



Australian Capital Territory

# Statute Law Amendment Act 2011 (No 3)

A2011-52

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Australian Capital Territory

# **Statute Law Amendment Act 2011 (No 3)**

**A2011-52**

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

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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 3)*.

**2 Commencement**

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

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

**3 Purpose**

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

**4 Notes**

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

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

**5 Legislation amended—schs 1-3**

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

## Schedule 1      Minor amendments

(see s 5)

### Part 1.1                      Domestic Animals Regulation 2001

#### [1.1]      Schedule 1, new item 14A

*insert*

14A	Act, 77	revoke a permit if satisfied that dog or cat is no longer dog or cat to which s 76 (2) applies	applicant for permit
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#### **Explanatory note**

This amendment inserts a new item in schedule 1 (which lists reviewable decisions under the Act and regulation) so that a decision by the registrar to revoke a permit to keep a dog or cat that is not de-sexed is reviewable.

### Part 1.2                      Exhibition Park Corporation Act 1976

#### [1.2]      Section 9

*omit*

7, but not more than 9,

*substitute*

3, but not more than 5,

#### **Explanatory note**

This amendment reduces the membership of the Exhibition Park Corporation's governing board.

## Part 1.3 Intoxicated People (Care and Protection) Act 1994

### [1.3] Section 15 (2) (c) (i)

*substitute*

- (i) if the applicant is an individual—a written statement signed by the applicant stating that the applicant has never been 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.

### [1.4] Section 23 (1) (a)

*substitute*

- (a) if the licensee is an individual—the licensee becomes 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 and as a consequence of the insertion of the new term in section 15 and section 23 by other amendments.

## **Part 1.4 Medicines, Poisons and Therapeutic Goods Act 2008**

**[1.6] Section 81 (2) (b)**

*substitute*

- (b) the individual, or a close associate of the individual, is, or was at any time in the 5-year period before the day the application for the licence is made, 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.

**[1.7] 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 and as a consequence of the insertion of the new term in section 81 by another amendment.

## Part 1.5 Medicines, Poisons and Therapeutic Goods Regulation 2008

### [1.8] Section 644 (1) (c)

*substitute*

- (c) if the member 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 Radiation Protection Act 2006

### [1.9] Section 71 (c)

*substitute*

- (c) if the member 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.

**[1.10] 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 and as a consequence of the insertion of the new term in section 71 by another amendment.

## **Part 1.7 Tobacco Act 1927**

**[1.11] Section 56 (f) (iii)**

*substitute*

- (iii) the licensee becomes 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.

**[1.12] 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 and as a consequence of the insertion of the new term in section 56 by another amendment.

## Schedule 2      Legislation Act 2001

(see s 5)

### [2.1]      Dictionary, part 1, new definitions

*insert*

***CrimTrac*** means the CrimTrac agency established under the *Public Service Act 1999* (Cwlth), section 65 (Establishment etc. of Executive Agencies).

***National Electricity (ACT) Law*** means the provisions applying in the ACT because of the *Electricity (National Scheme) Act 1997*, section 5 (Application in ACT of National Electricity Law).

***National Electricity (ACT) Regulation*** means the provisions applying because of the *Electricity (National Scheme) Act 1997*, section 6 (Application of regulations under National Electricity Law).

#### **Explanatory note**

This amendment inserts definitions of terms used in a number of Acts to assist users of legislation.

## **Schedule 3      Technical amendments**

(see s 5)

### **Part 3.1                      Aboriginal and Torres Strait Islander Elected Body Act 2008**

#### **[3.1]      Section 11 (2)**

*omit*

Aboriginal person and Torres Strait Islander

*substitute*

Aboriginal and Torres Strait Islander person

#### **Explanatory note**

This amendment updates references to Aboriginal and Torres Strait Islander people in line with current legislative drafting practice.

#### **[3.2]      Dictionary, definition of *Aboriginal person or Torres Strait Islander***

*substitute*

***Aboriginal or Torres Strait Islander person*** means a person who—

- (a) is a descendant of an Aboriginal person or a Torres Strait Islander person; and
- (b) identifies as an Aboriginal person or a Torres Strait Islander person; and
- (c) is accepted as an Aboriginal person or a Torres Strait Islander person by an Aboriginal community or Torres Strait Islander community.

#### **Explanatory note**

This amendment updates references to Aboriginal and Torres Strait Islander people in line with current legislative drafting practice.

**[3.3] Further amendments, mentions of *Aboriginal people and Torres Strait Islanders***

*omit*

Aboriginal people and Torres Strait Islanders

*substitute*

Aboriginal and Torres Strait Islander people

*in*

- section 3
- section 8
- section 10 (1)
- section 11 (1)
- section 12 (1)

**Explanatory note**

This amendment updates references to Aboriginal and Torres Strait Islander people in line with current legislative drafting practice.

**[3.4] Further amendments, mentions of *Aboriginal person or Torres Strait Islander***

*omit*

Aboriginal person or Torres Strait Islander

*substitute*

Aboriginal or Torres Strait Islander person

*in*

- schedule 1, modification 1.1, new section 33 (2C)
- schedule 1, modification 1.5, section 103 (1)
- schedule 1, modification 1.7, section 105 (2A)
- schedule 1, modification 1.8, section 105 (4) (d) and (da)
- schedule 1, modification 1.32, section 125A
- schedule 1, modification 1.34, section 128 (1)

- schedule 1, modification 1.41, new sections 133A and 133B
- schedule 1, modification 1.42, new section 134A
- schedule 1, modification 1.50, section 139 (2)
- schedule 1, modification 1.54, new section 144B
- schedule 1, modification 1.80, new section 256 (2) (aa)
- schedule 1, modification 1.99, clause 6 (2) (d)

**Explanatory note**

This amendment updates references to Aboriginal and Torres Strait Islander people in line with current legislative drafting practice.

## **Part 3.2                      ACT Teacher Quality Institute Act 2010**

### **[3.5]            Dictionary, note 2**

*insert*

- CrimTrac

**Explanatory note**

Dictionary, note 2 lists examples of terms used in the Act that are defined 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 as a consequence of the insertion of a definition of *CrimTrac* in the Legislation Act, dictionary, part 1 by another amendment.

### **[3.6]            Dictionary, definition of *CrimTrac***

*omit*

**Explanatory note**

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

## Part 3.3                            ACT Teacher Quality Institute Regulation 2010

### [3.7]            New section 24

*insert*

#### 24            Expiry—pt 4

This part expires on the day the *ACT Teacher Quality Institute Act 2010*, part 15 expires.

#### Explanatory note

This amendment inserts a standard expiry provision for the regulation, part 4, which deals with transitional matters.

## Part 3.4                            Animal Diseases Regulation 2006

### [3.8]            Sections 29 (1) (b) (ii) and 36 (5)

*omit*

this Act

*substitute*

this regulation

#### Explanatory note

This amendment corrects incorrect references to ‘this Act’.



**[3.9] Dictionary, definition of *authorised administrator***

*omit*

*Stock Diseases Regulation 2004* (NSW), section 35

*substitute*

*Stock Diseases Regulation 2009* (NSW), section 45

**Explanatory note**

This amendment updates a cross-reference as a consequence of the *Stock Diseases Regulation 2004* (NSW) being remade as the *Stock Diseases Regulation 2009* (NSW).

