



Australian Capital Territory

# Red Tape Reduction Legislation Amendment Act 2018

A2018-33

## Contents

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	Page
<b>Part 1</b>	<b>Preliminary</b>
1	Name of Act 2
2	Commencement 2
3	Legislation amended 3
4	Tobacco and Other Smoking Products Regulation 2018—sch 2 3
<b>Part 2</b>	<b>Associations Incorporation Act 1991</b>
5	Offences against Act—application of Criminal Code etc Section 3A, note 1 5
6	Section 4 heading 5

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## Contents

---

	Page	
7	Section 4	5
8	Section 4 (b)	6
9	Section 11 heading	6
10	Section 11 (1) and notes	6
11	Section 13A	6
12	Sections 14 (2) and 15 (1)	7
13	Applications for incorporation Section 18 (1) (a), note	7
14	Corporate identity Section 22 (b)	8
15	Amalgamation of incorporated associations Section 26 (2) (a), note	8
16	Copies of documents for members New section 35 (1) (d)	8
17	New section 35A	8
18	Name on association's documents etc Section 41 (a)	9
19	Ratification of pre-incorporation contracts Section 43 (3) (b)	9
20	Relationship between association and members Section 48	9
21	Authentication and execution of documents Section 55 (1)	10
22	Section 55 (2)	10
23	Section 55 (4) (b)	10
24	New section 55 (5)	11
25	Validity of documents executed under common seal Section 56	11
26	New division 4.1 heading	11
27	Notice of public officer's appointment or change of address Section 59 (2), note	11
28	New section 59 (3)	12
29	Notice of changes in committee Section 62 (2), note 2	12
30	Vacancy in office of public officer Section 64 (2) (e)	12

## Contents

---

	Page	
31	Section 65	12
32	Information from officers Section 66, note	17
33	New division 4.2	18
34	New division 4.3 heading	19
35	Section 67	19
36	New division 4.4 heading	22
37	Part 5 heading	22
38	New sections 70B and 70C	22
39	Accounting records Section 71 (b) (ii)	24
40	Presentation of statement to members Section 73 (1) (a)	24
41	Section 73 (1) (b)	25
42	Section 73 (2)	25
43	Sections 74 and 75	25
44	Section 76 heading	27
45	Section 76 (1)	27
46	Section 76 (2) and (3)	27
47	Section 76 (3) (a) (iii) and (b)	28
48	Section 76 (5) and (7)	28
49	Section 76 (8) and (9)	28
50	Section 76 (10)	28
51	Section 77 heading	29
52	Section 77	29
53	Section 77	29
54	Annual returns Section 79 (1) (b)	29
55	Section 79 (1) (c)	29
56	Section 79 (1) (e) (ii)	30
57	Winding-up by the court Section 90 (e)	30
58	Property of defunct association Section 92 (2) (b) and (c) (ii)	30

	Page	
59	Cancellation of incorporation Section 93 (1) (f)	30
60	Section 93 (1) (f)	30
61	Section 93 (1) (f)	31
62	Section 109 heading	31
63	Section 109 (1)	31
64	Matters to be provided for in rules other than model rules Schedule 1, new item 4A	31
65	Schedule 1, item 5, column 3, new paragraph 2 (da)	31
66	Schedule 1, item 9, column 3	32
67	Schedule 1, new item 12	32
68	Reviewable decisions Schedule 3, new items 4A and 4B	32
69	Dictionary, note 2	32
70	Dictionary, new definitions	33
71	Dictionary, definition of <i>trade</i>	33
<b>Part 3</b>	<b>Associations Incorporation Regulation 1991</b>	
72	Sections 10, 12 and 13	34
<b>Part 4</b>	<b>Casino Control Act 2006</b>	
73	Definitions—div 5.7 Section 78, definition of <i>document of identification</i>	35
<b>Part 5</b>	<b>Casino Control Regulation 2006</b>	
74	New section 7A	36
<b>Part 6</b>	<b>Land Titles Act 1925</b>	
75	When applicant is not original grantee or any transactions registered Section 22	37
76	Section 22, new note	37
77	When evidence of title imperfect Section 23 (1)	37
78	Section 23 (1), new note	38
79	Notice of application to be published New section 24 (3)	38

---

	Page	
80	Memorial to be recorded on duplicate grant, certificate or instrument, unless dispensed with Section 50 (6)	38
81	Lost grant or certificate Section 62 (5)	39
82	Registrar-general may require map to be deposited Section 64 (1), note 2	39
83	Section 64 (2) to (6) and (8)	39
84	Application—how made effective Section 98 (3)	39
85	Dictionary, definition of <i>daily newspaper</i>	39
<b>Part 7</b>	<b>Liquor Act 2010</b>	
86	Dictionary, note 2	40
87	Dictionary, definition of <i>identification document</i>	40
<b>Part 8</b>	<b>Liquor Regulation 2010</b>	
88	New section 34	41
<b>Part 9</b>	<b>Nature Conservation Act 2014</b>	
89	Definitions—pt 4.3 Section 72A	42
90	What is a <i>key threatening processes list</i> ? Section 75, definition of <i>key threatening processes list</i> , paragraph (a)	42
91	Key threatening processes list Section 79A	42
92	Sections 79B to 79H	42
93	Nominations—scientific committee to carry out <i>listing assessment</i> New section 85 (5) and (6)	42
94	Minister to decide whether to include, transfer or omit item Section 87 (1)	43
95	Section 87 (2), note	43
96	Sections 88 (2) (a), 89 (2) (a) and 90 (2) (a)	43
97	Minister may include or transfer nationally threatened items without nomination Section 90A (3) (b)	43

	Page	
98	Sections 90C and 90D	44
99	Conservation advice—adopting advice for nationally threatened item Section 90E (2)	45
100	Section 90E (2)	45
101	Section 90E (3)	46
102	Conservation advice—scientific committee to review Section 90F (2)	46
103	Minister may make minor amendments Section 94 (2) (b)	46
104	Minor amendment—including similar species Section 95 (2) and note	46
105	Minor amendment—omitting similar species Section 96 (2) and note	47
106	Dictionary, definition of <i>listing assessment</i>	47
107	Dictionary, definition of <i>public consultation notice</i>	47
<b>Part 10</b>	<b>Planning and Development Act 2007</b>	
108	Consideration of whether review of planning strategy necessary Section 110 (3)	48
<b>Part 11</b>	<b>Sale of Motor Vehicles Act 1977</b>	
109	Information to be recorded in dealings register Section 16 (4) and (5)	49
110	Power to enter premises Section 70A (1) (b) (iii)	49
111	Dictionary, definition of <i>car market operator</i>	49
112	Dictionary, definition of <i>dealer</i> , paragraph (b) (iii)	49
113	Dictionary, definition of <i>wholesaler</i>	49
<b>Part 12</b>	<b>Tobacco and Other Smoking Products Act 1927</b>	
114	Supply of smoking product to under 18 year olds Section 14 (6)	50
115	Dictionary, note 2	51

