
 - (B) the consequences of any failure by the person to comply with the condition.

Explanatory note

This amendment updates language and brings the structure of the subsections more closely into line with current legislative drafting practice. In particular, the amendment omits references to 'shall' and substitutes 'must', which is the current drafting term.

The amendment also omits redundant references to the plural of 'surety' because of the effect of the Legislation Act, section 145 (b), which provides that words in the singular number include the plural.

[3.46] Section 34 (4)

omit

shall forthwith

substitute

must immediately

Explanatory note

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

[3.47] Sections 38 (2) etc

omit

shall

substitute

must

in

- section 38 (2)
- sections 45 to 47.

Explanatory note

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

[3.48] Section 58 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 58 (3) provides that certain approved forms are disallowable instruments and section 58 (4) provides that all other approved forms are notifiable instruments. Both these kinds of instrument must be in writing (see Legislation Act, s 42 (2)).

Part 3.4 Boilers and Pressure Vessels Regulation 1954

[3.49] Section 6 (1)

omit

do not apply

substitute

does not apply

Explanatory note

This amendment corrects a typographical error.

[3.50] Section 7 (1) (c) (i)

substitute

- (i) placed so that the water level is clearly visible to the boiler attendant from the attendant's normal working position; and

Explanatory note

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

[3.51] Section 7 (1) (d) (iv)

substitute

- (iv) is placed so that it is clearly visible to the boiler attendant from the attendant's normal working position; and

Explanatory note

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

[3.52] Section 11 (b)

omit

permit of

substitute

allow

Explanatory note

This amendment updates language in line with current legislative drafting practice and corrects a typographical error.

[3.53] Section 12

omit

so constructed that

substitute

constructed so that

Explanatory note

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

[3.54] Section 14 (a) and (b)

omit

such

Explanatory note

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

[3.55] Section 14 (c)

omit

so arranged that

substitute

arranged so that

Explanatory note

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

[3.56] Section 15 (a) (ii)

substitute

- (ii) arranged so that the gauges on the boiler are clearly visible to the boiler attendant from the attendant's normal working position; and

Explanatory note

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

[3.57] Section 15 (d)

omit everything before subparagraph (ii), substitute

(d) if the chief inspector directs in writing—

- (i) exits must be provided from the boiler house in the places that the chief inspector considers necessary to allow people to escape if an accident happens; and

Explanatory note

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

[3.58] Section 16 (1)

omit

he or she

substitute

the inspector

Explanatory note

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

[3.59] Section 20

substitute

20 Pressure reducing valves

- (1) This section applies if the maximum allowable working pressure of a boiler or pressure vessel (the *first unit*) is higher than the maximum allowable working pressure of a boiler or pressure vessel to which it is connected (the *second unit*).
- (2) The first unit may be used or operated only if there is fitted between the first and second unit an efficient pressure reducing valve with a safety valve and pressure gauge between the pressure reducing valve and the second unit.

Explanatory note

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

[3.60] Section 25 (3)

omit

such time as

Explanatory note

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

[3.61] Section 27 (b)

substitute

- (b) ensure the certificate of inspection remains in that place while it is in force.

Explanatory note

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

[3.62] Section 34 (1)

omit

so

Explanatory note

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

[3.63] Sections 35 (1) (f) to (h) and (2) (b)

omit

refrain from using or operating

substitute

not use or operate

Explanatory note

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

[3.64] Section 35 (1) (i)

omit

refrain from operating

substitute

not operate

Explanatory note

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

[3.65] Section 42 (1)

substitute

- (1) The operator of a boiler or pressure vessel must give the chief inspector written notice of the following events as soon as possible after the event happens:
 - (a) the boiler or pressure vessel is placed in operation for the first time;
 - (b) the boiler or pressure vessel is re-erected in a new permanent position;
 - (c) the boiler or pressure vessel is altered or repaired.

Explanatory note

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

[3.66] Section 42 (2)

omit

so

Explanatory note

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

[3.67] Section 42 (5)

omit everything after

must

substitute

immediately give the chief inspector written notice of the results of the test.

Explanatory note

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

[3.68] Section 43 (1)

omit

accordingly

Explanatory note

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

[3.69] Section 43 (2)

omit

so

Explanatory note

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

[3.70] Section 44 (1) (b)

omit

him or her

substitute

the person

Explanatory note

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

[3.71] Section 45

omit

his or her

substitute

the operator's

Explanatory note

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

[3.72] Section 45 (2) (a)

substitute

(a) immediately notify the chief inspector in writing; and

Explanatory note

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

[3.73] Section 45 (2) (b)

omit

refrain from using or operating

substitute

not use or operate

Explanatory note

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

[3.74] Section 50

omit

shall

substitute

must

Explanatory note

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

Part 3.5 Building Act 2004

[3.75] Section 25B (3), note 1

omit

disciplinary action

substitute

occupational discipline

Explanatory note

This amendment replaces a redundant term. The term ‘disciplinary action’ was replaced with the term ‘occupational discipline’ as a consequence of the establishment of the ACT Civil and Administrative Tribunal.