## **Part 3.5 Architects Regulation 2004**

**[3.10] Section 2, note 1**

*omit*

this Act

*substitute*

this regulation

**Explanatory note**

This amendment updates an incorrect reference to ‘this Act’.

**[3.11] Dictionary, note 1**

*omit*

this Act

*substitute*

this regulation

**Explanatory note**

This amendment updates an incorrect reference to ‘this Act’.

**[3.12]     Dictionary, new definitions**

*insert*

*architect*, for part 3 (Miscellaneous)—see section 11.

*contravention*, for part 3 (Miscellaneous)—see section 11.

**Explanatory note**

This amendment inserts signpost definitions for terms defined elsewhere in the regulation.

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

**[3.13]     Section 8 (1) (b) (i)**

*omit*

notified the Minister in writing

*substitute*

given the Minister written notice

**Explanatory note**

This amendment updates language to be consistent with the rest of section 8 and current legislative drafting practice.

**[3.14]     Section 22 (1) (b)**

*omit*

subsections (1) (e) and (2) (b)

*substitute*

subsection (1) (b)

**Explanatory note**

This amendment updates an outdated cross-reference.

**[3.15] Section 22A (3)**

*omit*

unless the Treasurer is satisfied that that Act, section 18 (1) (c) or (d) prevents the authorisation of the amount.

*substitute*

if the Treasurer is satisfied of the matters mentioned in that Act, section 18 (2).

**Explanatory note**

This amendment updates an outdated cross-reference.

**[3.16] Dictionary, definition of *protected information***

*omit*

section 32A

*substitute*

section 33

**Explanatory note**

This amendment corrects an incorrect cross-reference in a signpost definition of *protected information*, which is defined in section 33.

## Part 3.7      Births, Deaths and Marriages Registration Act 1997

### [3.17]      Section 5 (4) (a)

*after*

chief executive

*insert*

officer

#### Explanatory note

Section 5 (4) (a) incorrectly refers to the ‘chief executive’ of a hospital. Other provisions in the Act refer to the ‘chief executive officer’ of a hospital. This amendment corrects the reference in section 5 (4) (a).

## Part 3.8      Casino Control Act 2006

### [3.18]      Section 28 (2), note

*substitute*

*Note*      If the commission is owed an amount by the casino licensee under this division, the commission may recover the amount as a debt owing by the casino licensee to the commission in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

#### Explanatory note

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

## **Part 3.9**                      **Cemeteries and Crematoria Act 2003**

### **[3.19] Section 6 (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.

### **[3.20] Section 7 (1)**

*omit*

written

#### **Explanatory note**

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

### **[3.21] Section 11 (3)**

*after*

operator

*insert*

of the cemetery or crematorium

#### **Explanatory note**

This amendment inserts words to make the reference to an operator of a cemetery or crematorium consistent with the definition of *operator* in the dictionary to the Act and other references to operators of cemeteries or crematoria in the Act.

**[3.22]    Section 12 (3)**

*after*

The operator

*insert*

of the cemetery or crematorium

**Explanatory note**

This amendment inserts words to make the reference to an operator of a cemetery or crematorium consistent with the definition of *operator* in the dictionary to the Act and other references to operators of cemeteries or crematoria in the Act.

**[3.23]    Section 14 (2)**

*omit*

An operator

*substitute*

The operator of a cemetery or crematorium

**Explanatory note**

This amendment inserts words to make the reference to an operator of a cemetery or crematorium consistent with the definition of *operator* in the dictionary to the Act and other references to operators of cemeteries or crematoria in the Act.

**[3.24]    Section 14 (2)**

*omit*

for the

*substitute*

of the

**Explanatory note**

This amendment substitutes words to correct a reference to the perpetual care trust ‘for’ a cemetery or crematorium. All other references in the Act are to the perpetual care trust ‘of’ a cemetery or crematorium.

**[3.25] Section 15 (3)**

*after*

an operator

*insert*

of the cemetery or crematorium

**Explanatory note**

This amendment inserts words to make the reference to an operator of a cemetery or crematorium consistent with the definition of *operator* in the dictionary to the Act and other references to operators of cemeteries or crematoria in the Act.

**[3.26] Section 16A (1)**

*omit*

does not

*substitute*

fails to

**Explanatory note**

This amendment updates language used in an offence provision, in line with current legislative drafting practice.

**[3.27] Section 16A (2)**

*omit everything before paragraph (a), substitute*

- (2) The operator of a cemetery or crematorium commits an offence if the operator fails to keep the accounts and records—

**Explanatory note**

This amendment inserts words to make the reference to an operator of a cemetery or crematorium consistent with the definition of *operator* in the dictionary to the Act and other references to operators of cemeteries or crematoria in the Act. It also updates language used in an offence provision, and the structure of the provision, in line with current legislative drafting practice.

**[3.28]    Section 16A (2) (a) to (d)**

*omit*

keep the accounts and records

**Explanatory note**

This amendment omits words that are moved to the opening words of the provision by the previous amendment.

**[3.29]    Section 16B (2)**

*omit*

The operator commits an offence if the operator does not

*substitute*

The operator of a cemetery or crematorium commits an offence if the operator fails to

**Explanatory note**

This amendment inserts words to make the reference to an operator of a cemetery or crematorium consistent with the definition of *operator* in the dictionary to the Act and other references to operators of cemeteries or crematoria in the Act. It also updates language used in an offence provision, in line with current legislative drafting practice.

**[3.30]    Section 18 heading**

*substitute*

**18        Offence—failing to end contravention**

**Explanatory note**

This amendment updates the heading of an offence provision, in line with current legislative drafting practice.



**[3.31] Section 20 heading**

*substitute*

**20 Person must not bury or cremate human remains or foetal remains except in accordance with regulation**

**Explanatory note**

This amendment adds ‘foetal remains’ to the section’s heading to bring it into line with the section’s content.

**[3.32] Section 23 heading**

*substitute*

**23 Exhumation of human remains or foetal remains**

**Explanatory note**

This amendment adds ‘foetal remains’ to the section’s heading to bring it into line with the section’s content.

**[3.33] Section 23 (2)**

*after*

human

*insert*

remains

**Explanatory note**

This amendment makes the reference to human remains consistent with all other references in the Act.

**[3.34]    Section 27 (3)**

*after*

if

*insert*

the doctor

**Explanatory note**

This amendment updates the structure of the offence provision, in line with current legislative drafting practice.

**[3.35]    Section 27 (3) (a)**

*omit*

the doctor

**Explanatory note**

This amendment omits words that are moved to the opening words of the provision by the previous amendment.

**[3.36]    Section 27 (3) (b)**

*omit everything before subparagraph (i), substitute*

(b) knows that—

**Explanatory note**

This amendment omits words that are moved to the opening words of the provision by an earlier amendment.

**[3.37]    Section 28A (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.

**[3.38] Sections 49 (1) and 50 (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 and notifiable instruments to be in writing.

**[3.39] Section 51 (2)**

*omit*

relation to—

*substitute*

relation to the following:

**Explanatory note**

This amendment updates the provision to bring it into line with current legislative drafting practice.