---

		Page
<b>Part 13</b>	<b>Traders (Licensing) Act 2016</b>	
116	Meaning of <i>trader</i> Section 7 (a)	52
117	Meaning of <i>car market operator</i> Section 8	52
118	Definitions—pt 20 Section 150, definition of <i>operational Act licence</i> , paragraph (a)	52
119	Dictionary, definition of <i>car market operator</i>	52
<b>Part 14</b>	<b>Traders (Licensing) Regulation 2017</b>	
120	Transferable licences—Act, s 24 (1) Section 10 (a)	53
121	Notification of application in certain trader categories Section 11 (1) (a)	53
122	Dictionary, note 3	53
<b>Schedule 1</b>	<b>Other amendments</b>	54
<b>Part 1.1</b>	<b>Animal Diseases Act 2005</b>	54
<b>Part 1.2</b>	<b>Building Act 2004</b>	54
<b>Part 1.3</b>	<b>Children and Young People Act 2008</b>	55
<b>Part 1.4</b>	<b>Commercial Arbitration Act 2017</b>	56
<b>Part 1.5</b>	<b>Construction Occupations (Licensing) Act 2004</b>	56
<b>Part 1.6</b>	<b>Crimes Act 1900</b>	57
<b>Part 1.7</b>	<b>Crimes (Forensic Procedures) Act 2000</b>	57
<b>Part 1.8</b>	<b>Dangerous Goods (Road Transport) Act 2009</b>	57
<b>Part 1.9</b>	<b>Dangerous Substances Act 2004</b>	58
<b>Part 1.10</b>	<b>Drugs of Dependence Act 1989</b>	59
<b>Part 1.11</b>	<b>Electoral Act 1992</b>	59
<b>Part 1.12</b>	<b>Electricity Safety Act 1971</b>	59
<b>Part 1.13</b>	<b>Fair Trading (Australian Consumer Law) Act 1992</b>	60
<b>Part 1.14</b>	<b>Firearms Act 1996</b>	61

---

	Page
<b>Part 1.15</b>	<b>Fisheries Act 2000</b> 61
<b>Part 1.16</b>	<b>Food Act 2001</b> 62
<b>Part 1.17</b>	<b>Gas Safety Act 2000</b> 62
<b>Part 1.18</b>	<b>Gene Technology Act 2003</b> 63
<b>Part 1.19</b>	<b>Gene Technology (GM Crop Moratorium) Act 2004</b> 63
<b>Part 1.20</b>	<b>Hemp Fibre Industry Facilitation Act 2004</b> 64
<b>Part 1.21</b>	<b>Heritage Act 2004</b> 64
<b>Part 1.22</b>	<b>Independent Competition and Regulatory Commission Act 1997</b> 65
<b>Part 1.23</b>	<b>Legal Profession Act 2006</b> 65
<b>Part 1.24</b>	<b>Liquor Act 2010</b> 66
<b>Part 1.25</b>	<b>Medicines, Poisons and Therapeutic Goods Act 2008</b> 67
<b>Part 1.26</b>	<b>Nature Conservation Act 2014</b> 67
<b>Part 1.27</b>	<b>Pest Plants and Animals Act 2005</b> 68
<b>Part 1.28</b>	<b>Planning and Development Act 2007</b> 69
<b>Part 1.29</b>	<b>Plant Diseases Act 2002</b> 70
<b>Part 1.30</b>	<b>Public Health Act 1997</b> 70
<b>Part 1.31</b>	<b>Public Unleased Land Act 2013</b> 70
<b>Part 1.32</b>	<b>Radiation Protection Act 2006</b> 71
<b>Part 1.33</b>	<b>Road Transport (Third-Party Insurance) Act 2008</b> 72
<b>Part 1.34</b>	<b>Sale of Motor Vehicles Act 1977</b> 72
<b>Part 1.35</b>	<b>Stock Act 2005</b> 73
<b>Part 1.36</b>	<b>Tree Protection Act 2005</b> 74
<b>Part 1.37</b>	<b>Utilities Act 2000</b> 74
<b>Part 1.38</b>	<b>Utilities (Technical Regulation) Act 2014</b> 75
<b>Part 1.39</b>	<b>Waste Management and Resource Recovery Act 2016</b> 75
<b>Part 1.40</b>	<b>Water and Sewerage Act 2000</b> 76
<b>Part 1.41</b>	<b>Water Resources Act 2007</b> 77



Contents

---

		Page
<b>Part 1.42</b>	<b>Work Health and Safety Act 2011</b>	77
<b>Schedule 2</b>	<b>New Tobacco and Other Smoking Products Regulation</b>	78





Australian Capital Territory

# Red Tape Reduction Legislation Amendment Act 2018

**A2018-33**

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An Act to amend legislation for red tape reduction, and for other purposes

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

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Red Tape Reduction Legislation Amendment Act 2018*.

### 2 Commencement

- (1) This Act (other than the following provisions) commences on the 7th day after its notification day:
- part 2 (Associations Incorporation Act 1991)
  - part 3 (Associations Incorporation Regulation 1991)
  - schedule 1 (Other amendments).

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

- (2) Parts 2 and 3 commence on a day fixed by the Minister by written notice.

*Note* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

- (3) If parts 2 and 3 have not commenced by 1 July 2019, they automatically commence on that day.
- (4) Schedule 1 commences on the 28th day after this Act's notification day.
- (5) The [Legislation Act](#), section 79 (Automatic commencement of postponed law) does not apply to parts 2 and 3.

### 3 Legislation amended

This Act amends the following legislation:

- *Associations Incorporation Act 1991*
- *Associations Incorporation Regulation 1991*
- *Casino Control Act 2006*
- *Casino Control Regulation 2006*
- *Land Titles Act 1925*
- *Liquor Act 2010*
- *Liquor Regulation 2010*
- *Nature Conservation Act 2014*
- *Planning and Development Act 2007*
- *Sale of Motor Vehicles Act 1977*
- *Tobacco and Other Smoking Products Act 1927*
- *Traders (Licensing) Act 2016*
- *Traders (Licensing) Regulation 2017.*

*Note* This Act also amends other legislation (see sch 1).

### 4 Tobacco and Other Smoking Products Regulation 2018—sch 2

- (1) The provisions set out in schedule 2 are taken, on the commencement of this section, to be a regulation made under the *Tobacco and Other Smoking Products Act 1927*, section 73.
- (2) The regulation—
  - (a) is taken to be notified under the [Legislation Act](#) on the day this Act is notified; and
  - (b) commences on the commencement of this section; and
  - (c) is not required to be presented to the Legislative Assembly under the [Legislation Act](#), section 64 (1); and

- (d) may be amended or repealed as if it had been made under the *Tobacco and Other Smoking Products Act 1927*, section 73.
- (3) This Act is taken to be an amending law for the [Legislation Act](#), section 89 (Automatic repeal of certain laws and provisions) despite this section not being a provision mentioned in section 89 (12), definition of *amending law*.

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## Part 2                      Associations Incorporation Act 1991

### 5                      Offences against Act—application of Criminal Code etc Section 3A, note 1

*substitute*

*Note 1*    *Criminal Code*

The [Criminal Code](#), ch 2 applies to the following offences against this Act (see Code, pt 2.1):

- s 63B (Disqualification from office—disqualified under other legislation)
- s 65 (Disclosure of material personal interest)
- s 65A (Matter on which committee member has material personal interest)
- s 74 (Review or audit of accounts).