[3.76] Section 29 (5)

omit

, in writing,

Explanatory note

This amendment omits redundant text. Section 29 (6) provides that a declaration under the section is a notifiable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.77] Section 81 (1)

omit

in writing

Explanatory note

This amendment omits redundant text. Section 81 (2) provides that an approval under the section is a notifiable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.78] Dictionary, definition of *bonded asbestos* and note

omit

Explanatory note

This amendment omits a definition of a term that is not used in the Act. However, the term ‘bonded asbestos’ is used extensively in the *Building (General) Regulation 2008* and is consequently relocated to that Regulation, dictionary by another amendment.

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

omit

, in writing,

in

- section 96 (1)
- section 99 (1)
- section 102 (1)
- section 103 (1)
- section 107 (3)
- section 108 (1) (1st mention)
- section 136 (2)
- section 143 (1)
- section 150 (1)
- section 151 (1).

Explanatory note

This amendment omits redundant text in the mentioned sections. The text is unnecessary because the relevant sections provide that an instrument under the section is a notifiable or disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

Part 3.6 **Building (General)** **Regulation 2008**

[3.80] Section 7 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 7 (2) provides that an exemption under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.81] Section 47 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 47 (2) provides that an exemption under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.82] Dictionary, note 3

omit

- bonded asbestos

Explanatory note

This amendment is consequential on the omission of a defined term from the *Building Act 2004*, dictionary, by another amendment.

[3.83] Dictionary, new definition of *bonded asbestos*

insert

bonded asbestos means asbestos in a form where the asbestos fibres are held within another material (for example, cement) but does not include friable asbestos.

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 definition of a term that is widely used in the regulation but is defined in the *Building Act 2004*. The defined term is not used in the *Building Act 2004* so has been omitted from that Act, dictionary by another amendment.

Part 3.7 Civil Law (Sale of Residential Property) Act 2003

[3.84] Section 7, definitions of *building and compliance inspection report* and *pest inspection report*

omit

Explanatory note

This amendment is consequential on the relocation of the definitions to the dictionary by another amendment.

[3.85] Section 39 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 39 (2) provides that an approved form under the section is a notifiable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.86] Dictionary, definitions of *building and compliance inspection report* and *pest inspection report*

substitute

building and compliance inspection report means a building and compliance inspection report prescribed by regulation.

pest inspection report means a pest inspection report prescribed by regulation.

Explanatory note

This amendment remakes the definitions of ‘building and compliance inspection report’ and ‘pest inspection report’. Building and compliance inspection report and pest inspection report are currently defined in section 7 for part 2 of the Act only. However, the terms are also used in section 37 (in part 5 of the Act) so it is necessary to define the terms for the whole Act.

Part 3.8 Commercial Arbitration Act 1986

[3.87] Section 6

omit

shall be taken

substitute

is taken

Explanatory note

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

[3.88] Section 7

omit

shall

substitute

must

Explanatory note

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

[3.89] Section 8 (2)

omit

shall be served

substitute

must be served

Explanatory note

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

[3.90] Section 8 (2)

omit

shall be deemed

substitute

is taken

Explanatory note

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

[3.91] Section 8 (3) (a)

omit

shall be deemed

substitute

is taken

Explanatory note

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

[3.92] Section 8 (3) (b) (i)

omit

shall lapse

substitute

lapses

Explanatory note

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

[3.93] Section 8 (3) (b) (iii)

omit

shall be construed

substitute

is to be interpreted

Explanatory note

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

[3.94] Section 11 (1) (b)

omit

shall cease

substitute

cease

Explanatory note

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

[3.95] Section 13

omit

shall be deemed

substitute

is taken

Explanatory note

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

[3.96] Section 15 (c)

omit

shall prevail

substitute

prevails

Explanatory note

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

[3.97] Section 16 (2)

omit

notwithstanding

substitute

despite

Explanatory note

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

[3.98] Section 16 (2)

omit

shall enter

substitute

enter

Explanatory note

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

[3.99] Section 18 (3)

omit

shall be deemed

substitute

is taken

Explanatory note

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

[3.100] Section 19 (1) (b)

substitute

(b) must, if the arbitrator or umpire requires, be given on oath or by affidavit.

Note *Oath* includes affirmation and *take* an oath includes make an affirmation (see Legislation Act, dict, pt 1).

Explanatory note

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

[3.101] Section 20 (3)

omit

shall

substitute

must

Explanatory note

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

[3.102] Section 20A (3)

omit

shall be taken

substitute

is taken

Explanatory note

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

Part 3.9 **Common Boundaries Act 1981**

[3.103] Section 18 (1) (c)

omit

his or her

substitute

the occupier's

Explanatory note

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

[3.104] Section 18 (2)

substitute

- (2) If 2 or more people are the occupiers of a parcel of land, a document that has been served on one of them is taken to have been served on all of them.