**[3.40] Section 51 (2) (a) and (b)**

*omit*

crematoria; and

*substitute*

crematoria;

**Explanatory note**

This amendment omits the conjunctions used in 2 of the section's paragraphs, as a consequence of adding 'the following' to the opening words of the provision by the previous amendment.

**[3.41]      Section 51 (2) (c) and (d)**

*omit*

cremations; and

*substitute*

cremations;

**Explanatory note**

This amendment omits the conjunctions used in 2 of the section's paragraphs, as a consequence of adding 'the following' to the opening words of the provision by an earlier amendment.

**[3.42]      Section 51 (3)**

*substitute*

- (3) A regulation may create offences and fix maximum penalties of not more than 10 penalty units for the offences.

**Explanatory note**

This amendment updates the provision to bring it into line with current legislative drafting practice.

**[3.43]      Dictionary, note 2**

*omit*

- authorised deposit-taking institution

**Explanatory note**

This amendment omits a reference to a term that is no longer used in the Act.

**[3.44]      Dictionary, definition of *ADI***

*omit*

**Explanatory note**

This amendment omits a definition of a term that is no longer used in the Act.

## **Part 3.10**                      **Civil Law (Sale of Residential Property) Regulation 2004**

### **[3.45] Section 7 heading**

*substitute*

#### **7 Building and compliance inspection report—Act, dictionary, def *building and compliance inspection report***

**Explanatory note**

This amendment corrects an incorrect cross-reference.

### **[3.46] Section 10 heading**

*substitute*

#### **10 Pest inspection report—Act, dictionary, def *pest inspection report***

**Explanatory note**

This amendment corrects an incorrect cross-reference.

## **Part 3.11**                      **Construction Occupations (Licensing) Regulation 2004**

### **[3.47] Section 13 (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.

**[3.48] Schedule 1, part 1.1, item 2, column 3**

*omit*

this Act

*substitute*

the Act

**Explanatory note**

This amendment updates an incorrect reference to ‘this Act’.

**[3.49] Schedule 4, item 19**

*substitute*

19	Act, 97	give notice of licence suspension without opportunity to make representations	person whose licence suspended
19A	Act, 98	give notice of licence disqualification without opportunity to make representations	person whose licence disqualified

**Explanatory note**

Item 19 currently refers to a decision under the Act, section 97 to give notice of licence suspension or disqualification without opportunity to make representations. However, a decision to give notice of licence disqualification is made under the Act, section 98. This amendment replaces item 19 with 2 new items that refer to the correct decisions under the 2 provisions.

**[3.50] Dictionary, definition of *bonded asbestos***

*substitute*

*bonded asbestos*—see the *Building (General) Regulation 2008*, dictionary.

**Explanatory note**

This amendment updates a cross-reference.

**[3.51] Dictionary, definition of *friable asbestos***

*omit*

**Explanatory note**

This amendment omits a redundant definition.

## **Part 3.12 Coroners Act 1997**

**[3.52] Sections 69, 70 and 75**

*omit*

Aboriginal person or Torres Strait Islander

*substitute*

Aboriginal or Torres Strait Islander person

**Explanatory note**

This amendment updates references to Aboriginal and Torres Strait Islander people in line with current legislative drafting practice.

**[3.53] Dictionary, definition of *Aboriginal person***

*omit*

**Explanatory note**

This amendment is consequential on the insertion of a definition of *Aboriginal or Torres Strait Islander person* by another amendment.

**[3.54]      Dictionary, new definition of *Aboriginal or Torres Strait Islander person***

*insert*

*Aboriginal or Torres Strait Islander person* means a person who—

- (a) is a descendant of an Aboriginal person or a Torres Strait Islander person; and
- (b) identifies as an Aboriginal person or a Torres Strait Islander person; and
- (c) is accepted as an Aboriginal person or a Torres Strait Islander person by an Aboriginal community or Torres Strait Islander community.

**Explanatory note**

This amendment inserts a new definition of *Aboriginal and Torres Strait Islander person* in line with current legislative drafting practice.

**[3.55]      Dictionary, definition of *immediate family*, paragraph (b)**

*omit*

Aboriginal person or Torres Strait Islander

*substitute*

Aboriginal or Torres Strait Islander person

**Explanatory note**

This amendment updates references to Aboriginal and Torres Strait Islander people in line with current legislative drafting practice.

**[3.56]      Dictionary, definition of *Torres Strait Islander***

*omit*

**Explanatory note**

This amendment is consequential on the insertion of a definition of *Aboriginal or Torres Strait Islander person* by another amendment.



## **Part 3.13**                      **Corrections Management Act 2007**

### **[3.57] Chapter 50**

*omit*

#### **Explanatory note**

This amendment omits a redundant chapter that dealt with transitional matters. Chapter 50 contains only 1 provision, which defines *commencement day* for chapter 50.

### **[3.58] Dictionary, new definitions**

*insert*

*director-general*, for chapter 4 (Detention in police and court cells etc)—see section 29.

*young detainee*, for chapter 4 (Detention in police and court cells etc)—see the *Children and Young People Act 2008*, section 95.

#### **Explanatory note**

This amendment inserts signpost definitions for a term defined elsewhere in the Act and a term defined in another Act.

## Part 3.14            Crimes Act 1900

### [3.59]            Section 7A, note 1

*insert*

- s 35A (Affray)
- s 63A (Bestiality)
- s 171 (Prescribing and supplying anabolic steroids)
- s 172 (Possessing anabolic steroids)
- s 173 (Administering anabolic steroids)

#### **Explanatory note**

Section 7A, note 1 lists the offences in the Act to which the Criminal Code, chapter 2 applies. The Criminal Code, chapter 2 sets out the general principles of criminal responsibility (including burdens of proof and general defences) and defines terms used for offences to which the Code applies. This amendment updates the list by adding a number of offences that have been included in the Act.

### [3.60]            Sections 254 (1) and 443 (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.

## **Part 3.15**                      **Crimes (Child Sex Offenders) Act 2005**

### **[3.61]      Section 137 (2) (f) (iv)**

*omit*

person who has a disability

*substitute*

person with a disability

#### **Explanatory note**

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

## **Part 3.16**                      **Crimes (Child Sex Offenders) Regulation 2005**

### **[3.62]      Section 16A (2), definition of *law enforcement agency*, paragraph (c)**

*substitute*

(c) CrimTrac;

#### **Explanatory note**

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

**[3.63]      Dictionary, note 2**

*insert*

- CrimTrac

**Explanatory note**

Dictionary, note 2 lists examples of terms used in the Act that are defined 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 as a consequence of the insertion of a definition of *CrimTrac* in the Legislation Act, dictionary, part 1 by another amendment.