The chapter 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 (eg *conduct*, *intention*, *recklessness* and *strict liability*).

### 6                      Section 4 heading

*substitute*

### 4                      Pecuniary gain—interpretation

### 7                      Section 4

*omit*

trading or

**8 Section 4 (b)**

*omit*

**9 Section 11 heading**

*substitute*

**11 Copies of documents**

**10 Section 11 (1) and notes**

*substitute*

- (1) If a person requests, the registrar must give the person—
- (a) a copy of, or an extract from, or a certified copy or certified extract from, any document lodged with the registrar-general under this Act or the [repealed Act](#); and
  - (b) if the person is a member of the committee or the public officer of an association—a certified copy of the certificate of incorporation of the association.

*Note 1* A fee may be determined under s 125 for this provision.

*Note 2* A person cannot request or obtain a copy of another person's contact details that are contained in a lodged document if the other person has asked for their contact details to be kept confidential under s 13A.

**11 Section 13A**

*substitute*

**13A Contact details may be kept confidential**

- (1) This section applies to a document that is or has been lodged with the registrar-general under this Act.



- (2) A person whose contact details are contained in the document may ask the registrar-general, in writing, to keep the person's contact details confidential.

*Note* If a form is approved under s 126 (Approved forms) for a request, the form must be used.

- (3) If a person makes a request under subsection (2), the registrar-general must ensure that any document the subject of the request is made available for a request under section 11 only in a way that does not show the person's contact details.

- (4) However, a person who is the public officer of an incorporated association must have at least 1 address available for service of documents.

*Note* A public officer's address may be a residential, business or PO box address.

- (5) In this section:

*contact details*, for a person, include the person's address, email and telephone number.

## **12 Sections 14 (2) and 15 (1)**

*omit*

trading or

## **13 Applications for incorporation Section 18 (1) (a), note**

*substitute*

*Note* A person may ask the registrar-general to keep their contact details confidential (see s 13A (2)). However, a public officer must have at least 1 address publicly available for service of documents (see s 13A (4)).

**14 Corporate identity  
Section 22 (b)**

*substitute*

- (b) may have a common seal; and

**15 Amalgamation of incorporated associations  
Section 26 (2) (a), note**

*substitute*

*Note* A person may ask the registrar-general to keep their contact details confidential (see s 13A (2)). However, a public officer must have at least 1 address publicly available for service of documents (see s 13A (4)).

**16 Copies of documents for members  
New section 35 (1) (d)**

*insert*

- (d) a summary of the minutes of a meeting of the committee.

**17 New section 35A**

*in division 3.4, insert*

**35A Committee may refuse access to documents**

- (1) The committee of an incorporated association may refuse to give a member of the association access to the following documents if satisfied that allowing access to the document would be prejudicial to the interests of the association:
- (a) a document mentioned in section 35 (1);
  - (b) if the association's rules allow a member access to other documents held by the association—those documents.

- (2) The rules of an incorporated association may provide for the circumstances in which access to the documents is allowed or restricted, including requiring the member to state the purpose for requiring access to the document.

**18 Name on association's documents etc  
Section 41 (a)**

*after*

common seal

*insert*

(if any)

**19 Ratification of pre-incorporation contracts  
Section 43 (3) (b)**

*after*

common seal

*insert*

(if any)

**20 Relationship between association and members  
Section 48**

*omit*

and sealed

**21 Authentication and execution of documents**  
**Section 55 (1)**

*after*

common seal

*insert*

(if any)

**22 Section 55 (2)**

*substitute*

- (2) An incorporated association may execute a document without using a common seal if the document is signed by 2 committee members of the association.
- (2A) An incorporated association may, by the signature of 2 committee members of the association, empower a person, either generally or in relation to a stated matter, as its agent or attorney, to execute deeds on its behalf.
- (2B) A deed signed by the agent or attorney on behalf of the association binds the association.

**23 Section 55 (4) (b)**

*after*

common seal

*insert*

(if any)

**24 New section 55 (5)**

*insert*

(5) In this section:

*officer* does not include a person mentioned in the dictionary, definition of *officer*, paragraph (c).

**25 Validity of documents executed under common seal  
Section 56**

*after 1st mention of*

common seal

*insert*

(if any)

**26 New division 4.1 heading**

*insert*

**Division 4.1 Appointment of public officer and  
committee****27 Notice of public officer's appointment or change of  
address  
Section 59 (2), note**

*substitute*

*Note* A person may ask the registrar-general to keep their contact details confidential (see s 13A (2)). However, a public officer must have at least 1 address publicly available for service of documents (see s 13A (4)).

**28 New section 59 (3)**

*after the note, insert*

- (3) This section does not apply to an incorporated association that is an ACNC registered entity.

**29 Notice of changes in committee  
Section 62 (2), note 2**

*substitute*

*Note 2* A person may ask the registrar-general to keep their contact details (including address) confidential (see s 13A (2)).

**30 Vacancy in office of public officer  
Section 64 (2) (e)**

*substitute*

- (e) is not physically or mentally fit to exercise the functions of office; or

**31 Section 65**

*substitute*

**64A Resignation of committee member**

A member of the committee of an incorporated association may resign as a committee member by written notice given to the public officer.

**65 Disclosure of material personal interest**

- (1) If a member of the committee of an incorporated association has a material personal interest in a matter being considered at a committee meeting, the committee member must—
- (a) as soon as the member becomes aware of the interest, disclose the nature and extent of the interest to the committee; and
  - (b) disclose the nature and extent of the interest at the next general meeting of the association.

Maximum penalty: 20 penalty units.

- (2) Subsection (1) does not apply in relation to a material personal interest—
- (a) that exists only because the member—
    - (i) is an employee of the incorporated association; or
    - (ii) is a member of a class of people for whose benefit the association is established; or
  - (b) that the member has in common with all, or a substantial proportion of, the members of the association.
- (3) Subsection (4) applies if a member of the committee of an incorporated association has an interest in a contract or proposed contract and the member—
- (a) is not required to disclose the interest because of subsection (2); or
  - (b) discloses the interest in accordance with subsection (1) and has complied with section 65A (1).
- (4) For subsection (3)—
- (a) the contract is not liable to be avoided by the association on any ground arising from the fiduciary relationship between the member and the association; and

- (b) the member is not liable to account for profits derived from the contract.
- (5) A disclosure of a material personal interest required by subsection (1) must give details of—
  - (a) the nature and extent of the interest; and
  - (b) the relation of the interest to the activities of the incorporated association.
- (6) The details mentioned in subsection (5) must be recorded in the minutes of the committee meeting at which the disclosure is made.

**65A Matter on which committee member has material personal interest**

- (1) A member of the committee of an incorporated association who has a material personal interest in a matter being considered at a committee meeting must not—
  - (a) be present while the matter is being considered at the meeting; or
  - (b) vote on the matter.Maximum penalty: 20 penalty units.
- (2) Subsection (1) does not apply in relation to a material personal interest—
  - (a) that exists only because the member belongs to a class of people for whose benefit the association is established; or
  - (b) that the member has in common with all, or a substantial proportion of, the members of the association.



- (3) If there are not enough committee members to form a quorum to consider a matter because of subsection (1)—
  - (a) 1 or more committee members (including those who have a material personal interest in the matter) may call a general meeting; and
  - (b) the general meeting may pass a resolution to deal with the matter.