Explanatory note

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

[3.105] Section 18 (3)

omit

Territory law

substitute

territory law

Explanatory note

This amendment updates a reference to a term defined in the Legislation Act.

[3.106] Section 19 (2)

substitute

- (2) If 2 or more people occupy a parcel of land as joint tenants, tenants in common or joint lessees and an order requires them to make a payment—
- (a) they are jointly and severally liable for the payment of the amount payable under the order; and
 - (b) as between themselves, the liability to pay the amount must, in the absence of agreement to the contrary, be borne in equal proportions; and
 - (c) one of them who pays more than his or her proportionate amount may recover the excess as a debt due by the others.

Explanatory note

This amendment updates a reference to a term defined in the Legislation Act.

[3.107] Sections 25 and 26 (b)

omit

shall

substitute

must

Explanatory note

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

[3.108] Section 28 (a)

omit everything before subparagraph (i), substitute

- (a) the lessee of each parcel of land may, during the term of the lease—

Explanatory note

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

[3.109] Section 28 (b)

omit

shall

substitute

is to

Explanatory note

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

[3.110] Section 28 (c)

substitute

- (c) if the lessee of 1 parcel of land (the *first lessee*) has at the lessee's expense erected a party wall—the lessee of the other parcel of land must immediately after beginning to erect a building on the other parcel of land pay to the first lessee a proportion of the cost of the erection of the party wall; and

Explanatory note

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

[3.111] Section 28 (e)

omit

shall

substitute

must

Explanatory note

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

[3.112] Section 28 (f)

omit

shall be

substitute

is

Explanatory note

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

[3.113] Dictionary, note 2

insert

- territory law

Explanatory note

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

Part 3.10 Coroners Act 1997

[3.114] Section 6

omit

holding or

Explanatory note

This amendment omits redundant text. The Legislation Act, dictionary, part 1 definition of *occupy* includes, among other things, holding a position.

[3.115] Section 8 (2)

substitute

- (2) The appointment is on the conditions not provided for by this Act or another territory law that are stated in the deputy coroner's instrument of appointment.

Explanatory note

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

[3.116] Section 9 (3)

omit

he or she

substitute

the deputy coroner

Explanatory note

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

[3.117] Section 17

omit

his or her

substitute

the coroner's

Explanatory note

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

[3.118] Section 20 (1)

omit

him or her

substitute

the coroner

Explanatory note

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

[3.119] Section 23 (2)

omit

he or she

substitute

the coroner

Explanatory note

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

[3.120] Section 24 (1) (b)

omit

his or her

substitute

the

Explanatory note

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

[3.121] Section 26 (1)

omit

him or her, with such assistance as

substitute

the police officer, with the assistance

Explanatory note

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

[3.122] Section 26 (1)

omit

specified

substitute

stated

Explanatory note

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

[3.123] Section 26 (2)

omit

such assistance as he or she

substitute

the assistance the police officer

Explanatory note

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

[3.124] Section 26 (2) (a)

omit

he or she

substitute

the police officer

Explanatory note

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

[3.125] Section 30 (1)

omit

he or she

substitute

the coroner

Explanatory note

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

[3.126] Section 32 (b)

omit

his or her

substitute

the person's

Explanatory note

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

[3.127] Section 44 (2) (b)

omit

his or her

substitute

the person's

Explanatory note

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

[3.128] Section 45 (2)

omit

him or her

substitute

the police officer

Explanatory note

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

[3.129] Section 45 (5) (b)

omit

his or her sureties

substitute

the person's surety

Explanatory note

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

[3.130] Section 46 (1)

omit

him or her

substitute

the coroner

Explanatory note

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

[3.131] Section 46 (2)

omit

his or her

substitute

the person's

Explanatory note

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

[3.132] Sections 52 (3) and 54

omit

his or her

substitute

the coroner's

Explanatory note

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

[3.133] Section 55 (1)

omit

he or she

substitute

the coroner

Explanatory note

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

[3.134] Sections 56 (2) (b) (ii) and 58 (2) (a)

omit

his or her

substitute

the coroner's

Explanatory note

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

[3.135] Section 58 (4) (b) (ii)

omit

his or her

Explanatory note

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

[3.136] Section 59 (2)

omit

his or her

substitute

the investigator's

Explanatory note

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

[3.137] Section 59 (3)

substitute

- (3) The investigator's instrument of appointment must state—
- (a) details of the matters into which the investigator must inquire and report; and
 - (b) any conditions of the appointment; and
 - (c) any remuneration the investigator is entitled to receive.

