

2007

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

## Statute Law Amendment Bill 2007

### Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Purpose	2
4 Notes	2
5 Legislation amended—schs 1–3	3
<b>Schedule 1</b>	
<b>Minor amendments</b>	4
<b>Part 1.1</b>	
<b>Cemeteries and Crematoria Act 2003</b>	4
<b>Part 1.2</b>	
<b>Heritage Act 2004</b>	4
<b>Part 1.3</b>	
<b>Unlawful Games Act 1984</b>	6

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		Page
<b>Schedule 2</b>	<b>Legislation Act 2001</b>	7
<b>Schedule 3</b>	<b>Technical amendments</b>	8
<b>Part 3.1</b>	<b>ACTEW/AGL Partnership Facilitation Act 2000</b>	8
<b>Part 3.2</b>	<b>Administrative Appeals Tribunal Act 1989</b>	9
<b>Part 3.3</b>	<b>Annual Leave Act 1973</b>	14
<b>Part 3.4</b>	<b>Associations Incorporation Act 1991</b>	14
<b>Part 3.5</b>	<b>Boxing Control Act 1993</b>	16
<b>Part 3.6</b>	<b>Consumer Credit (Administration) Act 1996</b>	16
<b>Part 3.7</b>	<b>Coroners Act 1997</b>	17
<b>Part 3.8</b>	<b>Credit Act 1985</b>	19
<b>Part 3.9</b>	<b>Credit Regulation 1985</b>	28
<b>Part 3.10</b>	<b>Dangerous Substances Act 2004</b>	28
<b>Part 3.11</b>	<b>Discrimination Act 1991</b>	29
<b>Part 3.12</b>	<b>Environment Protection Act 1997</b>	30
<b>Part 3.13</b>	<b>Evidence Act 1971</b>	35
<b>Part 3.14</b>	<b>Fisheries Regulation 2001</b>	38
<b>Part 3.15</b>	<b>Food Act 2001</b>	38
<b>Part 3.16</b>	<b>Gambling and Racing Control Act 1999</b>	39
<b>Part 3.17</b>	<b>Gambling and Racing Control (Code of Practice) Regulation 2002</b>	40
<b>Part 3.18</b>	<b>Health Act 1993</b>	41
<b>Part 3.19</b>	<b>Heritage Act 2004</b>	41
<b>Part 3.20</b>	<b>Lands Acquisition Act 1994</b>	42
<b>Part 3.21</b>	<b>Leases (Commercial and Retail) Act 2001</b>	43
<b>Part 3.22</b>	<b>Legal Aid Act 1977</b>	43
<b>Part 3.23</b>	<b>Legislative Assembly (Members' Staff) Act 1989</b>	59

		Page
<b>Part 3.24</b>	<b>Liquor Act 1975</b>	61
<b>Part 3.25</b>	<b>Litter Act 2004</b>	64
<b>Part 3.26</b>	<b>Long Service Leave (Building and Construction Industry) Regulation 1984</b>	65
<b>Part 3.27</b>	<b>Lotteries Act 1964</b>	65
<b>Part 3.28</b>	<b>Nature Conservation Act 1980</b>	68
<b>Part 3.29</b>	<b>Oaths and Affirmations Act 1984</b>	70
<b>Part 3.30</b>	<b>Payroll Tax Act 1987</b>	71
<b>Part 3.31</b>	<b>Pool Betting Act 1964</b>	71
<b>Part 3.32</b>	<b>Public Sector Management Act 1994</b>	73
<b>Part 3.33</b>	<b>Registrar-General Act 1993</b>	74
<b>Part 3.34</b>	<b>Wills Act 1968</b>	74
<b>Part 3.35</b>	<b>Workers Compensation Act 1951</b>	75



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## **Statute Law Amendment Bill 2007**

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### **A Bill for**

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

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

1   **1           Name of Act**

2           This Act is the *Statute Law Amendment Act 2007*.

3   **2           Commencement**

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

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

7           (2) However, a date or time provided by a special commencement  
8               provision for an amendment made by this Act has effect, or is taken  
9               to have had effect, as the commencement date or time of the  
10              amendment.

11          (3) In this section:

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

15               **Example**

16               An amendment followed by ‘(commencement: 12 April 2007)’ means that the  
17               amendment is taken to have commenced on 12 April 2007.

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

21   **3           Purpose**

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

25   **4           Notes**

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

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

1 **5            Legislation amended—schs 1–3**

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

1 **Schedule 1 Minor amendments**

2 (see s 5)

3 **Part 1.1 Cemeteries and Crematoria Act**  
4 **2003**

5 **[1.1] Section 23 (1) (b) and (c)**

6 *substitute*

7 (b) either—

8 (i) there is no warrant under the *Coroners Act 1997*  
9 authorising the exhumation; or

10 (ii) the chief health officer has not given written permission  
11 under this section.

12 **Explanatory note**

13 This amendment removes the requirement that a warrant under the *Coroners Act 1997* and the  
14 chief health officer's permission are both required to exhume human or foetal remains.

15 **Part 1.2 Heritage Act 2004**

16 **[1.2] Section 13 (f)**

17 *substitute*

18 (2) If a place or object is also an Aboriginal place or object, each of the  
19 following is also an *interested person*:

20 (a) a representative Aboriginal organisation;



- 1 (b) if the discovery of the place or object was reported under  
2 section 51—the person who reported the discovery.