### **65B Dispute resolution procedure**

- (1) The rules of an incorporated association must set out a dispute resolution procedure for dealing with any dispute under this Act or the rules between—
  - (a) a member and another member; or
  - (b) a member and the association.

*Note* Any power of an incorporated association to adjudicate a dispute under this section is subject to the rules of natural justice (see s 50).
- (2) A member may appoint any person to act on behalf of the member in the dispute resolution procedure.
- (3) In applying the dispute resolution procedure, the association must ensure that—
  - (a) each party to the dispute has been given an opportunity to be heard on the matter which is the subject of the dispute; and
  - (b) the outcome of the dispute is determined by an unbiased decision-maker; and
  - (c) the decision-maker notifies each party to the dispute, in writing, about the decision and gives reasons for the decision; and

- (d) to the extent that doing so is compatible with paragraphs (a) to (c), the dispute resolution procedure is completed as soon as is reasonably practicable; and
  - (e) the dispute resolution procedure includes an appeal process.
- (4) If a member has initiated a dispute resolution procedure in relation to a dispute between the member and the association, the association must not take disciplinary action against any of the following people in relation to the matter which is the subject of the dispute resolution procedure until the dispute resolution procedure has been completed:
- (a) the member who initiated the dispute resolution procedure (*complainant member*);
  - (b) a member of the association appointed by the complainant member under subsection (2) to act on behalf of the complainant member in the dispute resolution procedure.

### **65C Disciplinary action**

- (1) This section applies if an incorporated association proposes to take disciplinary action against a member in relation to that member's status as a member of the association.
- (2) Subject to subsections (3) and (4), the procedure (a *disciplinary procedure*) under which disciplinary action is taken must be in accordance with the procedure (if any) provided by the rules of the association.
- (3) In applying the disciplinary procedure, the association must ensure that—
  - (a) the member who is the subject of the disciplinary procedure—
    - (i) is told the grounds upon which the disciplinary action against the member is proposed to be taken; and

- (ii) has been given an opportunity to be heard in relation to the matter; and
  - (b) the outcome of the disciplinary procedure is decided by an unbiased decision-maker; and
  - (c) the decision-maker notifies the member, in writing, about the decision and gives reasons for the decision; and
  - (d) the disciplinary procedure includes an appeal process; and
  - (e) to the extent that doing so is compatible with paragraphs (a) to (d), the disciplinary procedure is completed as soon as is reasonably practicable.
- (4) A member of an incorporated association who is the subject of a disciplinary procedure must not initiate a dispute resolution procedure in relation to the matter which is the subject of the disciplinary procedure until the disciplinary procedure has been completed.

## **32 Information from officers**

### **Section 66, note**

#### *substitute*

*Note* A person may ask the registrar-general to keep their contact details confidential (see s 13A (2)). However, a public officer must have at least 1 address publicly available for service of documents (see s 13A (4)).

**33 New division 4.2**

*after section 66, insert*

**Division 4.2 Duties of officers**

**66A Duty of care and diligence**

An officer of an incorporated association must exercise the officer's functions and discharge the officer's duties with the degree of care and diligence that a reasonable person would exercise if that person—

- (a) were an officer of the association in the circumstances applying at the time of the exercise of the function or the discharge of the duty; and
- (b) occupied the office held by, and had the same responsibilities within the association as, the officer.

**66B Duty of good faith and proper purpose**

An officer of an incorporated association must exercise the officer's functions and discharge the officer's duties—

- (a) in good faith in the best interests of the association; and
- (b) for a proper purpose.

**66C Use of position**

An officer of an incorporated association must not improperly use the officer's position to—

- (a) gain an advantage for the officer or another person; or
- (b) cause detriment to the association.

**66D Use of information**

- (1) This section applies if a person obtains information because the person is, or has been, an officer of an incorporated association.
- (2) The person must not improperly use the information to—
  - (a) gain an advantage for the person or another person; or
  - (b) cause detriment to the association.

**34 New division 4.3 heading**

*before section 67, insert*

**Division 4.3 Register of members****35 Section 67**

*substitute*

**67 Register of members**

- (1) An incorporated association must keep and maintain a register of members in accordance with this section.
- (2) The register of members must contain the following information about each person who is a member of the association:
  - (a) the person's name and contact details;
  - (b) if applicable—the class of membership of the person;
  - (c) the date the person became a member of the association;
  - (d) anything required by the association's rules;
  - (e) anything else prescribed by regulation.

**67A Inspection of register of members**

- (1) A member of an incorporated association may apply to the committee of the association to allow the member to inspect the register of members.
  - (2) The committee must—
    - (a) allow the request; or
    - (b) refuse the request.
  - (3) The committee—
    - (a) must refuse the request to the extent that it would allow the member to access any personal information restricted under section 67B; and
    - (b) may refuse the request if satisfied that the member sought the inspection to use information on the register for a purpose that was—
      - (i) not directly related to the management or the purposes of the association; or
      - (ii) prohibited by the rules of the association; or
      - (iii) improper.
- Note* A dispute may be dealt with under an incorporated association's dispute resolution procedure (see s 65B).
- (4) If the committee allows the request, the committee must make the register of members available for inspection by the member—
    - (a) at a reasonable time or any time stated for the purpose in the rules of the association; and
    - (b) at—
      - (i) the address of the public officer of the association; or

- (ii) the registered office of the association (if any); or
  - (iii) another place in the ACT nominated by the committee.
- (5) A regulation may provide for how the committee must deal with applications and make decisions under this section.

**67B Restriction of access to personal information**

- (1) A member of an incorporated association may apply to the committee of the association to restrict access to personal information of the member recorded in the register of members.
- (2) The application may seek to restrict access so that the personal information is available only to—
  - (a) the public officer; and
  - (b) members of the committee other than a stated member or stated members of the committee.
- (3) The request may be made by—
  - (a) the person; or
  - (b) if the person is a child—a parent or guardian of the person.
- (4) The committee must—
  - (a) if satisfied that there are special circumstances which justify doing so, agree to the request; or
  - (b) refuse the request.
- (5) If the committee refuses the request, the committee must notify the person who made the request, in writing, about the decision and give reasons for the decision.

- (6) If the committee refuses the request, the committee must not release the personal information without the consent of the person unless at least 28 days have passed since the committee gave notice to the person under subsection (5).

*Note* A dispute may be dealt with under an incorporated association's dispute resolution procedure (see s 65B).

- (7) A regulation may provide for how the committee must deal with applications and make decisions under this section.

**36 New division 4.4 heading**

*before section 68, insert*

**Division 4.4 General meetings**

**37 Part 5 heading**

*substitute*

**Part 5 Record keeping and reporting**

**38 New sections 70B and 70C**

*insert*

**70B Definitions—pt 5**

In this part:

***auditor***, of an association's statement of accounts, means a person who—

- (a) is not a member or officer of the association; and
- (b) has not prepared or assisted with the preparation of the accounts; and



(c) is either—

- (i) registered as an auditor under the [Corporations Act](#); or
- (ii) a member of the Institute of Chartered Accountants in Australia, the Institute of Public Accountants, or CPA Australia.