Explanatory note

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

[3.138] Section 60 (1)

omit

his or her

substitute

the coroner's

Explanatory note

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

[3.139] Section 61

omit

him or her

substitute

the coroner

Explanatory note

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

[3.140] Section 64 (3)

omit

he or she

substitute

the Chief Coroner

Explanatory note

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

[3.141] Section 64 (6)

omit

shall

substitute

must

Explanatory note

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

[3.142] Section 64 (6) (b)

omit

his or her

substitute

the coroner's

Explanatory note

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

[3.143] Section 64 (7) (a)

omit

he or she

substitute

the coroner

Explanatory note

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

[3.144] Section 68 (1) (a)

omit

his or her own

substitute

the Chief Coroner's

Explanatory note

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

[3.145] Section 72

omit

him or her

substitute

the coroner

Explanatory note

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

[3.146] Section 75 (1)

omit

he or she

substitute

the coroner

Explanatory note

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

[3.147] Dictionary, note 2

insert

- occupy

Explanatory note

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

Part 3.11 Court Procedures Act 2004

[3.148] Section 8 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 8 (4) provides that an approved form is a notifiable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.149] Section 13 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 13 (3) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.150] Section 68 (1)

omit

shall be

substitute

are to be

Explanatory note

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

[3.151] Section 68 (2)

omit everything after

valid

substitute

despite any formal defect or any irregularity.

Explanatory note

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

Part 3.12 Crimes (Forensic Procedures) Act 2000

[3.152] Section 13

omit

(such as a police officer)

substitute

(for example, a police officer)

Explanatory note

This amendment updates language in line with current drafting practice.

[3.153] Section 82 (6)

omit

Explanatory note

This amendment omits a provision that is made redundant by the insertion in the dictionary of a signpost definition for 'agreed retention period' by another amendment.

[3.154] Section 84 (5)

omit

Explanatory note

This amendment omits a provision that is made redundant by the insertion in the dictionary of a signpost definition for ‘agreed retention period’ by another amendment.

[3.155] Section 94, definition of *corresponding DNA index* and *corresponding statistical index*

omit

Explanatory note

Section 94 contains a number of terms defined for the Act. This amendment omits 2 terms that are used only in section 94. The terms are included in a new subsection (2) in section 94, inserted by another amendment, that contains terms defined for section 94 only, in line with current drafting practice.

[3.156] New section 94 (2)

insert

(2) In this section:

corresponding DNA index means an index of DNA profiles established, kept or maintained under a law, or a provision of a law, of the Commonwealth or a State, whether or not the law or provision is a corresponding law.

Note *State* includes the Northern Territory (see Legislation Act, dict, pt 1).

corresponding statistical index means an index of information obtained from the analysis of forensic material that is established, kept or maintained under a law, or a provision of a law, of the Commonwealth or a State, whether or not the law or provision is a corresponding law.

Explanatory note

Section 94 contains a number of terms defined for the Act. However, the terms *corresponding DNA index* and *corresponding statistical index* are used in section 94 only. This amendment inserts a new subsection in section 94 that includes definitions of terms used only in section 94, in line with current drafting practice.

[3.157] Section 98 (6), definition of *agreed retention period*

omit

Explanatory note

This amendment omits a signpost definition that is made redundant by the insertion of a signpost definition for ‘agreed retention period’ in the dictionary by another amendment.

[3.158] Dictionary, note 2, new dot point

insert

- territory law

Explanatory note

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

[3.159] Dictionary, new definition of *agreed retention period*

insert

agreed retention period—see section 80A (3).

Explanatory note

This amendment inserts a signpost definition in the dictionary for a term that is used in several places in the Act.

[3.160] Dictionary, definition of *another Territory*

omit

Explanatory note

This amendment omits a term that is not used in the Act.

Part 3.13 Disability Services Act 1991

[3.161] Section 3 (e)

omit

in respect of

substitute

for

Explanatory note

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

[3.162] Section 3

omit

and this Act shall be construed and administered accordingly

Explanatory note

This amendment omits unnecessary wording.

[3.163] Section 6 (2)

omit

shall

substitute

must

Explanatory note

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

[3.164] Section 7 heading

substitute

7 Conditions of grants

[3.165] Section 7 (1)

omit

regarding the terms and

substitute

about the

Explanatory note

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

[3.166] Section 7 (2)

omit

in the case of

substitute

for

Explanatory note

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

[3.167] Section 7 (3) and (4)

substitute

- (3) An agreement mentioned in subsection (1)—
- (a) if it relates to the provision of services—must state the objectives to be achieved by or in relation to the person receiving the services; and

- (b) may include provisions relating to the payment by the grantee to the Minister of an amount equal to the amount of the grant or part of the grant if there is a contravention of a condition.
- (4) An agreement mentioned in subsection (1) is subject to the condition that the grantee complies with any guidelines mentioned in section 10 (1) (b) that apply to the grantee.