3 **Explanatory note**

4 This amendment remakes existing paragraph (f) as a separate subsection to make it clear that if  
5 a place or object is also an Aboriginal place or object, each of the entities mentioned in the  
6 subsection is, in addition to the entities mentioned in existing section 13 (a) to (e), an *interested*  
7 *person* for the place or object.

8 **[1.3] Section 50**

9 *substitute*

10 **50 Partial cancellation of registration of place or object**

- 11 (1) In this part:

12 *cancellation* includes partial cancellation.

13 *partial cancellation* means the exclusion of part of a registered  
14 place or object.

- 15 (2) This part applies to a partial cancellation as if—

16 (a) a reference to a registered place or object were a reference to  
17 the part of the place or object to be excluded; and

18 (b) all other necessary changes, including any changes prescribed  
19 by regulation, were made.

20 **Explanatory note**

21 This amendment extends the scope of the section to include the partial cancellation of a  
22 registered object. For example, if a part of a heritage object cannot be repaired and is replaced,  
23 it may be appropriate for the registration not to continue to apply to that part of the object.



## Schedule 2      Legislation Act 2001

(see s 5)

### [2.1]      Section 192 (1) (b) and (c)

*substitute*

(b) an offence by a corporation punishable by a prescribed fine;

*Note*      See s 161 for the fines that may be imposed on a corporation for offences punishable only by imprisonment.

(c) an aiding and abetting offence by an individual in relation to an offence by a corporation punishable by a prescribed fine.

#### Explanatory note

This amendment is related to the amendment below. It changes the reference to ‘a fine of 100 penalty units or more’ in each paragraph to ‘a prescribed fine’.

### [2.2]      Section 192 (4), new definition of *prescribed fine*

*insert*

*prescribed fine*, for an offence, means—

(a) if the penalty for the offence is expressed in penalty units—  
100 penalty units or more; or

(b) if the penalty for the offence is expressed as an amount of money—\$50 000 or more.

#### Explanatory note

This amendment follows on from the amendment above. The value of a penalty unit for an offence is \$100 if the person charged is an individual and \$500 if the person charged is a corporation (see Legislation Act, s 133). The amendment applies section 192 (1) (b) and (c) to an offence in relation to a corporation if the penalty for the offence is expressed, in dollars, as being \$50 000 or more (which is equivalent in value to the 100 penalty units mentioned in the existing paragraphs). The amendment is made to deal with 2 main possibilities. First, that a penalty in a law of another jurisdiction that is applied by an ACT law has a fine expressed as an amount of money. Second, that legislation expresses a fine as an amount of money as part of implementing a uniform law.

1    **Schedule 3            Technical amendments**

2    (see s 5)

3    **Part 3.1                ACTEW/AGL Partnership**  
4    **Facilitation Act 2000**

5    **[3.1]            Dictionary, definition of *joint venture entity***

6    *substitute*

7    *joint venture entity*—

8    (a) for this Act generally—means any of the following:

9        (i) ACTEW;

10      (ii) AGL;

11      (iii) a company that is—

12            (A) a participant in a partnership; and

13            (B) under the Corporations Act, a related body  
14            corporate to ACTEW or AGL; and

15      (b) for part 4 (Secondment of ACTEW employees)—see  
16      section 22.

17    **Explanatory note**

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

---

1 **Part 3.2** **Administrative Appeals Tribunal**  
2 **Act 1989**

3 **[3.2] Section 5 (1), new notes**

4 *insert*

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

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

11 **Explanatory note**

12 This amendment inserts standard notes about appointments.

13 **[3.3] Section 7 (5)**

14 *substitute*

15 (5) Subject to this part, a member must not be appointed for more than  
16 7 years.

17 *Note* A person may be reappointed to a position if the person is eligible to be  
18 appointed to the position (see Legislation Act, s 208 and dict, pt 1,  
19 def of *appoint*).

20 **Explanatory note**

21 This amendment remakes the subsection in accordance with current drafting practice.

22 The existing reference to holding office for the period specified in the instrument of  
23 appointment is omitted. It is unnecessary because the Legislation Act, section 206 (2) provides  
24 that if a law provides for a maximum period of appointment, the instrument of appointment  
25 must state the period for which the appointment is made.

26 The existing reference to eligibility for reappointment is unnecessary because the Legislation  
27 Act provides that if a person is eligible for appointment the person may be reappointed.  
28 A standard note about reappointment is added.

1    **[3.4]            Section 9**

2                    *substitute*

3    **9                Acting appointments—direction to continue acting**

- 4                    (1) This section applies if a person has been appointed as an acting  
5                    member of the tribunal because another member (the *absent*  
6                    *member*) is or is expected to be absent or unavailable.
- 7                    (2) The Executive may, because of a pending proceeding or other  
8                    special circumstances, direct that the acting member must continue  
9                    to act under the appointment after the absent member ceases to be  
10                    absent or unavailable until the acting member resigns or the  
11                    Executive ends the appointment.
- 12                    (3) However—
- 13                    (a) a direction under subsection (2) must be given before the  
14                    absent member ceased to be absent or unavailable; and
- 15                    (b) an acting member must not continue to act for more than  
16                    12 months after the absent member ceases to be absent or  
17                    unavailable.

18    **Explanatory note**

19    This amendment remakes existing section 9 (4) as new section 9 and brings it more closely into  
20    line with current drafting practice. The remainder of the section is omitted because it is  
21    unnecessary.