**large association**, for a financial year, means an association that has a total revenue for the financial year of \$1 000 000 or more.

**medium association**, for a financial year, means an association that has a total revenue for the financial year of \$400 000 or more but less than \$1 000 000.

**required statement** means a statement of accounts—

- (a) for a small association—reviewed in accordance with section 75; or
- (b) for a medium association—reviewed or audited in accordance with section 75; or
- (c) for a large association—audited in accordance with section 76.

**reviewer**, of an association's statement of accounts, means a person who—

- (a) is not a member or officer of the association; and
- (b) has not prepared or assisted with the preparation of the accounts.

**small association**, for a financial year, means an association that has a total revenue for the financial year of less than \$400 000.

**70C Exemption from revenue thresholds**

- (1) For section 70B, definitions of *large association*, *medium association* and *small association*, the committee of an association may, for a financial year, ask in writing that the registrar-general disregard the association's revenue for the financial year.
- (2) The registrar-general may agree to the committee's request if the registrar-general is satisfied special circumstances apply to the association for the financial year.
- (3) If the registrar-general agrees to the committee's request, the registrar-general—
  - (a) must state whether the association is taken to be a large, medium or small association for the financial year for this part; and
  - (b) may impose conditions on the association.

**39 Accounting records  
Section 71 (b) (ii)**

*before*

audited

*insert*

reviewed or

**40 Presentation of statement to members  
Section 73 (1) (a)**

*omit*

audited

*substitute*

required

**41 Section 73 (1) (b)**

*before*

auditor's

*insert*

reviewer's or

**42 Section 73 (2)**

*omit*

an association prescribed for section 76

*substitute*

a large association

**43 Sections 74 and 75**

*substitute*

**74 Review or audit of accounts**

- (1) A medium and large association must appoint an auditor.  
Maximum penalty: 2 penalty units.
- (2) For each financial year, the committee of an incorporated association must take reasonable steps to ensure that the following is done at least 14 days before the association's annual general meeting:
  - (a) for a small association—the association's accounts for the financial year are reviewed by a reviewer;
  - (b) for a medium association—the association's accounts for the financial year are reviewed or audited by an auditor;

- (c) for a large association—the association’s accounts for the financial year are audited by an auditor.

Maximum penalty: 5 penalty units.

## **75 Review reports**

- (1) This section applies if—
  - (a) a reviewer is used by a small association to review the association’s statement of accounts; or
  - (b) an auditor is appointed by a medium association to review the association’s statement of accounts.
- (2) For a small association, a reviewer must—
  - (a) undertake a review of the association’s accounting records; and
  - (b) prepare a written report; and
  - (c) state in the report whether, on the basis of the review, anything has come to the reviewer’s attention that causes the reviewer to believe that the accounting records do not satisfy the requirements of this part.
- (3) For a medium association, an auditor must—
  - (a) undertake a review of the association’s accounting records in accordance with the auditing standards; and
  - (b) prepare a written report in accordance with the auditing standards; and
  - (c) state in the report—
    - (i) whether, on the basis of the review, anything has come to the reviewer’s attention that causes the reviewer to believe that the accounting records do not satisfy the requirements of this part; and

- (ii) whether the reviewer has been given all information, explanation and assistance necessary for the conduct of the review; and
  - (iii) whether the association has kept accounting records sufficient to enable a statement of the association's accounts to be prepared and reviewed; and
  - (iv) whether the association has kept other records as required by this Act.
- (4) In this section:  
*auditing standard*—see the [Corporations Act](#), section 9.

**44 Section 76 heading**

*substitute*

**76 Audit reports****45 Section 76 (1)**

*substitute*

- (1) This section applies if an auditor is appointed by a medium or large association to audit the association's statement of accounts.

**46 Section 76 (2) and (3)**

*omit*

An auditor

*substitute*

The auditor

**47 Section 76 (3) (a) (iii) and (b)**

*omit*

proper

*substitute*

the

**48 Section 76 (5) and (7)**

*omit*

An auditor

*substitute*

The auditor

**49 Section 76 (8) and (9)**

*omit*

an auditor

*substitute*

the auditor

**50 Section 76 (10)**

*substitute*

(10) In this section:

***accounting standard***—see the [Corporations Act](#), section 9.

**51 Section 77 heading****77 Reviewer's and auditor's liability****52 Section 77**

*omit*

An auditor

*substitute*

A reviewer or auditor

**53 Section 77**

*omit 2nd, 3rd and 4th mentions of*  
auditor

*substitute*

reviewer or auditor

**54 Annual returns  
Section 79 (1) (b)**

*omit*

an audited

*substitute*

the required

**55 Section 79 (1) (c)**

*before*

auditor's

*insert*

reviewer's or

**56 Section 79 (1) (e) (ii)**

*substitute*

- (ii) the reviewing or auditing of the accounts and the presentation of the required statement at the annual general meeting of the association;

**57 Winding-up by the court  
Section 90 (e)**

*omit*

traded or

**58 Property of defunct association  
Section 92 (2) (b) and (c) (ii)**

*omit*

trading or

**59 Cancellation of incorporation  
Section 93 (1) (f)**

*omit*

an auditor

*substitute*

a reviewer or auditor

**60 Section 93 (1) (f)**

*before*

auditor's

*insert*

reviewer's or



**61 Section 93 (1) (f)***before 2nd mention of*

auditor

*insert*

reviewer or

**62 Section 109 heading***substitute***109 Offence—pecuniary gain****63 Section 109 (1)***omit*

trade or

**64 Matters to be provided for in rules other than model rules  
Schedule 1, new item 4A***insert*

4A	dispute resolution	state the procedure for settling disputes under this Act or the rules between— (a) the incorporated association and any of its members; or (b) a member and any other member
----	--------------------	--

**65 Schedule 1, item 5, column 3, new paragraph 2 (da)***insert*

(da) the resignation of a member of the committee;

**66 Schedule 1, item 9, column 3**

*after*

common seal

*insert*

(if any)

**67 Schedule 1, new item 12**

*insert*

12	access to and copies of documents	provide for members to access and obtain copies of documents of the association, including terms and conditions to restrict access
----	-----------------------------------	--

**68 Reviewable decisions  
Schedule 3, new items 4A and 4B**

*insert*

4A	70C (2)	refuse application for exemption from revenue threshold	applicant for exemption
4B	70C (3)	impose conditions on exemption	applicant for exemption

**69 Dictionary, note 2**

*insert*

- disallowable instrument (see s 9)
- entity
- financial year
- function
- notifiable instrument (see s 10)

**70 Dictionary, new definitions**

*insert*

***auditor***, of an association's statement of accounts, for part 5 (Record keeping and reporting)—see section 70B.

***large association***, for a financial year, for part 5 (Record keeping and reporting)—see section 70B.

***medium association***, for a financial year, for part 5 (Record keeping and reporting)—see section 70B.

***register of members***—means the register kept under section 67.

***required statement***, for part 5 (Record keeping and reporting)—see section 70B.

***reviewer***, of an association's statement of accounts, for part 5 (Record keeping and reporting)—see section 70B.

***small association***, for a financial year, for part 5 (Record keeping and reporting)—see section 70B.

**71 Dictionary, definition of trade**

*omit*

**Part 3** **Associations Incorporation  
Regulation 1991**

**72** **Sections 10, 12 and 13**

*omit*

## Part 4 Casino Control Act 2006

### 73 Definitions—div 5.7 Section 78, definition of *document of identification*

*substitute*

*document of identification*, for a person, means—

- (a) a document that—
  - (i) is a driver licence, proof of identity card or passport; and
  - (ii) contains a photograph that could reasonably be taken to be of the person; and
  - (iii) indicates that the person to whom the document was issued is at least 18 years old; or
- (b) any other document prescribed by regulation.