Explanatory note

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

[3.168] Section 7 (5)

omit

referred to

substitute

mentioned

Explanatory note

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

[3.169] Section 8

substitute

8 Review of effectiveness of grants

At intervals not exceeding 5 years, the Minister must review the extent to which—

- (a) a grantee has fulfilled the conditions of grants received by the grantee; and
- (b) the objectives stated in the conditions of a grant have been achieved.

Explanatory note

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

[3.170] Section 9 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 9 (2) provides that an approval under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.171] Section 10 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 10 (4) provides a guideline under the section is a disallowable instrument, which must be in writing (see Legislation Act, section 42 (2)).

[3.172] Section 10 (3)

omit

shall

substitute

must

Explanatory note

This amendment updates language in line with current legislative drafting practice

[3.173] Dictionary, note 2

insert

- administrative unit
- body
- may (see s 146)
- must (see s 146)
- territory authority

Explanatory note

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

[3.174] Dictionary, definition of *grantee*

substitute

grantee, for an agreement entered into by a person on behalf of an organisation that is an unincorporated association, means the organisation and the person, separately.

Explanatory note

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

[3.175] Dictionary, definition of *organisation*

substitute

organisation—

- (a) means a body (whether or not incorporated); and
- (b) includes—
 - (i) an administrative unit; and
 - (ii) a territory authority; but

- (c) does not include a body carried on for the purpose of profit or gain to its individual members.

Explanatory note

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

[3.176] Dictionary, definition of *research and development activity*, paragraph (a)

omit

with respect to

substitute

in relation to

Explanatory note

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

Part 3.14 Domestic Animals Act 2000

[3.177] Section 40 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant words. Section 40 (3) provides that a declaration under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.178] Section 68 (3) (d)

omit

119

substitute

120

Explanatory note

This amendment corrects a cross-reference.

[3.179] Section 143 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant words. Section 143 (3) provides that a code of practice approved under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.180] Section 144 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant words. Section 144 (2) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

Part 3.15 Duties Act 1999

[3.181] Section 91 (2) (j)

omit

Explanatory note

This amendment omits a redundant paragraph. Section 91 (2) (j) referred to section 63 (3), which expired on 30 June 2010.

[3.182] Section 208 (4)

omit

Explanatory note

This amendment omits a redundant definition of *passenger motor vehicle*. The term is not used elsewhere in the Act.

Part 3.16 Education Act 2004

[3.183] Section 10 (4), new note

insert

Note If a form is approved under s 154 for this provision, the form must be used.

Explanatory note

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

[3.184] Section 40 (4)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 40 (5) provides that a declaration under the section is a notifiable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.185] Section 43 (11)

omit

must be in writing and

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 43 (11) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.186] Section 83 (2), new note

insert

Note If a form is approved under s 154 for the application, the form must be used.

Explanatory note

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

[3.187] Section 84 (7)

substitute

- (7) The chief executive must make a copy of the Minister's reasons available for inspection free of charge to the public during ordinary business hours at the office of an administrative unit administered by the chief executive.

Explanatory note

This amendment revises the provision to make it consistent with other similar provisions by clarifying that, for practical purposes, a copy of the Minister's reasons for approving, or refusing to approve, an application for in-principle approval for the provisional registration of a school must be made available at an office administered by the chief executive and not specifically at the chief executive's office, as currently required.

[3.188] Section 85 (3), new note

insert

Note If a form is approved under s 154 for the application, the form must be used.

Explanatory note

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

[3.189] Section 87 (2), new note

insert

Note If a form is approved under s 154 for the application, the form must be used.

Explanatory note

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

[3.190] Section 88A (2), new note

insert

Note If a form is approved under s 154 for the application, the form must be used.

Explanatory note

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

[3.191] Section 89 (2), new note

insert

Note If a form is approved under s 154 for the application, the form must be used.

Explanatory note

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

[3.192] Section 96 (1), new note

insert

Note If a form is approved under s 154 for the application, the form must be used.

Explanatory note

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

[3.193] Section 130 (1), new note

insert

Note If a form is approved under s 154 for the application, the form must be used.

Explanatory note

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

[3.194] Section 137 (1), new note

insert

Note If a form is approved under s 154 for the application, the form must be used.

Explanatory note

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

[3.195] Section 151 (2)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 151 (6) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

Part 3.17 **Enclosed Lands Protection Act 1943**

[3.196] Section 4 (2)

omit

shall be deemed

substitute

is taken

Explanatory note

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

[3.197] Section 4 (3) (a)

substitute

- (a) if there is a reasonably defined track commonly used by people passing through those lands—the centre of the track is taken, for this Act, to be the centre of the road; or

Explanatory note

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

[3.198] Section 4 (3) (b)

omit

shall

substitute

does

Explanatory note

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

[3.199] Section 6 (1)

substitute

- (1) If the owner, occupier or person in charge of enclosed lands believes on reasonable grounds that another person is committing an offence against this Act, the owner, occupier or person in charge may require the other person to give the person's full name and home address.