22    Existing section 9 (1) to (3), which is about when an acting appointment may be made, is  
23    unnecessary. The Legislation Act, section 209 provides that a power of appointment (eg the  
24    Administrative Appeals Tribunal Act, s 5) includes power to make an acting appointment  
25    during any period when an appointee cannot for any reason exercise functions of the position.

26    Existing section 9 (5) provides that anything done by or in relation to an acting member is not  
27    invalid merely because the occasion for the appointment had not arisen, there was a defect or  
28    irregularity in relation to the appointment, the appointment had ceased to have effect or the  
29    occasion to act had not arisen or had ceased. This provision is unnecessary because the  
30    Legislation Act, section 225 is to the same effect.

1 **[3.5] Section 10**

2 *substitute*

3 **10 Delegation by president**

4 The president may delegate the president's functions under this Act  
5 to a member.

6 *Note* For the making of delegations and the exercise of delegated functions,  
7 see the Legislation Act, pt 19.4.

8 **Explanatory note**

9 This amendment updates the delegation provision and adds a standard note about delegations.  
10 The Legislation Act, section 232 requires a delegation to be made by signed writing. The  
11 Legislation Act, section 234 allows the delegation of any part of functions that may be  
12 delegated.

13 **[3.6] Section 24 (3)**

14 *substitute*

15 (3) If an enactment makes provision in accordance with this section for  
16 making applications to the tribunal for the review of decisions by a  
17 person made in the exercise of a power given to the person, the  
18 provision also applies to decisions made in the exercise of the power  
19 by anyone else who is lawfully authorised to exercise the power.

20 **Explanatory note**

21 This amendment remakes the provision omitting existing section (3) (a) and (b) which is about  
22 the exercise of powers by delegates and acting appointees.

23 Existing section (3) (a) is unnecessary because the Legislation Act, section 239 (4) provides that  
24 anything done by or in relation to the delegate in the exercise of the delegation is taken to have  
25 been done by or in relation to the appointer.

26 Existing section (3) (b) is unnecessary because the Legislation Act, section 220 (b) provides  
27 that all territory laws apply in relation to a person appointed to act as if the person were the  
28 occupant of the position.

- 1    **[3.7]      Section 26 (7) (b)**
- 2            *omit*
- 3            the Crown in right of the Territory
- 4            *substitute*
- 5            the Territory

6    **Explanatory note**

7    This amendment brings the reference to the Territory into line with current drafting practice.

- 8    **[3.8]      Section 35 (1) (b)**
- 9            *omit*
- 10          the Crown in right of the Territory
- 11          *substitute*
- 12          the Territory

13   **Explanatory note**

14   This amendment brings the reference to the Territory into line with current drafting practice.

- 15   **[3.9]      Section 35 (2) (c)**
- 16          *omit*
- 17          the Crown in right of the Commonwealth
- 18          *substitute*
- 19          the Commonwealth

20   **Explanatory note**

21   This amendment brings the reference to the Commonwealth into line with current drafting  
22   practice.



1 **[3.10] Section 35 (3) (a)**

2 *omit*

3 the State or Territory

4 *substitute*

5 the State or other Territory

6 **Explanatory note**

7 This amendment brings the reference to the State or Territory into line with current drafting  
8 practice.

9 **[3.11] Section 35 (3) (b)**

10 *omit*

11 the Crown in right of the State or Territory

12 *substitute*

13 the State or other Territory

14 **Explanatory note**

15 This amendment brings the reference to the State or Territory into line with current drafting  
16 practice.

17 **[3.12] Section 57 (4)**

18 *substitute*

19 (4) The registrar may delegate the registrar's functions under this Act to  
20 a public servant.

21 *Note* For the making of delegations and the exercise of delegated functions,  
22 see the Legislation Act, pt 19.4.

23 **Explanatory note**

24 This amendment updates the delegation provision and adds a standard note about delegations.  
25 The Legislation Act, section 232 requires a delegation to be made by signed writing. The  
26 Legislation Act, section 234 allows the delegation of any part of functions that may be  
27 delegated.

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## 1 Part 3.3 Annual Leave Act 1973

### 2 [3.13] Dictionary, definition of *authorised officer*

3 *substitute*

4 *authorised officer* means—

5 (a) for this Act generally—a person appointed under section 14B;  
6 and

7 (b) for section 7 (Leave to be taken within 6 months)—a person  
8 appointed under section 7 (4).

#### 9 Explanatory note

10 This amendment omits a redundant definition of the term and brings the remaining definition  
11 into line with current drafting practice.

## 12 Part 3.4 Associations Incorporation 13 Act 1991

### 14 [3.14] Section 15 (1)

15 *substitute*

16 (1) The Minister may declare an association to be eligible for  
17 incorporation under this Act even though the association is formed  
18 or carried on with the object of obtaining pecuniary gain, or trading  
19 or obtaining pecuniary gain, for the members of the association.

20 *Note* Power given under an Act to make a statutory instrument includes  
21 power to make different provision for different categories, eg different  
22 classes of people (see Legislation Act, s 48).

#### 23 Explanatory note

24 This amendment updates language and omits mention of classes of associations. The  
25 Legislation Act, section 48 provides that power to make an instrument includes power to make  
26 different provisions in relation to different matters or different classes of matters. A note to this  
27 effect is added. Also, a reference to the declaration being ‘in writing’ is omitted because of the  
28 effect of the Legislation Act, section 42 (2), which requires disallowable instruments to be in  
29 writing.