## **Part 3.17                      Dangerous Goods (Road Transport) Act 2009**

**[3.64]      Section 84 (6), note**

*substitute*

*Note*      An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

**Explanatory note**

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

**[3.65]      Section 103 (2), note**

*substitute*

*Note*      An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

**Explanatory note**

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

## **Part 3.18                      Dangerous Substances Act 2004**

### **[3.66]      Section 181 (3), note**

*substitute*

*Note*      An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

#### **Explanatory note**

This amendment updates the note and adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

## **Part 3.19                      Discrimination Act 1991**

### **[3.67]      Section 51 (1)**

*omit*

students who have a disability

*substitute*

students with a disability

#### **Explanatory note**

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

### **[3.68]      Sections 51 (2) and 52 (1) (a)**

*omit*

person who has a disability

*substitute*

person with a disability

#### **Explanatory note**

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

**[3.69]    Section 54**

*omit*

person who has a disability

*substitute*

person with a disability

**Explanatory note**

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

**[3.70]    Section 109 (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.

**[3.71]    Section 109 (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.

## **Part 3.20**                      **Electoral Act 1992**

### **[3.72]      Section 77 (3), new note**

*insert*

*Note 2*    The *Statutory Declarations Act 1959* (Cwlth) applies to the making of statutory declarations under ACT laws.

#### **Explanatory note**

This amendment inserts a standard note about statutory declarations.

### **[3.73]      Section 79 (2)**

*omit*

affirms

*substitute*

confirms

#### **Explanatory note**

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

## Part 3.21 Electricity Feed-in (Renewable Energy Premium) Act 2008

### [3.74] Section 5F (3), new definitions

*insert*

*customer contract*—see the *Utilities Act 2000*, dictionary.

*occupier*, of premises, means the person to whom electricity for the premises is supplied under a customer contract.

#### Explanatory note

This amendment—

- relocates from the dictionary the definition of *occupier* because the term is used only in section 5F; and
- revises the definition to be more consistent with the terminology of the *Utilities Act 2000*; and
- inserts a new definition of *customer contract* as a consequence of the revision of the definition of *occupier*.

These changes are in line with current legislative drafting practice. The definitions of *customer* and *occupier* are omitted from the dictionary by another amendment.

### [3.75] Dictionary, note 2

*insert*

- National Electricity (ACT) Law

#### 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 *National Electricity (ACT) Law* in the Legislation Act, dictionary, part 1 by another amendment.



**[3.76] Dictionary, definition of *customer***

*omit*

**Explanatory note**

This amendment is consequential on the revision and relocation to section 5F of the definition of *occupier* by another amendment.

**[3.77] Dictionary, new definition of *eligible entity***

*insert*

*eligible entity*—see section 5F (1).

**Explanatory note**

This amendment inserts a signpost definition for a term defined elsewhere in the Act.

**[3.78] Dictionary**

*omit the following definitions*

*National Electricity (ACT) Law*

*occupier*

**Explanatory note**

This amendment is consequential on—

- the revision and relocation to section 5F of the definition of *occupier* by another amendment; and
- the insertion of a definition of *National Electricity (ACT) Law* in the Legislation Act, dictionary, part 1 by another amendment.

## Part 3.22 Electricity (Greenhouse Gas Emissions) Act 2004

### [3.79] Section 4, 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 in this Act.

For example, the signpost definition '*benchmark participant*—see section 9.' means that the term 'benchmark participant' is defined in that section.

#### Explanatory note

This amendment is consequential on the omission of the definition of *National Electricity (ACT) Law* from the dictionary by another amendment. A definition of *National Electricity (ACT) Law* is included in the Legislation Act, dictionary, part 1 by another amendment.

### [3.80] New section 9 (3)

*insert*

(3) In this section:

*large customer* means a customer (other than a retail supplier) who uses—

- (a) 100 gigawatt hours or more of electricity at a single site in the ACT in a year; or
- (b) 100 gigawatt hours or more of electricity at 2 or more sites in the ACT in a year, at least 1 of which uses 50 gigawatt hours or more of electricity in the year.

#### Explanatory note

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

**[3.81] Section 16 (4), note**

*substitute*

*Note* An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

**Explanatory note**

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

**[3.82] Dictionary, note 2**

*insert*

- National Electricity (ACT) Law

**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 *National Electricity (ACT) Law* in the Legislation Act, dictionary, part 1 by another amendment.

**[3.83] Dictionary**

*omit the following definitions*

*large customer*

*National Electricity (ACT) Law*

**Explanatory note**

This amendment is consequential on—

- the inclusion of a definition of *large customer* in section 9 by another amendment; and
- the insertion of a definition of *National Electricity (ACT) Law* in the Legislation Act, dictionary, part 1 by another amendment.

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

*omit*

, in writing,

*in*

- section 13 (1)
- sections 45 and 46
- section 50 (3)
- section 52 (3) (b)
- section 61 (1)
- sections 64 and 65

**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 3.23            Electricity (Greenhouse Gas Emissions) Regulation 2004**

**[3.85] Section 15 (5), definition of *National Electricity (ACT) Law***

*omit*

**Explanatory note**

This amendment is consequential on the insertion of a definition of *National Electricity (ACT) Law* in the Legislation Act, dictionary, part 1 by another amendment.

**[3.86] Dictionary, note 2**

*insert*

- National Electricity (ACT) Law

**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 Regulation. 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 *National Electricity (ACT) Law* in the Legislation Act, dictionary, part 1 by another amendment.

**[3.87] Dictionary, definition of *supplier***

*omit*

**Explanatory note**

This amendment omits a redundant definition. The term is not used in the regulation. The term ‘retail supplier’ is used in the regulation, defined in the *Electricity (Greenhouse Gas Emissions) Act 2004* and included as a dot point in the dictionary, note 3, which lists examples of terms that are defined in that Act and used in the regulation.

## **Part 3.24 Environment Protection Act 1997**

**[3.88] Section 162 (1), new note**

*insert*

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

**Explanatory note**

This amendment inserts a standard note about statutory declarations.

**[3.89] Schedule 1, section 1.1, definition of *National Electricity (ACT) Law***

*omit*

This amendment is consequential on the insertion of a definition of *National Electricity (ACT) Law* in the Legislation Act, dictionary, part 1 by another amendment.

**[3.90]    Dictionary, note 2**

*insert*

- National Electricity (ACT) Law

**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 *National Electricity (ACT) Law* in the Legislation Act, dictionary, part 1 by another amendment.

## **Part 3.25                            Environment Protection Regulation 2005**

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

*omit*

, in writing,

*in*

- section 19 (2)
- section 64 (2)
- section 66 (2)

**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.

**[3.92] Section 69 (4)**

*omit*

this Act

*substitute*

this regulation

**Explanatory note**

This amendment updates an incorrect reference to ‘this Act’.

**[3.93] Dictionary, note 3**

*omit*

- general environmental duty
- pollute

**Explanatory note**

Dictionary, note 3 lists examples of terms used in the regulation that are defined in the Act, dictionary. This amendment omits terms that are not used in the regulation.

## **Part 3.26 Financial Sector Reform (ACT) Act 1999**

**Explanatory note**

The *Financial Sector Reform (ACT) Act 1999*, in conjunction with complementary Commonwealth and state legislation, transferred the regulation of building societies and credit unions to the Commonwealth. Since then, the transfer of the business of authorised deposit-taking institutions has been covered by the *Financial Sector (Transfers of Business) Act 1999* (Cwlth) (renamed as the *Financial Sector (Business Transfer and Group Restructure) Act 1999* (Cwlth) by the *Financial Sector Legislation Amendment (Restructures) Act 2007* (Cwlth)). As a consequence of the Commonwealth Act applying to the Territory, the *Financial Sector Reform (ACT) Act 1999* was repealed, while saving the effect of transitional provisions. However, for facilitation of transfers of business under the Commonwealth Act, particular provisions are still required to be enacted in the State or Territory in which the transferring body is established and the State or Territory in which the receiving body is established (see the Commonwealth Act, s 14). The repealed Act contained those provisions for the ACT.