Explanatory note

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

[3.200] Section 6 (2)

omit

shall

substitute

must

Explanatory note

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

[3.201] Dictionary, definition of *enclosed lands*

omit

, such as a river or cliff,

substitute

(for example, a river or cliff)

Explanatory note

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

[3.202] Dictionary, definition of *enclosed lands*, 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.

Part 3.18 Environment Protection Act 1997

[3.203] Section 165 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. Section 165 (2) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.204] Section 165A (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. Section 165A (3) provides that an approved form under the section is a notifiable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.205] Section 166 (8) (a)

substitute

(a) by—

- (i) amending activities mentioned in the schedule, or
- (ii) adding activities to, or deleting activities from, the schedule; and

Explanatory note

This amendment amends section 166 (8) (a) to make it clear that a regulation can amend an activity in schedule 1, as well as add or delete an activity.

Part 3.19 Fair Trading (Motor Vehicle Repair Industry) Act 2010

[3.206] Section 35 (2) (c)

omit

licence disqualified

substitute

licensee disqualified

Explanatory note

This amendment corrects an incorrect reference to ‘licence’.

Part 3.20 Firearms Act 1996

[3.207] Section 38 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 38 (2) provides that a declaration under the section is a notifiable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.208] Section 40 (1), new notes

insert

Note 1 If a form is approved under s 271 for this provision, the form must be used.

Note 2 A fee may be determined under s 270 for this provision.

Explanatory note

This amendment inserts notes to assist users of the Act to make it clear that—

- if a form is approved for an application under s 40, the form must be used; and
- the registrar may determine a fee for this provision.

[3.209] Dictionary, definition of *blank fire firearm*

substitute

blank fire firearm means a device that is designed for firing blank cartridges only.

Example

a starting pistol

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 relocates the example in line with current legislative drafting practice.

Part 3.21 Gaming Machine Act 2004

[3.210] Subsection 35 (2)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 35 (3) provides that a declaration under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.211] Section 66 (1), definition of *centralised monitoring system*

omit

in writing

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 66 (2) provides that an approval mentioned in the section is a notifiable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.212] Section 69 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 69 (3) provides that an approval under the section is a notifiable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.213] Section 70 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 70 (3) provides that a cancellation or suspension under the section is a notifiable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.214] Section 126 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 126 (2) provides that an approval under the section is a notifiable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.215] Section 145 (1) (b)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 145 (2) provides that an approval under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.216] Section 151 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 151 (5) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.217] Section 162 (3)

omit

Explanatory note

This amendment omits a provision which is expressed to remove doubt about the capacity to give a return by email. The provision is unnecessary because the *Electronic Transactions Act 2001*, section 8 provides for electronically giving information required or allowed to be in writing. The Legislation Act, part 19.5 also deals with how documents may be given.

[3.218] Section 169 (3)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 169 (4) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.219] Section 177 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 177 (2) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

Part 3.22 Health Act 1993

[3.220] Section 10

omit

the Territory shall have regard

substitute

the Territory must have regard

Explanatory note

This amendment updates language in line with current drafting practice.

[3.221] Section 83 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 83 (2) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.222] Section 102 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 102 (3) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.223] Section 106 (3)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 106 (6) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.224] Section 125 (3), note

omit

Explanatory note

This amendment omits an unnecessary note.

[3.225] Section 192 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 192 (3) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.226] Section 193 (2)

omit

in writing

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 193 (3) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.227] Section 194 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 194 (3) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

Part 3.23 Health Records (Privacy and Access) Act 1997

[3.228] Section 34 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 34 (2) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.229] Section 35 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 35 (3) provides that an approved form under the section is a notifiable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.230] Section 37

omit

shall not

substitute

is not to

Explanatory note

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

**[3.231] Dictionary, definition of *personal health information*,
paragraph (b)**

omit

health provider

substitute

health service provider

Explanatory note

This amendment corrects an incorrect reference. The term ‘health service provider’ is defined in the dictionary and mentioned extensively in the Act while the term ‘health provider’ is used only in the definition of ‘personal health information’ and is not defined.

[3.232] Further amendments, mentions of *shall*

omit

shall

substitute

must

in

- section 6 (1)
- section 10 (4)
- section 11 (4)

- section 12 (2)
- section 15
- section 17
- section 30
- section 33 (2).

Explanatory note

These amendments update language in line with current legislative drafting practice.

Part 3.24 **Independent Competition and Regulatory Commission Act 1997**

[3.233] Section 19D (1)

omit

written

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 19D (2) provides that a notice under the section is a notifiable instrument, which must be in writing (see Legislation Act section 42 (2)).