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1 **[3.15] Section 83 (10)**

2 *substitute*

- 3 (10) The provisions of part 7 that relate to the cancellation of the  
4 incorporation of an association under the part apply in relation to the  
5 cancellation of the incorporation of an association under this  
6 section.

7 **Explanatory note**

8 This amendment brings language into line with current drafting practice.

9 **[3.16] Section 121 (1) (b)**

10 *substitute*

- 11 (b) in a notice given under subsection (2) or, if the association  
12 gives a notice under subsection (3), in that notice.

13 **Explanatory note**

14 This amendment brings language into line with current drafting practice.

15 **[3.17] Section 127 (2)**

16 *omit*

17 The regulations

18 *substitute*

19 A regulation

20 **Explanatory note**

21 This amendment brings language into line with current drafting practice.

1    **[3.18]    Section 127 (3)**

2                    *substitute*

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

5    **Explanatory note**

6    This amendment brings language into line with current drafting practice.

7    **Part 3.5                    Boxing Control Act 1993**

8    **[3.19]    Dictionary, definition of *boxing contest***

9                    *substitute*

10                   *boxing contest* means—

11                   (a) for this Act generally—a contest, display or exhibition of  
12                   boxing (other than a contest, display or exhibition prescribed  
13                   by regulation); and

14                   (b) for part 2 (Control of boxing contests)—see section 4.

15    **Explanatory note**

16    This amendment brings the form of the definition into line with current drafting practice.

17    **Part 3.6                    Consumer Credit  
18                    (Administration) Act 1996**

19    **[3.20]    Dictionary, definition of *credit provider***

20                    *substitute*

21                    *credit provider*—

22                   (a) for this Act generally—means a credit provider under the  
23                   consumer credit legislation, and includes a prospective credit  
24                   provider; and

1 (b) for division 2.4 (Disciplinary procedures)—see section 18A.

2 **Explanatory note**

3 This amendment brings the form of the definition into line with current drafting practice.

4 **[3.21] Dictionary, definition of *finance broker***

5 *substitute*

6 ***finance broker***—

7 (a) for this Act generally—means a person who (whether or not  
8 carrying on any other business) carries on the business of  
9 finance broking; and

10 (b) for division 3.4 (Disciplinary procedures)—see section 49A.

11 **Explanatory note**

12 This amendment combines 2 existing definitions and brings the definition into line with current  
13 drafting practice.

14 **Part 3.7 Coroners Act 1997**

15 **[3.22] Section 10**

16 *substitute*

17 **10 Oath to be taken by coroner or deputy coroner**

18 (1) A coroner or deputy coroner must not exercise a function of office  
19 before taking an oath in accordance with schedule 1, part 1.1 or  
20 part 1.2.

1            (2) A judge of the Supreme Court or a person authorised for the purpose  
2            by the Attorney-General may administer the oath to the coroner or  
3            deputy coroner.

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

6            **Explanatory note**

7            This amendment brings language into line with current drafting practice.

8            **[3.23]     Section 39 (1), new note**

9            *insert*

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

12           **Explanatory note**

13           This amendment adds a standard note about appointments.

14           **[3.24]     Section 59 (1)**

15           *substitute*

16           (1) A coroner may appoint a person to assist the coroner in the  
17           investigation of any matter relating to an inquest or inquiry.

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

20           **Explanatory note**

21           This amendment omits the requirement for appointments to be in writing. This requirement is  
22           now in the Legislation Act, section 206 (1). The amendment also adds the standard note about  
23           appointments.

24           **[3.25]     Section 72, new note**

25           *insert*

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

28           **Explanatory note**

29           This amendment adds a standard note about appointments.

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1 **Part 3.8** **Credit Act 1985**

2 **[3.26] New sections 2 and 2A**

3 *insert*

4 **2 Dictionary**

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

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

9 For example, the signpost definition '*billing cycle*—see section 50 (1).'  
10 means that the term 'billing cycle' is defined in that section.

11 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
12 the entire Act unless the definition, or another provision of the Act,  
13 provides otherwise or the contrary intention otherwise appears (see  
14 Legislation Act, s 155 and s 156 (1)).

15 **2A Notes**

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

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

19 **Explanatory note**

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

1    **[3.27]      Section 5 (1), definition of *commercial vehicle*,**  
2                    **paragraph (a)**

3                    *omit*

4                    *Motor Traffic Act 1936*

5                    *substitute*

6                    *Road Transport (General) Act 1999*

7    **Explanatory note**

8    This amendment updates a cross-reference.

9    **[3.28]      Section 5 (1), definition of *credit*, paragraph (e)**

10                   *substitute*

11                   (e) in relation to a loan contract—see section 15; or

12                   (f) any prescribed transaction.

13    **Explanatory note**

14    This amendment adds the new signpost definitions at new paragraph (e) to bring the definition  
15    more closely into line with current drafting practice.

16    **[3.29]      Section 5 (1), definition of *credit*, new note**

17                   *insert*

18                   *Note*      *Credit*, for part 10 (Home finance contracts)—see s 150.

19    **[3.30]      Section 5 (1), definition of *credit provider***

20                   *substitute*

21                   *credit provider* means—

22                   (a) in relation to a credit contract—the person who provides credit  
23                   under the contract in the course of a business carried on by that  
24                   person; and



1 (b) in relation to a proposed credit contract—the person who is to  
2 provide credit under the contract in the course of a business  
3 carried on by that person; and

4 (c) in relation to a home finance contract, for part 10 (Home  
5 finance contracts)—see section 150.