*Note* A document may be in electronic form (see [Legislation Act](#), dict, pt 1, def *document*).

## Part 5 Casino Control Regulation 2006

### 74 New section 7A

*insert*

#### 7A Document of identification—Act, s 78, def *document of identification*, par (b)

- (1) An Australia Post Keypass ID is prescribed.
- (2) In this section:

*Australia Post Keypass ID*, for a person, means identification issued by Australia Post that includes the following about the person:

- (a) the name of the person;
- (b) a photo of the person;
- (c) the date of birth of the person.

*Note* An Australia Post Keypass ID may be in electronic form (see [Legislation Act](#), dict, pt 1, def *document*).

## Part 6 Land Titles Act 1925

### 75 When applicant is not original grantee or any transactions registered Section 22

*omit*

shall require notice of the application to be advertised in such newspapers as the registrar-general thinks fit, and shall

*substitute*

must require public notice of the application to be given, and must

### 76 Section 22, new note

*insert*

*Note* **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

### 77 When evidence of title imperfect Section 23 (1)

*omit*

and to be advertised in such newspapers as he or she thinks fit, and to be published in the Commonwealth Gazette and in the London Gazette, and in the official Gazettes of each of the States, or in any 1 or more of those Gazettes, and the registrar-general shall determine the number of times and at what intervals the advertisements shall be published in each or any of the newspapers and Gazettes, and shall

*substitute*

and public notice of the application to be given and advertisements to be published in the official Gazettes of each of the States, at the times and intervals the registrar-general considers appropriate, and must

**78 Section 23 (1), new note**

*insert*

*Note* **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

**79 Notice of application to be published  
New section 24 (3)**

*after the note, insert*

- (3) The registrar-general must give additional public notice of the notice of application.

*Note* **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1). The requirement in s (3) is in addition to the requirement for notification on the legislation register as a notifiable instrument.

**80 Memorial to be recorded on duplicate grant, certificate or instrument, unless dispensed with  
Section 50 (6)**

*substitute*

- (6) The party intending to register the dealing must also give additional public notice of the notice, as required (if at all) by the registrar-general.

*Note* **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1). The requirement in s (6) is in addition to the requirement for notification on the legislation register as a notifiable instrument.



**81 Lost grant or certificate  
Section 62 (5)**

*substitute*

- (5) The registrar-general may, at least 14 days before issuing a new grant or certificate and at the expense of the applicant, give public notice of the registrar-general's intention to issue the grant or certificate.

*Note* **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

**82 Registrar-general may require map to be deposited  
Section 64 (1), note 2**

*omit*

**83 Section 64 (2) to (6) and (8)**

*omit*

**84 Application—how made effective  
Section 98 (3)**

*substitute*

- (3) The registrar-general must also give additional public notice of the offer.

*Note* **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1). The requirement in s (3) is in addition to the requirement for notification on the legislation register as a notifiable instrument.

**85 Dictionary, definition of *daily newspaper***

*omit*

## Part 7 Liquor Act 2010

### 86 Dictionary, note 2

*insert*

- document

### 87 Dictionary, definition of *identification document*

*substitute*

*identification document*, for a person, means—

- (a) a document that—
- (i) is—
    - (A) an Australian driver licence or foreign driver licence;  
or
    - (B) a proof of identity card or interstate proof of identity card; or
    - (C) a passport; and
  - (ii) contains a photograph that could reasonably be taken to be the person; and
  - (iii) states the person's date of birth; or
- (b) any other document prescribed by regulation.

*Note* A document may be in electronic form (see [Legislation Act](#), dict, pt 1, def *document*).

## Part 8                      Liquor Regulation 2010

### 88                      New section 34

*insert*

#### 34                      **Identification document—Act, dict, def *identification document*, par (b)**

- (1) An Australia Post Keypass ID is prescribed.
- (2) In this section:

***Australia Post Keypass ID***, for a person, means identification issued by Australia Post that includes the following about the person:

- (a) the name of the person;
- (b) a photo of the person;
- (c) the date of birth of the person.

*Note*                      An Australia Post Keypass ID may be in electronic form (see [Legislation Act](#), dict, pt 1, def *document*).

## Part 9 Nature Conservation Act 2014

### 89 Definitions—pt 4.3 Section 72A

*omit*

### 90 What is a *key threatening processes list*? Section 75, definition of *key threatening processes list*, paragraph (a)

*omit*

section 79A

*substitute*

section 76

### 91 Key threatening processes list Section 79A

*relocate as section 76*

### 92 Sections 79B to 79H

*omit*

### 93 Nominations—scientific committee to carry out *listing assessment* New section 85 (5) and (6)

*insert*

- (5) The scientific committee must give a listing assessment for an item to the Minister not later than 15 months after the end of the 4-week period, or public consultation period, mentioned in subsection (1).
- (6) However, the Minister may extend the time for giving the listing assessment under subsection (5).

**94** **Minister to decide whether to include, transfer or omit item**  
**Section 87 (1)**

*omit*

conservation advice

*substitute*

listing assessment

**95** **Section 87 (2), note**

*substitute*

*Note* The final version of the list is a notifiable instrument (see s 91).

**96** **Sections 88 (2) (a), 89 (2) (a) and 90 (2) (a)**

*omit*

conservation advice

*substitute*

listing assessment

**97** **Minister may include or transfer nationally threatened items without nomination**  
**Section 90A (3) (b)**

*substitute*

(b) consider any recommendations of the scientific committee.

**98 Sections 90C and 90D**

*substitute*

**90C Conservation advice**

- (1) The scientific committee must prepare an advice about each item included in a list (a *conservation advice*).
- (2) However, the scientific committee need not prepare a conservation advice for an item if—
  - (a) the committee adopts an advice for the item under section 90E (Conservation advice—adopting advice for nationally threatened item); or
  - (b) the item is listed in a provisional category of a threatened native species list or a threatened ecological communities list.

*Note* For a nationally threatened item, an advice adopted under s 90E is the conservation advice.

- (3) The conservation advice must—
  - (a) set out—
    - (i) the grounds on which the item is eligible to be included in, transferred within, or omitted from, the list; and
    - (ii) the main factors that make it eligible; and
  - (b) include anything else required to be included by a conservation advice guideline.

*Note 1* The conservation advice need not contain the precise location of a species or community (see s 363).

*Note 2* Eligibility for the threatened native species list is dealt with in s 64 and s 64A.

Eligibility for the threatened ecological communities list is dealt with in s 70.

Eligibility for the key threatening processes list is dealt with in s 77.

- (4) A conservation advice, including a conservation advice adopted under section 90E, is a notifiable instrument.

*Note 1* A notifiable instrument must be notified under the [Legislation Act](#).