[3.234] Section 20A (3) (b)

omit

(for example, by reference to price indices)

Explanatory note

This amendment omits text that is redundant as a consequence of another amendment.

[3.235] Section 20A (3), note

substitute

Example for par (c)—method

by reference to price indices

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 relocates the example in line with current legislative drafting practice.

[3.236] Section 35 (2)

omit

such as

substitute

like

Explanatory note

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

[3.237] Section 35 (3)

omit

such

substitute

those

Explanatory note

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

[3.238] Section 40 (6)

omit

such fees and expenses

substitute

the arbitrator's fees and expenses

Explanatory note

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

[3.239] Section 44 (3) (a)

omit

such

substitute

the

Explanatory note

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

[3.240] Dictionary, definition of *access regime*, paragraphs (a) and (b)

omit

such as

substitute

for example,

Explanatory note

This amendment updates language in line with current legislative drafting practice

[3.241] Dictionary, definition of *access regime*, 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 note about examples, with current legislative drafting practice.

[3.242] Dictionary, new definition of *direction*

insert

direction, for part 9 (Enforcement of prior directions and arbitration determinations)— see section 51.

Explanatory note

This amendment inserts a signpost definition into the dictionary for a term defined for part 9 of the Act.

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

omit

, in writing,

in

- section 4 (1)
- section 4C (1)
- section 16 (1)
- section 19F
- section 19G
- section 57.

Explanatory note

This amendment omits text that is redundant. Because the instruments under the mentioned sections are disallowable instruments or, in the case of section 57, notifiable instruments, they must be in writing (see the Legislation Act, s 42 (2)).

Part 3.25 **Interactive Gambling Act 1998**

[3.244] Section 7

omit

shall

substitute

must

Explanatory note

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

[3.245] Section 9 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 9 (3) provides that a declaration under the section is a disallowable instrument, which must be in writing (see Legislation Act section 42 (2)).

[3.246] Section 10 etc

omit

shall

substitute

must

in

- sections 10 to 14
- section 20.

Explanatory note

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

[3.247] Section 22 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 22 (3) provides that an exemption scheme approved under the section is a notifiable instrument, which must be in writing (see Legislation Act section 42 (2)).

[3.248] Section 23 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 23 (4) provides that a cancellation under the section is a notifiable instrument, which must be in writing (see Legislation Act section 42 (2)).

[3.249] Section 23 (2)

omit

shall

substitute

must

Explanatory note

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

[3.250] Section 27 etc

omit

shall

substitute

must

in

- sections 27 to 31
- section 34
- section 37 (3)
- section 38 (3)
- sections 40 to 44
- sections 46 to 49
- section 51 (1)
- section 52
- sections 54 (2)
- section 55
- sections 58 to 59
- sections 62 to 66
- sections 68 to 71
- sections 77 to 80
- sections 83 to 84.

Explanatory note

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

[3.251] Section 85 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 85 (2) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act section 42 (2)).

[3.252] Sections 87 to 91

omit

shall

substitute

must

Explanatory note

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

[3.253] Section 93 (1)

after

system

insert

(a *control system submission*)

Explanatory note

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

[3.254] Section 93 (2)

substitute

(2) A control system submission must be in writing.

Explanatory note

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

[3.255] Section 93 (3) and (4)

omit

shall

substitute

must

Explanatory note

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

[3.256] Section 94 (1)

after

system

insert

(a *control system submission*)

Explanatory note

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

[3.257] Section 94 (2) and (3)

omit

shall

substitute

must

Explanatory note

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

[3.258] Section 95 to 99

omit

shall

substitute

must

Explanatory note

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

[3.259] Section 100 (1)

omit

shall remit

substitute

must pay

Explanatory note

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

[3.260] Section 102 etc

omit

shall

substitute

must

in

- section 102
- sections 105 to 111
- sections 113 to 121

- sections 123 to 139
- section 143.

Explanatory note

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

[3.261] Section 145 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 145 (2) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act section 42 (2)).

[3.262] Section 146

omit

shall

substitute

must

Explanatory note

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

Part 3.26 Judicial Commissions Act 1994

[3.263] Section 5 (2) (a)

omit

pursuant to

substitute

under

Explanatory note

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

[3.264] Section 5 (3)

omit

shall be taken to have been completed where

substitute

is taken to have been completed if

Explanatory note

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

[3.265] Section 19 (2)

omit

shall

substitute

must

Explanatory note

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

Part 3.27 Lakes Act 1976

[3.266] Section 5 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 5 (2) provides that a declaration under the section is a notifiable instrument, which must be in writing (see Legislation Act section 42 (2)).

[3.267] Section 9 (3)

omit

shall not be liable

substitute

is not liable

Explanatory note

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

[3.268] Section 13 (3) and 14 (1)

omit

shall

substitute

must

Explanatory note

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

[3.269] Section 14 (2)

omit

shall

substitute

is to

Explanatory note

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

[3.270] Section 21 (3) and 23

omit

shall

substitute

must

Explanatory note

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

[3.271] Section 25A (2) (b)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 25A (3) provides that a determination under the section is a notifiable instrument, which must be in writing (see Legislation Act section 42 (2)).