6 **Explanatory note**

7 This amendment adds the new signpost definition at new paragraph (c) and brings the definition  
8 more closely into line with current drafting practice.

9 **[3.31] Section 5 (1), definition of *credit sale contract***

10 *omit*

11 , subject to sections 13 and 14,

12 *substitute*

13 , subject to sections 13, 14 and 30 (1),

14 **Explanatory note**

15 This amendment adds a cross-reference to section 30 (1) to bring the definition more closely  
16 into line with current drafting practice.

17 **[3.32] Section 5 (1), definition of *cross-claim***

18 *substitute*

***cross-claim*** means a claim (whether by way of counterclaim, set-off  
or otherwise) included in a defence or other document filed by a  
defendant in a proceeding.

19 **Explanatory note**

20 This amendment updates the existing definition by omitting a cross-reference to a repealed law.

- 1    **[3.33]    Section 5 (1), definition of *debtor***
- 2            *substitute*
- 3            ***debtor*** means—
- 4            (a) in relation to a credit contract—the person to whom credit is
- 5                          provided under the contract; and
- 6            (b) in relation to a proposed credit contract—the person to whom
- 7                          credit is to be provided under the contract; and
- 8            (c) in relation to a home finance contract, for part 10 (Home
- 9                          finance contracts)—see section 150.

10    **Explanatory note**

11    This amendment adds the new signpost definition at new paragraph (c) and brings the definition

12    more closely into line with current drafting practice.

- 13    **[3.34]    Section 5 (1), definition of *loan contract***
- 14            *omit*
- 15            , subject to section 15,
- 16            *substitute*
- 17            , subject to sections 15 and 30 (2),

18    **Explanatory note**

19    This amendment adds a cross-reference to section 30 (2) to bring the definition more closely

20    into line with current drafting practice.

- 21    **[3.35]    Section 5 (1), definition of *registrar***
- 22            *omit*
- 23    **Explanatory note**
- 24    This amendment omits a definition that is now redundant because the term is no longer used in
- 25    the Act.

1 **[3.36] Section 5 (1), definition of *supply*, paragraph (a)**

2 *substitute*

3 (a) in relation to goods, supply (including resupply) by way of sale  
4 or exchange; and

5 *Note* **Resupply**—see the dictionary.

6 **Explanatory note**

7 This amendment omits a cross-reference to the definition of *resupply* in existing section 5 (2)  
8 consequent on the omission of the subsection by another amendment and adds a note indicating  
9 that the term *resupply* is defined in the new dictionary which is inserted by another amendment.

10 **[3.37] Section 5 (1), definitions (as amended)**

11 *relocate to dictionary*

12 **Explanatory note**

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

15 **[3.38] Section 5, remainder**

16 *omit*

17 **Explanatory note**

18 This amendment is consequential on the relocation by another amendment of the definitions in  
19 section 5 (1) to a new dictionary that is inserted by another amendment. Definitions based on  
20 existing section 5 (2) are included in the new dictionary.

21 **[3.39] Section 11 (2)**

22 *omit*

23 For the definition of

24 *substitute*

25 For the dictionary, definition of

26 **Explanatory note**

27 This amendment is consequential on the insertion of a new dictionary by another amendment.

1    **[3.40]    Section 121 (8)**

2            *substitute*

3            (8) In this section:

4            *advertisement* includes a notice, sign, label, circular and matter that  
5            is not writing but conveys a message because of the form or context  
6            in which it appears.

7            *publish*, an advertisement, means publish by any means, including  
8            in a newspaper or periodical, by radio or television or in a film.

9    **Explanatory note**

10    This amendment remakes 2 definitions in line with the *Credit Act 1987* (Qld) and omits  
11    definitions of *licensee*, *commercial broadcasting station* and *commercial television station* that  
12    are defined by reference to the *Broadcasting Act 1942* (Cwlth), which has been repealed.

13    **[3.41]    Section 243 (a)**

14            *omit*

15            section 5 (1)

16            *substitute*

17            the dictionary

18    **Explanatory note**

19    This amendment is consequential on the relocation of definitions to a new dictionary by another  
20    amendment.

1 **[3.42] New dictionary**

2 *insert*

3 **Dictionary**

4 (see s 2)

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

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

- 8 • ACT
- 9 • bank
- 10 • Chief Minister
- 11 • corporation
- 12 • Corporations Act
- 13 • credit tribunal
- 14 • disallowable instrument
- 15 • Executive
- 16 • individual
- 17 • lawyer
- 18 • notifiable instrument
- 19 • person
- 20 • prescribed
- 21 • State.

22 ***agreement***, in relation to the payment by a debtor for services  
23 supplied by another person—see section 9.

24 ***annual percentage rate***—

25 (a) for this Act generally—see section 10; and

26 (b) in relation to a continuing credit contract—see section 55 (1).

27 ***billing cycle***—see section 50 (1).

28 ***buyer***, for part 2 (Contracts of sale)—see section 20 (2).