The following amendments restore the operation of the *Financial Sector Reform (ACT) Act 1999* in the ACT from the moment after the repeal took effect (at the end of 18 September 2002).

**[3.94] Revival of Financial Sector Reform (ACT) Act 1999**

- (1) The *Financial Sector Reform (ACT) Act 1999* (the **repealed Act**) as in force immediately before its repeal is revived as if the repealed Act had not been repealed.
- (2) The revival of the repealed Act is taken to take effect at the beginning of 18 September 2002.

**[3.95] Part 4**

*omit*

**Explanatory note**

This amendment is consequential on the revival of the *Financial Sector Reform (ACT) Act 1999* by another amendment. The Act, part 4 contains transitional provisions, any remaining ongoing operation of which is saved by the application of the Legislation Act, section 88.

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

*substitute*

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

**Explanatory note**

This amendment is consequential on the revival of the *Financial Sector Reform (ACT) Act 1999* and on the renaming of the *Financial Sector (Transfers of Business) Act 1999* (Cwlth) as the *Financial Sector (Business Transfer and Group Restructure) Act 1999* (Cwlth).



## Part 3.27 Firearms Act 1996

### [3.97] Section 18 (2), definition of *law enforcement agency*, paragraph (e)

*substitute*

(e) CrimTrac;

#### Explanatory note

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

### [3.98] Dictionary, note 2

*insert*

- CrimTrac

#### Explanatory note

Dictionary, note 2 lists examples of terms used in the Act that are defined 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 as a consequence of the insertion of a definition of *CrimTrac* in the Legislation Act, dictionary, part 1 by another amendment.

## Part 3.28 Gas Safety Regulation 2001

### [3.99] Section 3, note 1

*omit*

*‘gas distributor—see the Utilities Act 2000, dictionary.’* means that the term ‘gas distributor’

*substitute*

*‘gas distribution network—see the Utilities Act 2000, section 10 (2).’* means that the term ‘gas distribution network’

#### Explanatory note

This amendment replaces an example of a signpost definition due to the definition used for the original example no longer being used in the regulation.

**[3.100] Dictionary, note 1**

*omit*

this Act

*substitute*

this regulation

**Explanatory note**

This amendment updates an incorrect reference to ‘this Act’.

**[3.101] Dictionary, definition of *gas distribution network***

*substitute*

*gas distribution network*—see the *Utilities Act 2000*, section 10 (2).

**Explanatory note**

This amendment updates a definition in line with current legislative drafting style.

**[3.102] Dictionary, definition of *gas distributor***

*omit*

**Explanatory note**

This amendment omits a redundant definition.

## Part 3.29            Gene Technology Act 2003

**[3.103] Section 146 (5), note**

*substitute*

*Note*     An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

**Explanatory note**

This amendment updates the note.

**[3.104] Section 158 (4), note**

*substitute*

*Note* An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

**Explanatory note**

This amendment updates the note.

## **Part 3.30 Health Professionals Regulation 2004**

**[3.105] Section 48 (1)**

*omit 1st mention of*

, 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.

**[3.106] Section 131 (4)**

*omit*

must be in writing, and

**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.

**[3.107] Section 157B (4)**

*omit*

this Act

*substitute*

this regulation

**Explanatory note**

This amendment updates an incorrect reference to ‘this Act’.

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

*omit*

, in writing,

*in*

- section 33 (1)
- section 51 (1)
- section 52 (1)
- section 57 (1)
- section 134 (3)
- section 157C (1)

**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 3.31 Independent Competition and Regulatory Commission Act 1997

### [3.109] Section 10A

*omit*

chief executive must

*substitute*

director-general must

#### Explanatory note

This amendment replaces references to ‘chief executive’ with ‘director-general’ as a consequence of amendments of the *Public Sector Management Act 1994* by the *Public Sector Management (One ACT Public Service) Amendment Act 2011*, which recast chief executives as directors-general.

### [3.110] Section 10B (2), new definition of *commission secretariat*

*insert*

*commission secretariat* means—

- (a) the chief executive officer; and
- (b) the other staff of the commission.

#### Explanatory note

This amendment relocates from the dictionary a definition of a term that is used only in section 10B. This is in line with current legislative drafting practice. The definition is omitted from the dictionary by another amendment.

**[3.111] New section 23 (3)**

*insert*

(3) In this section:

*protected confidential information* means confidential information the commission does not have the power to disclose under section 46 or under any law of the Territory other than this Act.

**Explanatory note**

This amendment relocates from the dictionary a definition of a term that is used only in section 23. This is in line with current legislative drafting practice. The definition is omitted from the dictionary by another amendment.

**[3.112] Dictionary, note 2**

*insert*

- director-general (see s 163)
- National Electricity (ACT) Law
- National Electricity (ACT) Regulation

**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 3 new defined terms in the list of terms defined in the Legislation Act as a consequence of the insertion of a definition of *National Electricity (ACT) Law* and *National Electricity (ACT) Regulation* in the Legislation Act, dictionary, part 1 by another amendment and the insertion of a definition of *director-general* in that dictionary, part 1 by the *Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011*.

**[3.113] Dictionary, definition of *commission secretariat***

*omit*

**Explanatory note**

This amendment is consequential on the inclusion of a definition of *commission secretariat* in section 10B.

**[3.114] Dictionary, definition of *legislation review principles***

*omit*

**Explanatory note**

This amendment omits a redundant definition. The term is used only in section 19J, which refers to the principles as set out in schedule 1.

**[3.115] Dictionary, definitions of *National Electricity (ACT) Law* and *National Electricity (ACT) Regulations***

*omit*

This amendment is consequential on the insertion of definitions of *National Electricity (ACT) Law* and *National Electricity (ACT) Regulation* in the Legislation Act, dictionary, part 1 by another amendment.

**[3.116] Dictionary, definition of *protected confidential information***

*omit*

**Explanatory note**

This amendment is consequential on the inclusion of a definition of *protected confidential information* in section 23.

**[3.117] Further amendments, mentions of *declared fee***

*omit*

under section 4C (Declared fees to be passed on to consumers)

*in*

- section 17 (5)
- section 19J (2)
- section 20 (3)
- section 24C (4)
- section 24H (2)

**Explanatory note**

This amendment omits unnecessary references to section 4C. The term *declared fee* is defined in the dictionary to mean a fee declared under section 4C.

## Part 3.32                      Land Rent Act 2008

### [3.118]      Section 23 (1), note

*substitute*

*Note*      An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

#### **Explanatory note**

This amendment updates the note and adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

## Part 3.33                      Legal Aid Act 1977

### [3.119]      Section 33 (8), note

*substitute*

*Note*      An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

#### **Explanatory note**

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

### [3.120]      Section 35C (2), note

*substitute*

*Note*      An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

#### **Explanatory note**

This amendment updates the note and adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.