*Note 2* The power to make an instrument includes the power to amend or repeal the instrument (see [Legislation Act](#), s 46).

- (5) However, a conservation advice must be notified within 20 days after the following happens:
- (a) the Minister makes a decision to include an item on a list or transfer an item within a list;
  - (b) the scientific committee amends the conservation advice.
- (6) In this section:

*conservation advice guidelines*—see section 90B (1).

**99 Conservation advice—adopting advice for nationally threatened item  
Section 90E (2)**

*omit*

Minister

*substitute*

scientific committee

**100 Section 90E (2)**

*omit*

section 90C (2)

*substitute*

section 90C (3)

**101 Section 90E (3)**

*omit*

Minister

*substitute*

scientific committee

**102 Conservation advice—scientific committee to review  
Section 90F (2)**

*substitute*

- (2) Following the review of the conservation advice, the scientific committee may make amendments to the advice.

**103 Minister may make minor amendments  
Section 94 (2) (b)**

*substitute*

- (b) need not comply with the requirements in section 84 (Nominations—public consultation) to section 90A (Minister may include or transfer nationally threatened items without nomination); and

**104 Minor amendment—including similar species  
Section 95 (2) and note**

*substitute*

- (2) In deciding whether a minor amendment is appropriate, the Minister must obtain and consider the advice of the scientific committee.



**105 Minor amendment—omitting similar species  
Section 96 (2) and note**

*substitute*

- (2) In deciding whether a minor amendment is appropriate, the Minister must obtain and consider the advice of the scientific committee.

**106 Dictionary, definition of *listing assessment***

*substitute*

***listing assessment***, for part 4.4 (Including, transferring and omitting items in list)—see section 85 (2).

**107 Dictionary, definition of *public consultation notice***

*substitute*

***public consultation notice***, for a nomination, for part 4.4 (Including, transferring and omitting items in list)—see section 84 (1).

## Part 10 Planning and Development Act 2007

### 108 Consideration of whether review of planning strategy necessary Section 110 (3)

*omit*

the Executive must

*substitute*

the Minister must

## Part 11                      Sale of Motor Vehicles Act 1977

**109            Information to be recorded in dealings register  
Section 16 (4) and (5)**

*omit*

**110            Power to enter premises  
Section 70A (1) (b) (iii)**

*omit*

**111            Dictionary, definition of *car market operator***

*omit*

**112            Dictionary, definition of *dealer*, paragraph (b) (iii)**

*omit*

**113            Dictionary, definition of *wholesaler***

*omit*

(other than car market operators' licences)

## Part 12 Tobacco and Other Smoking Products Act 1927

### 114 Supply of smoking product to under 18 year olds Section 14 (6)

*substitute*

(6) In this section:

***document of identification***, of a person, means—

(a) a document that—

(i) is—

(A) an Australian driver licence or foreign driver licence;  
or

(B) a proof of identity card issued under the [Liquor Act 2010](#), section 210 (Proof of identity cards), or a corresponding document issued under the law of a State; or

(C) a passport; and

(ii) contains a photograph that could reasonably be taken to be the person; and

(iii) indicates that the person to whom the document was issued is at least 18 years old; or

(b) any other document prescribed by regulation.

*Note* A document may be in electronic form (see [Legislation Act](#), dict, pt 1, def ***document***).

***foreign driver licence*** means a licence to drive a motor vehicle (however described) issued under the law of an external Territory or a foreign country.

**115 Dictionary, note 2**

*insert*

- Australian driver licence
- document
- external territory

## Part 13 Traders (Licensing) Act 2016

**116** **Meaning of *trader***  
**Section 7 (a)**

*omit*

**117** **Meaning of *car market operator***  
**Section 8**

*omit*

**118** **Definitions—pt 20**  
**Section 150, definition of *operational Act licence*,**  
**paragraph (a)**

*omit*

**119** **Dictionary, definition of *car market operator***

*omit*

## Part 14 Traders (Licensing) Regulation 2017

**120 Transferable licences—Act, s 24 (1)  
Section 10 (a)**

*omit*

**121 Notification of application in certain trader categories  
Section 11 (1) (a)**

*omit*

**122 Dictionary, note 3**

*omit*

- car market operator (see s 8)

## **Schedule 1** Other amendments

(see s 3)

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

#### **[1.1] Section 75 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

#### **[1.2] Section 75 (6)**

*omit*

faxed

*substitute*

written

### **Part 1.2** Building Act 2004

#### **[1.3] Section 134G (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy



**[1.4] Section 134G (6)**

*omit*

faxed

*substitute*

written

**Part 1.3 Children and Young People  
Act 2008**

**[1.5] Section 688 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

**[1.6] Section 688 (6)**

*omit*

faxed

*substitute*

written

**[1.7] Section 825 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

**[1.8]            Section 825 (6)**

*omit*

faxed

*substitute*

written

**Part 1.4                            Commercial Arbitration Act 2017**

**[1.9]            Section 7 (8), definition of *data message***

*omit*

telegram, telex or telecopy

*substitute*

telegram or telecopy

**Part 1.5                            Construction Occupations  
(Licensing) Act 2004**

**[1.10]           Section 80CL (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

**[1.11] Section 80CL (6)**

*omit*

faxed

*substitute*

written

**Part 1.6 Crimes Act 1900**

**[1.12] Sections 205 (1), (5) and 227 (5)**

*omit*

telex,

**Part 1.7 Crimes (Forensic Procedures)  
Act 2000**

**[1.13] Sections 42 (3), 43 (2) and 44 (1)**

*omit*

telex,

**Part 1.8 Dangerous Goods (Road  
Transport) Act 2009**

**[1.14] Section 91 (1)**

*substitute*

- (1) After issuing the warrant, the magistrate must immediately provide a written copy to the authorised person if it is practicable to do so.