- 1            ***contract of guarantee***, for part 10 (Home finance contracts)—see  
2            section 150.
- 3            ***carrying on business of providing credit***—see section 16.
- 4            ***chargeable amount***, for division 3.2 (Continuing credit contracts)—  
5            see section 52 (1).
- 6            ***continuing credit contract***—
- 7            (a) for this Act generally—see section 48 (2); and
- 8            (b) for part 3 (Regulated contracts)—see section 49.
- 9            ***contract***, in relation to the payment by a debtor for services supplied  
10           by another person—see section 9.
- 11           ***contract of guarantee***, for part 10 (Home finance contracts)—see  
12           section 150.
- 13           ***contract of sale***, for part 2 (Contracts of sale)—see section 20 (1).
- 14           ***court***, in relation to a contract or other matter—see section 6 (1).
- 15           ***credit charge***—
- 16           (a) for this Act generally—see section 11; and
- 17           (b) in relation to a billing cycle of a continuing credit contract—  
18           see section 54 (1).
- 19           ***goods and services*** includes—
- 20           (a) goods; or
- 21           (b) services.
- 22           ***guarantor***, for part 10 (Home finance contracts)—see section 150.
- 23           ***home***, for part 10 (Home finance contracts)—see section 150.
- 24           ***home finance contract***, for part 10 (Home finance contracts)—see  
25           section 150.
- 26           ***mortgage***, for part 4 (Regulated mortgages)—see section 89.

1            ***net balance***, due to a credit provider at a particular time, for part 5  
2            (Termination and enforcement of regulated contracts and regulated  
3            mortgages)—see section 103 (1).

4            ***outstanding balance***, of an amount, charge or expense, for part 5  
5            (Termination and enforcement of regulated contracts and regulated  
6            mortgages)—see section 103 (2).

7            ***person who buys or proposes to buy goods and services***, for part 2  
8            (Contracts of sale)—see section 20 (2).

9            ***resupply***, in relation to goods bought from a person, includes—

10           (a) a supply of the goods to another person in an altered form or  
11           condition; and

12           (b) a supply to another person of goods in which the  
13           firstmentioned goods have been incorporated.

14           ***tied continuing credit contract***—see section 12 (2).

15           ***tied loan contract***—see section 12 (1).

16           ***unjust***, for a contract or mortgage, for part 9 (Reopening of  
17           contracts)—see section 145.

18           **Explanatory note**

19           This amendment inserts a new dictionary in accordance with current drafting practice. It  
20           includes signpost definitions for defined terms that are not included in the existing  
21           interpretation section. The definitions of ***goods and services*** and ***resupply*** follow existing  
22           section 5 (2) which is omitted by another amendment.

1 **Part 3.9** **Credit Regulation 1985**

2 **[3.43] Sections 4, 5 and 6**

3 *omit*

4 section 5 (1)

5 *substitute*

6 dictionary

7 **Explanatory note**

8 This amendment is consequential on the relocation of definitions in the *Credit Act 1985* to a  
9 new dictionary by another amendment.

10 **Part 3.10** **Dangerous Substances Act 2004**

11 **[3.44] Section 15 (1) (a)**

12 *omit*

13 ; and

14 *substitute*

15 ; or

16 **Explanatory note**

17 This amendment corrects the conjunction in the definition of *hazard*. To be a hazard under the  
18 existing definition, a thing or situation must meet the criteria stated in both paragraphs (a) and  
19 (b) of the definition. That is, it must have the potential to cause the death of or harm to a person  
20 (par (a)) and also damage property or the environment (par (b)). This is inconsistent with how  
21 these criteria are dealt with in section 15 (2) (definition of *risk*), section 38 (definition of  
22 *dangerous occurrence*, paragraph (a)) and section 148 (1) where either criterion meets the  
23 relevant test.



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## 1 Part 3.11 Discrimination Act 1991

### 2 [3.45] Section 6 (2)

3 *substitute*

4 (2) In this section:

5 *office-holder*—see the *Legislative Assembly (Members' Staff)*  
6 *Act 1989*, dictionary.

#### 7 Explanatory note

8 This amendment is consequential on the insertion of a dictionary into the *Legislative Assembly*  
9 *(Members' Staff) Act 1989* by another amendment.

### 10 [3.46] Section 97 (3)

11 *substitute*

12 (3) An interim order remains in force until the commission makes any  
13 of the following decisions:

14 (a) to refer the complaint under the HRC Act, section 51  
15 (Referring complaints for conciliation);

16 (b) under the HRC Act, section 65 (1) (d) (End of conciliation),  
17 that the conciliation of the complaint is unlikely to be  
18 successful;

19 (c) to close the complaint under the HRC Act, section 78 (When  
20 complaints can be closed).

#### 21 Explanatory note

22 This amendment corrects 2 references and brings the structure of the subsection into line with  
23 current drafting practice, without changing the effect or operation of the subsection. The  
24 corrections are as follows—

- 25 • new section (3) (b), which replaces existing section (3) (b), refers correctly to decisions of  
26 the human rights commission under the *Human Rights Commission Act 2005*,  
27 section 65 (1) (d) (rather than decisions of the president of the commission as in the  
28 existing provision);



1 **[3.48] Section 13**

2 *substitute*

3 **13 Delegation by authority**

4 The authority may delegate the authority's functions under this Act  
5 to a public employee.

6 *Note* For the making of delegations and the exercise of delegated functions,  
7 see the Legislation Act, pt 19.4.

8 **Explanatory note**

9 This amendment updates the delegation provision and adds a standard note about delegations.  
10 The Legislation Act, section 232 requires a delegation to be made by signed writing. The  
11 Legislation Act, section 234 allows the delegation of any part of functions that may be  
12 delegated.

13 **[3.49] Section 17 (2) to (6)**

14 *substitute*

15 (2) Unless the chief executive decides that the authority should make a  
16 decision in relation to the matter, the chief executive must appoint  
17 another public servant (the *acting authority*) to act as the authority  
18 for making a decision in relation to the matter.