## **Part 3.34                      Legal Profession Act 2006**

### **[3.121]    Section 287 (5), note**

*substitute*

*Note*      An amount that is required to be repaid under s (3), (4) or (5) may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

#### **Explanatory note**

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

### **[3.122]    Dictionary, definition of *associated third party payer***

*substitute*

*associated third party payer*, for part 3.2 (Costs disclosure and assessment)—see section 261A.

#### **Explanatory note**

This amendment revises the definition to be consistent with current legislative drafting practice.

### **[3.123]    Dictionary, definition of *client*, new paragraph (aa)**

*insert*

(aa) for division 3.2.7 (Costs assessment)—see section 294; and

#### **Explanatory note**

This amendment inserts a new paragraph containing a signpost to a definition of *client* in section 294.

### **[3.124]    Dictionary, definition of *compliance certificate***

*substitute*

*compliance certificate*—see section 30 (Compliance certificates by admissions board).

#### **Explanatory note**

This amendment corrects a cross-reference.

**[3.125]    Dictionary, definition of *contributory***

*substitute*

*contributory mortgage*, for part 3.5 (Mortgage practices and managed investment schemes)—see section 369.

**Explanatory note**

This amendment corrects a signpost definition.

**[3.126]    Dictionary, new definitions**

*insert*

*deposit record*—see section 210 (1).

*insurable barrister*, for part 3.3 (Professional indemnity insurance)—see section 308.

*insurable legal practitioner*, for part 3.3 (Professional indemnity insurance)—see section 308.

*insurable solicitor*, for part 3.3 (Professional indemnity insurance)—see section 308.

**Explanatory note**

This amendment inserts signpost definitions for terms defined elsewhere in the Act.

**[3.127]    Dictionary, definition of *occupier***

*after*

*occupier*,

*insert*

of premises,

**Explanatory note**

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

**[3.128] Dictionary, definition of *official complaint***

*omit*

44

*substitute*

4

**Explanatory note**

This amendment corrects a cross-reference.

**[3.129] Dictionary, new definition of *public authority***

*insert*

*public authority*, for part 3.2 (Costs disclosure and assessment)—  
see section 261.

**Explanatory note**

This amendment inserts a signpost definition for a term defined elsewhere in the Act.

**[3.130] Further amendments, new note**

*insert*

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

*in*

- section 172 (5)
- section 502 (1) (b)
- section 525 (1) (b)
- section 526 (1)

**Explanatory note**

This amendment inserts a standard note about statutory declarations.

## Part 3.35            Liquor Act 2010

### [3.131]    Section 179 (1), new note

*insert*

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

#### Explanatory note

This amendment inserts a standard note about statutory declarations.

### [3.132]    Dictionary, note 2

*insert*

- CrimTrac

#### Explanatory note

Dictionary, note 2 lists examples of terms used in the Act that are defined 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 as a consequence of the insertion of a definition of *CrimTrac* in the Legislation Act, dictionary, part 1 by another amendment.

### [3.133]    Dictionary, definition of *police certificate*

*omit*

the Commonwealth CrimTrac agency

*substitute*

CrimTrac

#### Explanatory note

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

## **Part 3.36**                      **Litter Act 2004**

### **[3.134] Section 21 (4), note**

*substitute*

*Note*        An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

#### **Explanatory note**

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

### **[3.135] Section 23, note**

*substitute*

*Note*        An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

#### **Explanatory note**

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

### **[3.136] Section 24B (1), note**

*substitute*

*Note*        An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

#### **Explanatory note**

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

## Part 3.37                            Magistrates Court Act 1930

### [3.137]    Section 291L, definition of *Aboriginal or Torres Strait Islander offender*

*omit*

Aboriginal person or Torres Strait Islander

*substitute*

Aboriginal or Torres Strait Islander person

#### **Explanatory note**

This amendment updates a reference to an Aboriginal or Torres Strait Islander person in line with current legislative drafting practice.

## Part 3.38                            Mental Health (Treatment and Care) Act 1994

### [3.138]    Section 16 (1) (d)

*omit*

*Crimes Act 1900*

*substitute*

Crimes Act

#### **Explanatory note**

The term *Crimes Act* is defined in the dictionary to mean the *Crimes Act 1900*. This amendment substitutes a reference to '*Crimes Act 1900*' with the defined term, consistent with current legislative drafting practice.

**[3.139] New section 48C (3)**

*insert*

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

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

**Explanatory note**

This amendment relocates from the *Mental Health (Treatment and Care) Regulation 2003*, section 5 the requirement under that section for an agreement under section 48C (1) be a notifiable instrument. This is consistent with current legislative drafting practice. Section 5 is omitted from the *Mental Health (Treatment and Care) Regulation 2003* by another amendment.

**[3.140] Section 68 (1)**

*omit*

*Crimes Act 1900*

*substitute*

Crimes Act

**Explanatory note**

The term *Crimes Act* is defined in the dictionary to mean the *Crimes Act 1900*. This amendment substitutes a reference to ‘*Crimes Act 1900*’ with the defined term, consistent with current legislative drafting practice.

**[3.141] Dictionary, note 2**

*omit*

- magistrate

**Explanatory note**

Dictionary, note 2 lists examples of terms used in the Act that are defined 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.

**[3.142] Dictionary, note 2**

*omit*

- make

**Explanatory note**

Dictionary, note 2 lists examples of terms used in the Act that are defined in the Legislation Act, dictionary, part 1 (where terms commonly used in legislation are defined) and used in this Act. This amendment omits a term that is not used in the Act in the context in which it is defined in the Legislation Act.

**[3.143] Dictionary, note 2**

*insert*

- nurse practitioner

**Explanatory note**

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

## **Part 3.39 Mental Health (Treatment and Care) Regulation 2003**

**[3.144] Section 5**

*omit*

**Explanatory note**

Section 5 provides that an agreement under the *Mental Health (Treatment and Care) Act 1994*, section 48C is a notifiable instrument. The usual drafting legislative practice is for a provision of that kind to be located in the empowering provision for the instrument. This amendment is consequential on the insertion, by another amendment, of a new subsection in the Act, section 48C to provide that an agreement under that section is a notifiable instrument.



## Part 3.40 Ombudsman Act 1989

### [3.145] Section 2, 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 '*child sex offenders register*—see the *Crimes (Child Sex Offenders) Act 2005*, section 117.' means that the term 'child sex offenders register' is defined in that section 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, 'National Electricity (ACT) Law' is omitted from the dictionary by another amendment.

### [3.146] New section 13 (6)

*insert*

(6) In this section:

*taking of action* includes the following:

- (a) making a decision or recommendation;
- (b) formulating a proposal;
- (c) failing to—
  - (i) take an action; or
  - (ii) make a decision; or
  - (iii) make a recommendation; or

(iv) formulate a proposal.

**Explanatory note**

This amendment relocates from the dictionary a definition of a term that is used only in section 13, in line with current legislative drafting practice. The definition is omitted from the dictionary by another amendment.

**[3.147] Section 37 (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.

**[3.148] Dictionary, note 2**

*insert*

- National Electricity (ACT) Law

**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 *National Electricity (ACT) Law* in the Legislation Act, dictionary, part 1 by another amendment.