[3.272] Sections 41 to 46

omit

shall

substitute

must

Explanatory note

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

[3.273] Section 50 (3)

omit

shall be entitled, upon

substitute

is entitled, on

[3.274] Section 50 (3)

omit

shall afford

substitute

must provide

[3.275] Sections 54 (1) and 55 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. The text is unnecessary because section 54 (2) provides that a determination under section 54 (1) is a disallowable instrument and section 55 (3) provides that an approved form under section 55 (1) is a notifiable instrument. Disallowable instruments and notifiable instruments must be in writing (see Legislation Act section 42 (2)).

Part 3.28 Land Titles Act 1925

[3.276] Section 73 (3) (b)

omit

section 172

substitute

the Corporations Act, section 127 (Execution of documents (including deeds) by the company itself).

Explanatory note

This amendment corrects an incorrect cross-reference. Section 172 provided for the method of execution by corporations of documents dealing with land. The execution of documents, including documents dealing with land, is now dealt with by the Corporations Act, section 127. Section 172 was omitted by the *Land Titles Legislation Amendment Act 2000* (A2000-82), section 19, however, the cross-reference to that section in section 73 (3) (b) was not amended as a consequence of the omission.

[3.277] Section 86 (10) and (11)

omit

section 91B

substitute

section 91A

Explanatory note

This amendment corrects an incorrect cross-reference.

[3.278] Dictionary, note 2

insert

- Corporations Act

Explanatory note

Dictionary, note 2 is an aid to users which list examples of terms used in the Act that are defined in the Legislation Act, dictionary, part 1. This amendment inserts a new defined term in the list of terms defined in the Legislation Act as a consequence of the insertion of the term in section 73 (3) (b) by another amendment.

Part 3.29 Planning and Development Act 2007

[3.279] Section 28 (1) (a) (viii)

omit

Explanatory note

The Act, section 28 (1) sets out the information about development applications that must be included on the public register kept under section 27. This amendment omits a paragraph that incorrectly refers to amendments of development applications under the Act, section 197. Section 197 deals with applications to amend development approvals (that is, development applications that have not been granted); it does not deal with development applications. Section 28 (a) (vi) correctly refers to development applications amended under section 144, which deals with amending development applications. Section 28 (1) (b) (v) correctly refers to development approvals amended under section 197.

[3.280] Section 424 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. Section 424 (2) provides that a determination under the section is a disallowable instrument, which must be in writing (see Legislation Act, s 42 (2)).

[3.281] Section 425 (1)

omit

, in writing,

Explanatory note

This amendment omits redundant text. Section 425 (3) provides that an approved form under the section is a notifiable instrument, which must be in writing (see Legislation Act, s 42 (2)).

Part 3.30 Road Transport (Offences) Regulation 2005

[3.282] Schedule 1, part 1.6 item 49

substitute

49	116 (3) (b)	change learner driver logbook in way calculated to deceive	20		
----	-------------	--	----	--	--

Explanatory note

This amendment updates item 49 to better reflect the wording of *Road Transport (Driver Licensing) Regulation 2000*, section 116 (3) (b).

[3.283] Schedule 1, part 1.6 items 50 and 51

omit

Explanatory note

This amendment is consequential on amendment of the *Road Transport (Driver Licensing) Regulation 2000* made by the *Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004*, schedule 2, amendment 2.170, which omitted section 116 (3) (c) and (d).

Part 3.31 Tree Protection Act 2005

[3.284] Section 108 (3) (a) (ii)

omit

such an assessment

substitute

an assessment under subparagraph (i)

Explanatory note

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

[3.285] Schedule 1, part 1.2, item 6

substitute

6	107	confirm, vary or set aside first decision	entity who is given internal review notice for decision mentioned in schedule 1, part 1.1, in relation to decision to be reviewed
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Explanatory note

This amendment corrects an incorrect table reference in column 4. This amendment also updates the language of column 3 to be consistent with the language of section 107.

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

omit

, in writing,

in

- section 7 (2)
- section 21 (1)
- section 31 (1)

- section 38 (1)
- section 39 (1)
- section 45 (1)
- section 61 (2)
- section 75 (1)
- section 109 (1)
- section 110 (1).

Explanatory note

This amendment omits text that is redundant. Because the instruments under the sections are disallowable or notifiable instruments, they must be in writing.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 21 October 2010.

2 Notification

Notified under the Legislation Act on 22 February 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, which originated in the Legislative Assembly as the Statute Law Amendment Bill 2010 (No 2) and was passed by the Assembly on 15 February 2011.

Clerk of the Legislative Assembly

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