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

21 *Note 2* In particular, an appointment may be made by naming a person or  
22 nominating the occupant of a position (see Legislation Act, s 217).

23 (3) The instrument of appointment must state the period for which the  
24 acting authority is appointed.

25 (4) For making a decision in relation to the matter, the acting authority  
26 may exercise all the functions of the authority.

27 (5) For this Act, a decision made by the acting authority is taken to have  
28 been made by the authority.

1                      (6) This section does not prevent the authority from continuing to  
2                                      exercise the functions of the authority in relation to any other matter  
3                                      during the period for which the acting authority is appointed.

4                      **Explanatory note**

5                      This amendment brings the provisions more closely into line with current drafting practice.

6                      Existing subsection (2) is amended by—

- 7                      • omitting a reference to ‘in writing’ because the Legislation Act, section 216 provides that  
8                                      an acting appointment must be made, or evidenced, by writing signed by the appointer;
- 9                      • adding the tag-term definition of *acting authority* for the acting appointee;
- 10                     • adding standard appointment notes.

11                     Existing subsection (3) is brought into line with current drafting practice.

12                     The remaining provisions are consequentially amended to refer to ‘acting authority’.

13                     **[3.50] Section 18 (1)**

14                                      *substitute*

15                     (1) No civil or criminal proceedings lie against a person who is, or has  
16                                      been the authority, an authorised officer or an analyst for an act or  
17                                      omission done honestly in the exercise or purported exercise of a  
18                                      function given to the person in that capacity for this Act.

19                     **Explanatory note**

20                     This amendment brings the language and structure of the subsection more closely into line with  
21                                      current drafting practice. In particular, it omits a reference to ‘good faith’ and substitutes  
22                                      ‘honestly’, which is the current drafting term.

1 **[3.51] Section 95**

2 *substitute*

3 **95 Definitions—pt 11**

4 In this part:

5 *connected*—a thing is *connected* with a particular offence if—

- 6 (a) the offence has been committed in relation to it; or  
7 (b) it will afford evidence of the commission of the offence; or  
8 (c) it was used, is being used, or is intended to be used, for the  
9 purpose of committing the offence.

10 *enter* includes board.

11 *offence* includes an offence that there are reasonable grounds for  
12 believing has been, is being, or will be committed.

13 *premises* includes vacant land, vehicles, vessels and aircraft.

14 *residential premises* means premises used exclusively or primarily  
15 for residential purposes, and includes a private room in, but not any  
16 other part of, a motel, hotel, hostel or guesthouse.

17 **Explanatory note**

18 This amendment remakes existing subsection (2) (definition of *connected*) and subsection (3)  
19 (definition of *an offence*) to bring the section into line with current drafting practice.

20 **[3.52] Dictionary, definition of *an offence***

21 *omit*

22 **Explanatory note**

23 This amendment is consequential on the amendment of section 95 by another amendment which  
24 changes the definition of *an offence* to *offence* in accordance with current drafting practice.

- 1    **[3.53]    Dictionary, definition of *environment protection policy***  
2            *substitute*  
3            *environment protection policy*—  
4            (a) for this Act generally—means an environment protection  
5            policy under part 4 (Environment protection policies); and  
6            (b) for part 4—see section 23B.  
7            *Note*    A reference to an instrument (including a policy) includes a reference to  
8            the instrument as originally made and as amended (see Legislation Act,  
9            s 102).

10    **Explanatory note**

11    This amendment omits a redundant definition of the term and brings the remaining definition  
12    into line with current drafting practice.

- 13    **[3.54]    Dictionary, new definition of *offence***  
14            *insert*  
15            *offence*, for part 11 (Powers of authorised officers)—see section 95.

16    **Explanatory note**

17    This amendment is consequential on the amendment of section 95 by another amendment which  
18    changes the definition of *an offence* to *offence* in accordance with current drafting practice.

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1 **Part 3.13 Evidence Act 1971**

2 **[3.55] New section 2**

3 *insert*

4 **2 Dictionary**

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

6 *Note 1* The dictionary at the end of this Act defines certain terms used in this  
7 Act.

8 *Note 2* A definition in the dictionary applies to the entire Act unless the  
9 definition, or another provision of the Act, provides otherwise or the  
10 contrary intention otherwise appears (see Legislation Act, s 155 and  
11 s 156 (1)).

12 **3 Notes**

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

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

16 **Explanatory note**

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

19 **[3.56] Section 6, definition of *court***

20 *substitute*

21 *court* includes—

- 22 (a) for this Act generally—any tribunal or person having authority  
23 under a law in force in the ACT or by consent of parties to  
24 receive evidence; and

1                    (b) for part 11 (Admissibility of convictions in civil  
2                    proceedings)—see section 81.

3    **Explanatory note**

4    This amendment updates the definition by including a signpost definition to the term for  
5    part 11.

6    **[3.57]    Section 6, definitions (as amended)**

7                    *relocate to dictionary*

8    **Explanatory note**

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

11   **[3.58]    Section 6, remainder**

12                    *omit*

13   **Explanatory note**

14   This amendment is consequent on the amendment above relocating the definitions to the new  
15   dictionary.

16   **[3.59]    Section 39 (1)**

17                    *omit*

18                    (1) A reference in this part to a *computer* is a reference to—

19                    *substitute*

20                    (1) In this part:

21                    *computer* means—

22   **Explanatory note**

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



1 **[3.60] Section 81**

2 *substitute*

3 **81 Meaning of *conviction* and *court*—pt 11**

4 In this part:

5 *conviction* does not include—

- 6 (a) a conviction that has been set aside or quashed; or  
7 (b) a conviction of a person for an offence if the person has been  
8 given a pardon in relation to the offence.