**[3.149] Dictionary, new definition of *child sex offenders register***

*insert*

*child sex offenders register*—see the *Crimes (Child Sex Offenders) Act 2005*, section 117.

**Explanatory note**

This amendment inserts a signpost definition for a term used in the Act and defined in the *Crimes (Child Sex Offenders) Act 2005*.

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

*omit*

**Explanatory note**

This amendment is consequential on the insertion of a definition of *National Electricity (ACT) Law* in the Legislation Act, dictionary, part 1 by another amendment.

**[3.151] Dictionary, definition of *responsible Minister***

*substitute*

*responsible Minister* means—

- (a) in relation to an agency—the Minister responsible for the agency; or
- (b) in relation to a prescribed authority mentioned in the definition of *prescribed authority*, paragraph (c)—the Minister administering the enactment concerned; or
- (c) in relation to a prescribed authority mentioned in the definition of *prescribed authority*, paragraph (b) or (d)—the Minister declared by regulation to be the responsible Minister for that authority; or
- (d) another Minister acting for and on behalf of a Minister mentioned in paragraph (a), (b) or (c).

**Explanatory note**

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

**[3.152] Dictionary, definition of *taking of action***

*omit*

**Explanatory note**

This amendment is consequential on the inclusion of a definition of *taking of action* in section 13.

## Part 3.41                            Planning and Development Act 2007

### [3.153]    Section 138AC (1), note

*substitute*

*Note*        The costs may be recovered in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

#### **Explanatory note**

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

### [3.154]    Section 224B (1), note

*substitute*

*Note*        The costs may be recovered in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

#### **Explanatory note**

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

### [3.155]    Section 233, note 1

*substitute*

*Note 1*      The costs may be recovered in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

#### **Explanatory note**

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

**[3.156] Section 277B (2)**

*omit*

applicant

*substitute*

applicant for the development application

**Explanatory note**

This amendment makes it clear that the intended applicant is the applicant for the development application mentioned in section 277B (1) (a).

**[3.157] Section 279 (3) (c)**

*omit*

declaration

*substitute*

regulation

**Explanatory note**

This amendment corrects an incorrect reference.

**[3.158] Section 371, note**

*substitute*

*Note* An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

**Explanatory note**

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

## Part 3.42                            Planning and Development Regulation 2008

**[3.159]    Schedule 1, section 1.110 (2), definition of *previously approved*, paragraph (c)**

*omit*

this Act

*substitute*

the Act

**Explanatory note**

This amendment updates an incorrect reference to ‘this Act’.

**[3.160]    Dictionary, definition of *existing school***

*substitute*

*existing school*, for schedule 1, division 1.3.6A (Exempt developments—schools)—see schedule 1, section 1.96A.

**Explanatory note**

This amendment corrects a cross-reference.

## Part 3.43                            Plant Diseases Act 2002

**[3.161]    Section 6 (1), definition of *insect***

*after paragraph (c), 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 an example note after a definition that includes several examples.

**[3.162] New section 9 (3)**

*after the note, insert*

(3) In this section:

*goods* includes all kinds of movable property.

**Explanatory note**

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

**[3.163] Dictionary, definition of *goods***

*omit*

**Explanatory note**

This amendment omits a definition as a consequence of the relocation of the definition to section 9 by another amendment.

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

*omit*

, in writing,

*in*

- section 5 (2)
- section 6 (3)
- section 7 (2)
- section 8 (1)
- section 10 (1)
- section 12 (1)
- section 15 (1)
- section 39 (1)

- section 40 (1)

**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 3.44                            Protection of Public Participation Act 2008**

**[3.165]    Section 9 (3), note**

*omit*

**Explanatory note**

This amendment omits an unnecessary note.

## **Part 3.45                            Public Sector Management Act 1994**

**[3.166]    Section 39, definition of *designated group*, paragraph (a)**

*substitute*

- (a) an Aboriginal or Torres Strait Islander person;

**Explanatory note**

This amendment updates a reference to an Aboriginal or Torres Strait Islander person in line with current legislative drafting practice.

**[3.167]    Section 39, definition of *designated group*, paragraph (d)**

*substitute*

- (d) a person with a disability.

**Explanatory note**

This amendment updates a reference to a person with a disability in line with current legislative drafting practice.



**[3.168] Section 56 (4)**

*omit*

Subject to section 127 (2), an

*substitute*

An

**Explanatory note**

This amendment omits a reference to a provision that has been omitted.

**[3.169] Section 63 (3)**

*omit*

**Explanatory note**

This amendment omits a redundant provision. Section 63 (3) refers to the allowing or disallowing of an appeal under section 85. Section 85 currently deals with appeals by excess officers in relation to promotions to an appellable level position.

**[3.170] Section 63 (4) (b)**

*substitute*

(b) the appeal lapses under section 89 or section 90; or

**Explanatory note**

This amendment updates cross-references.

**[3.171] Section 65 (6), definition of *identified position*, paragraphs (a) and (b)**

*substitute*

(a) an Aboriginal or Torres Strait Islander person;

(b) a person with a disability.

**Explanatory note**

This amendment updates references to an Aboriginal or Torres Strait Islander person and a person with a disability in line with current legislative drafting practice.

**[3.172]    Section 98 (2)**

*omit everything before paragraph (a), substitute*

- (2) If an officer is promoted under section 83 or transferred under section 92 to a training office, another officer—

**Explanatory note**

This amendment updates cross-references.

**[3.173]    Section 98 (9)**

*omit*

promoting or transferring an officer under section 83

*substitute*

promoting an officer under section 83, or transferring an officer under section 92,

**Explanatory note**

This amendment updates cross-references.

**[3.174]    Section 98 (10) and (11)**

*omit*

section 83

*substitute*

section 92

**Explanatory note**

This amendment updates cross-references.

**[3.175] Dictionary, definition of *Aboriginal person or Torres Strait Islander***

*substitute*

***Aboriginal or Torres Strait Islander person*** means a person who—

- (a) is a descendant of an Aboriginal person or a Torres Strait Islander person; and
- (b) identifies as an Aboriginal person or a Torres Strait Islander person; and
- (c) is accepted as an Aboriginal person or a Torres Strait Islander person by an Aboriginal community or Torres Strait Islander community.

**Explanatory note**

This amendment updates the definition of *Aboriginal or Torres Strait Islander person* in line with current legislative drafting practice.

## **Part 3.46 Radiation Protection Act 2006**

**[3.176] Section 44, note**

*substitute*

*Note* An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

**Explanatory note**

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

**[3.177]    Section 46, note**

*substitute*

*Note*    An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

**Explanatory note**

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

**[3.178]    Sections 120 and 121**

*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.

## **Part 3.47            Rates Act 2004**

**[3.179]    Section 55 (2), note**

*substitute*

*Note*    An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

**Explanatory note**

This amendment updates the note and adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

**[3.180]    Dictionary, new definition of *special disability trust***

*insert*

*special disability trust*, for part 7 (Deferral and rebates)—see the *Social Security Act 1991*, (Cwlth), section 1209L.

**Explanatory note**

This amendment inserts a signpost definition for a term defined elsewhere in the Act.