## **Part 1.10                      Drugs of Dependence Act 1989**

### **[1.19]      Section 193D (3)**

*omit*

fax

*substitute*

by providing a written copy

## **Part 1.11                      Electoral Act 1992**

### **[1.20]      Section 167, definition of *transmit***

*omit*

by fax, telex

*substitute*

by fax

## **Part 1.12                      Electricity Safety Act 1971**

### **[1.21]      Section 47 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

**[1.22]    Section 47 (6)**

*omit*

facsimile warrant

*substitute*

written copy of the warrant

**Part 1.13            Fair Trading (Australian  
Consumer Law) Act 1992**

**[1.23]    Section 42 (4)**

*omit*

fax a copy

*substitute*

provide a written copy

**[1.24]    Section 42 (5)**

*omit*

faxed

*substitute*

written

## **Part 1.14                      Firearms Act 1996**

### **[1.25]            Section 212 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

### **[1.26]            Section 212 (6)**

*omit*

faxed

*substitute*

written

## **Part 1.15                      Fisheries Act 2000**

### **[1.27]            Section 58 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

### **[1.28]            Section 58 (6)**

*omit*

facsimile warrant

*substitute*

written copy of the warrant

## Part 1.16                      Food Act 2001

### [1.29]      Section 50 (4) and (5)

*omit*

fax a copy

*substitute*

provide a written copy

### [1.30]      Section 50 (6)

*omit*

faxed

*substitute*

written

## Part 1.17                      Gas Safety Act 2000

### [1.31]      Section 46 (4) and (5)

*omit*

fax a copy

*substitute*

provide a written copy

### [1.32]      Section 46 (6)

*omit*

facsimile warrant

*substitute*

written copy of the warrant



## **Part 1.18                      Gene Technology Act 2003**

### **[1.33]      Section 174 heading**

*substitute*

### **174      Offence-related warrants by telephone, fax etc**

### **[1.34]      Section 174 (1)**

*omit*

telex,

## **Part 1.19                      Gene Technology (GM Crop Moratorium) Act 2004**

### **[1.35]      Section 23 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

### **[1.36]      Section 23 (6)**

*omit*

faxed

*substitute*

written

## Part 1.20            Hemp Fibre Industry Facilitation Act 2004

### [1.37]            Section 50 (4) and (5)

*omit*

fax a copy

*substitute*

provide a written copy

### [1.38]            Section 50 (6)

*omit*

faxed

*substitute*

written

## Part 1.21            Heritage Act 2004

### [1.39]            Section 87 (4) and (5)

*omit*

give a copy

*substitute*

provide a written copy

**[1.40] Section 87 (6)**

*before*  
copy  
*insert*  
written

**Part 1.22 Independent Competition and  
Regulatory Commission Act 1997**

**[1.41] Section 56**

*omit*  
telex,

**Part 1.23 Legal Profession Act 2006**

**[1.42] Section 536 (4)**

*substitute*

- (4) After issuing the warrant, the magistrate must immediately provide a written copy to the investigator if it is practicable to do so.

**[1.43] Section 536 (5)**

*omit*  
fax a copy  
*substitute*  
provide a written copy

**[1.44]      Section 536 (6)**

*omit*

faxed

*substitute*

written

**Part 1.24            Liquor Act 2010**

**[1.45]      Section 160 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

**[1.46]      Section 160 (6)**

*omit*

faxed

*substitute*

written

## **Part 1.25 Medicines, Poisons and Therapeutic Goods Act 2008**

### **[1.47] Section 110 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

### **[1.48] Section 110 (6)**

*omit*

faxed

*substitute*

written

## **Part 1.26 Nature Conservation Act 2014**

### **[1.49] Section 346 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

**[1.50]    Section 346 (6)**

*omit*

faxed

*substitute*

written

**Part 1.27            Pest Plants and Animals  
                                 Act 2005**

**[1.51]    Section 39 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

**[1.52]    Section 39 (6)**

*omit*

faxed

*substitute*

written

## **Part 1.28**                      **Planning and Development Act 2007**

### **[1.53] Section 399 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

### **[1.54] Section 399 (6)**

*omit*

faxed

*substitute*

written

### **[1.55] Sections 402I (1) and (2) and 402T (1) and (2)**

*omit*

fax a copy

*substitute*

provide a written copy

## **Part 1.29            Plant Diseases Act 2002**

### **[1.56]            Section 25 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

### **[1.57]            Section 25 (6)**

*omit*

faxed

*substitute*

written

## **Part 1.30            Public Health Act 1997**

### **[1.58]            Section 81 (1) and (5)**

*omit*

telex,

## **Part 1.31            Public Unleased Land Act 2013**

### **[1.59]            Section 113 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy



**[1.60] Section 113 (6)**

*omit*

faxed

*substitute*

written

**Part 1.32 Radiation Protection Act 2006**

**[1.61] Section 97 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

**[1.62] Section 97 (6)**

*omit*

faxed

*substitute*

written

## Part 1.33 Road Transport (Third-Party Insurance) Act 2008

### [1.63] Section 256 (4) and (5)

*omit*

fax a copy

*substitute*

provide a written copy

### [1.64] Section 256 (6)

*omit*

faxed

*substitute*

written

## Part 1.34 Sale of Motor Vehicles Act 1977

### [1.65] Section 70H (4) and (5)

*omit*

fax a copy

*substitute*

provide a written copy

**[1.66] Section 70H (6)**

*omit*

faxed

*substitute*

written

**Part 1.35 Stock Act 2005**

**[1.67] Section 55 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

**[1.68] Section 55 (6)**

*omit*

faxed

*substitute*

written

## Part 1.36                      Tree Protection Act 2005

### [1.69]      Section 94 (4) and (5)

*omit*

fax a copy

*substitute*

provide a written copy

### [1.70]      Section 94 (6)

*omit*

faxed

*substitute*

written

## Part 1.37                      Utilities Act 2000

### [1.71]      Section 158 (4) and (5)

*omit*

fax a copy

*substitute*

provide a written copy

### [1.72]      Section 158 (6)

*omit*

facsimile warrant

*substitute*

written copy of the warrant

## **Part 1.38**                      **Utilities (Technical Regulation) Act 2014**

### **[1.73]      Section 89 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

### **[1.74]      Section 89 (6)**

*omit*

faxed

*substitute*

written

## **Part 1.39**                      **Waste Management and Resource Recovery Act 2016**

### **[1.75]      Section 85 (4) and (5)**

*omit*

give a copy

*substitute*

provide a written copy

**[1.76]    Section 85 (6)**

*before*

copy

*insert*

written

**Part 1.40            Water and Sewerage Act 2000**

**[1.77]    Section 31 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

**[1.78]    Section 31 (6)**

*omit*

facsimile warrant

*substitute*

written copy of the warrant

## **Part 1.41                      Water Resources Act 2007**

### **[1.79]            Section 86 (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

### **[1.80]            Section 86 (6)**

*omit*

faxed

*substitute*

written

## **Part 1.42                      Work Health and Safety Act 2011**

### **[1.81]            Section 167A (4) and (5)**

*omit*

fax a copy

*substitute*

provide a written copy

### **[1.82]            Section 167A (6)**

*omit*

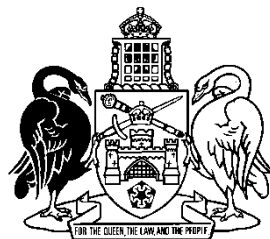
faxed

*substitute*

written

## Schedule 2      New Tobacco and Other Smoking Products Regulation

(see s 4)



Australian Capital Territory

# Tobacco and Other Smoking Products Regulation 2018

Subordinate Law SL2018-

made under the

[Tobacco and Other Smoking Products Act 1927](#)

---

### 1      Name of regulation

This regulation is the *Tobacco and Other Smoking Products Regulation 2018*.



**2 Document of identification—Act, s 14 (6), def *document of identification*, par (b)**

- (1) An Australia Post Keypass ID is prescribed.
- (2) In this section:

*Australia Post Keypass ID*, for a person, means identification issued by Australia Post that includes the following about the person:

- (a) the name of the person;
- (b) a photo of the person;
- (c) the date of birth of the person.

*Note* An Australia Post Keypass ID may be in electronic form (see [Legislation Act](#), dict, pt 1, def *document*).

---

## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 23 August 2018.

**2 Notification**

Notified under the [Legislation Act](#) on 25 September 2018.

**3 Republications of amended laws**

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

---

I certify that the above is a true copy of the Red Tape Reduction Legislation Amendment Bill 2018, which was passed by the Legislative Assembly on 18 September 2018.

Clerk of the Legislative Assembly

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