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

*omit*

, in writing,

*in*

- section 23 (2)
- section 41 (1)
- section 78 (1)

**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 3.48 Road Transport (General) Act 1999**

**[3.182] Section 36 (2), note 1**

*omit*

**Explanatory note**

This amendment omits a redundant note referring readers to the Legislation Act, part 19.5 for the service of documents under the Act. The *Road Transport (General) Regulation 2000*, section 9B expressly displaces the Legislation Act, section 250 (1) (When document taken to be served).

**[3.183] Dictionary, new note**

*insert*

*Note 2A* This dictionary defines some key words and expressions that may not be used in this Act but are used in other road transport legislation.

**Explanatory note**

This amendment inserts a new note to assist users of road transport legislation.

## Part 3.49            Road Transport (Safety and Traffic Management) Regulation 2000

### [3.184]    Section 66 (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.

### [3.185]    Section 75A (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.

### [3.186]    Section 75B (1)

*omit*

written

#### 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.

**[3.187] Section 103A (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.

## **Part 3.50 Spent Convictions Act 2000**

**[3.188] Dictionary, note 2**

*insert*

- *CrimTrac*

**Explanatory note**

Dictionary, note 2 lists examples of terms used in the Act that are defined 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 as a consequence of the insertion of a definition of *CrimTrac* in the Legislation Act, dictionary, part 1 by another amendment.

**[3.189] Dictionary, definition of *law enforcement agency*, paragraph (e)**

*substitute*

(e) *CrimTrac*;

**Explanatory note**

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

## Part 3.51                      Surveyors Act 2007

### [3.190]      Section 48 (4), note

*substitute*

*Note*      An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

#### Explanatory note

This amendment adds a reference to the ACAT in the note, as the Legislation Act, section 177 also allows recovery of a debt in the ACAT.

## Part 3.52                      Tobacco Act 1927

### [3.191]      Section 4 (2), new definition of *carton*

*insert*

***carton*** means a package containing packages of a smoking product, or a package designed to contain packages of a smoking product, but does not include a package containing individually-wrapped cigars (unless the package contains a further package or packages of the cigars).

#### Explanatory note

This amendment relocates from the dictionary a definition of a term that is used only in section 4. This is in line with current legislative drafting practice. The definition is omitted from the dictionary by another amendment.



**[3.192] Section 59 (1), (2) (a) and (b)**

*omit*

commissioner

*substitute*

ACAT

**Explanatory note**

This amendment corrects incorrect cross-references. Under section 58 (2), the ACAT may make an order suspending a licensee's licence (see section 58 (2) (b)) or cancelling a licensee's licence (see section 58 (2) (c)).

**[3.193] Sections 70 (2) and 72A (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 and notifiable instruments to be in writing.

**[3.194] Dictionary, definition of *carton***

*omit*

**Explanatory note**

This amendment is consequential on the inclusion of a definition of *carton* in section 4.

## Part 3.53                      Victims of Crime (Financial Assistance) Act 1983

### [3.195]    New section 16 (2)

*insert*

(2) In this section:

***close family member***, in relation to a deceased primary victim, means a person who had a genuine personal relationship with the victim at the time of the victim's death, and who was, at that time—

(a) the domestic partner of the victim; or

*Note*     For the meaning of ***domestic partner***, see the Legislation Act, s 169.

(b) a parent, guardian or step-parent of the victim; or

(c) a child or stepchild of the victim, or some other child of whom the victim is the guardian; or

(d) a brother, sister, stepbrother, stepsister, half-brother or half-sister of the victim.

***dependant***, in relation to a deceased primary victim, means—

(a) a person who was wholly or partly dependent for economic support on the victim at the time of the victim's death; or

(b) a person who would have been wholly or partly dependent for economic support on the victim's income at the time of the victim's death but for the incapacity of the victim because of the criminal injury that resulted in the victim's death; or

(c) a child of the victim born after the victim's death who would have been a dependant of the victim under paragraph (a) or (b) if he or she had been born before the victim's death.

*guardian* does not include the director-general responsible for administering the *Children and Young People Act 2008* or any other person who is a guardian because of the person's occupation of a statutory office, whether within the ACT or elsewhere.

**Explanatory note**

This amendment relocates from the dictionary definitions of terms that are mentioned only in section 16, consistent with current legislative drafting practice. The relocated definitions are omitted from the dictionary by another amendment.

**[3.196] Section 27 (1) (a), new note**

*insert*

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

**Explanatory note**

This amendment inserts a standard note about statutory declarations.

**[3.197] Section 37 (3), new definition of *sexual crime***

*insert*

*sexual crime* means any of the following offences:

- (a) an offence against the *Crimes Act 1900*, part 3 (an **ACT sexual offence**);
- (b) an offence against a law of the Commonwealth, a State or another Territory corresponding to an ACT sexual offence;

- (c) an offence against a law of the Commonwealth, a State or another Territory corresponding to a provision of the Criminal Code, part 2.4 (Extensions of criminal responsibility) or section 717 (Accessory after the fact) in relation to an offence mentioned in paragraph (b).

*Note* A reference to an offence against a territory law includes a reference to a related ancillary offence, eg attempt (see Legislation Act, s 189).

**Explanatory note**

This amendment relocates from the dictionary a definition of a term that is mentioned only in section 37, consistent with current legislative drafting practice. The relocated definition is omitted from the dictionary by another amendment.

**[3.198] Section 61A, note**

*omit*

**Explanatory note**

This amendment omits an unnecessary note.

**[3.199] Dictionary**

*omit the definitions of*

*close family member*

*dependant*

*guardian*

*sexual crime*

**Explanatory note**

This amendment is consequential on the insertion of definitions of *close family member*, *dependant* and *guardian* in section 16 and the insertion of a definition of *sexual crime* in section 37.

## Part 3.54 Workers Compensation Act 1951

### [3.200] Dictionary, new definition of *CPI*

*insert*

*CPI*, for chapter 4 (Entitlement to compensation)—see section 20.

#### Explanatory note

This amendment inserts a signpost definition for a term defined in section 20.

### [3.201] Dictionary, definition of *registered auditor*

*omit*

#### Explanatory note

This amendment omits a redundant definition. The term is no longer used in the Act.

## Part 3.55 Work Health and Safety Act 2011

### [3.202] Section 52 (3) (d)

*omit*

#### Explanatory note

The Act is based on national model legislation prepared under the *Inter-Governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety*. Section 52 (3) (d) provides that one of the purposes of negotiations for work groups is to determine the businesses and undertakings to which the work groups will apply. Section 52 (3) (d) has been removed from the national model and this amendment is consequential on that amendment to maintain consistency with the national model.

**[3.203] Section 247 (1)**

*omit*

the business

*substitute*

a business

**Explanatory note**

Section 247 sets out who is an officer of the Territory for the purposes of the Act. This amendment is consequential on a minor correction of the national model provisions.

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**Endnotes**

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 20 October 2011.

**2 Notification**

Notified under the Legislation Act on 28 November 2011.

**3 Republications of amended laws**

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

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I certify that the above is a true copy of the Statute Law Amendment Bill 2011 (No 3), which originated in the Legislative Assembly as the Statute Law Amendment Bill 2011 (No 2) and was passed by the Assembly on 17 November 2011.

Clerk of the Legislative Assembly

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