9 *court*—

- 10 (a) means a court in a State or Territory; but  
11 (b) does not include a court martial.

12 **Explanatory note**

13 This amendment updates language and brings the form of the definitions into line with current  
14 drafting practice.

15 **[3.61] New Dictionary**

16 *insert*

17 **Dictionary**

18 (see s 2)

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

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

- 22 • ACT  
23 • child  
24 • Commonwealth  
25 • oath  
26 • Territory.

1                    *computer*, for part 7 (Admissibility of documents produced by  
2                    computers)—see section 39.

3                    *conviction*, for part 11 (Admissibility of convictions in civil  
4                    proceedings)—see section 81.

5                    *statute*, for part 8 (Proof of foreign laws and documents)—see  
6                    section 46.

7                    **Explanatory note**

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

## 11                    **Part 3.14                    Fisheries Regulation 2001**

### 12                    **[3.62]                    Section 4A, heading**

13                    *substitute*

#### 14                    **4A                    Commercial quantity—Act, dict, def *commercial quantity***

15                    **Explanatory note**

16                    This amendment brings the heading into line with current drafting practice.

## 17                    **Part 3.15                    Food Act 2001**

### 18                    **[3.63]                    Dictionary, definition of *Commonwealth Act***

19                    *substitute*

20                    *Commonwealth Act* means the *Food Standards Australia New*  
21                    *Zealand Act 1991* (Cwlth).

22                    **Explanatory note**

23                    This amendment updates the name of the Act consequent on its renaming.

1 **[3.64] Dictionary, definition of *food authority*, note**

2 *substitute*

3 *Note* *Authority* is defined to mean Food Standards Australia New Zealand.

4 **Explanatory note**

5 This amendment updates the note consequent on the renaming of the authority.

6 **Part 3.16 Gambling and Racing Control**  
7 **Act 1999**

8 **[3.65] Section 10**

9 *substitute*

10 **10 Delegation**

11 The commission may delegate the commission's functions under  
12 this Act or another territory law to a public servant.

13 *Note* For the making of delegations and the exercise of delegated functions,  
14 see the Legislation Act, pt 19.4.

15 **Explanatory note**

16 This amendment updates the delegation provision and adds a standard note about delegations.  
17 The Legislation Act, section 232 requires a delegation to be made by signed writing. The  
18 Legislation Act, section 234 allows the delegation of any part of functions that may be  
19 delegated. The amendment limits the class of potential delegates to public servants which  
20 reflects the gambling and racing control commission's practice in relation to delegations.

1 **Part 3.17** **Gambling and Racing Control**  
2 **(Code of Practice)**  
3 **Regulation 2002**

4 **[3.66] Section 3, note 1**

5 *substitute*

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

9 For example, the signpost definition '*exempt lottery*—see the *Lotteries*  
10 *Act 1964*, dictionary.' means that the term '*exempt lottery*' is defined in  
11 that dictionary and the definition applies to this regulation.

12 **Explanatory note**

13 This amendment is consequential on the insertion of a dictionary into the *Lotteries Act 1964* by  
14 another amendment.

15 **[3.67] Dictionary, definition of *exempt lottery***

16 *substitute*

17 *exempt lottery*—see the *Lotteries Act 1964*, dictionary.

18 **Explanatory note**

19 This amendment is consequential on the insertion of a dictionary into the *Lotteries Act 1964* by  
20 another amendment.

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## 1 **Part 3.18** **Health Act 1993**

### 2 **[3.68] Section 243**

3 *omit*

4 section

5 *substitute*

6 part

#### 7 **Explanatory note**

8 This amendment makes a minor correction in relation to the expiry of the Act, part 21  
9 (Transitional—Health Legislation Amendment Act 2006).

## 10 **Part 3.19** **Heritage Act 2004**

### 11 **[3.69] Section 17 (5), notes**

12 *relocate after section 17 (1)*

#### 13 **Explanatory note**

14 This amendment relocates the notes about appointments to a more convenient place within the  
15 section.

### 16 **[3.70] Section 18, note**

17 *substitute*

18 *Note 1* A provision of a law that gives an entity (including a person) a function  
19 also gives the entity the powers necessary and convenient to exercise  
20 the function (see Legislation Act, s 196 (1) and dict, pt 1, defs of *entity*  
21 and *function*).

22 *Note 2* An example is part of the Act, is not exhaustive and may extend, but  
23 does not limit, the meaning of the provision in which it appears (see  
24 Legislation Act, s 126 and s 132).

#### 25 **Explanatory note**

26 This amendment adds a standard note about necessary and convenient powers to the section  
27 about the heritage council's functions.

- 1    **[3.71]    Dictionary, new definition of *cancellation***  
2            *insert*  
3            *cancellation*, for part 7 (Cancellation of registration)—see  
4            section 50.

5    **Explanatory note**

6    This amendment inserts a signpost definition for a term that is not included in the dictionary.

- 7    **[3.72]    Dictionary, definition of *interested person***  
8            *substitute*  
9            *interested person* means—  
10            (a) for this Act generally—see section 13; and  
11            (b) for part 17 (AAT review of decisions)—see section 111.

12    **Explanatory note**

13    This amendment brings the definition into line with current drafting practice by adding new  
14    paragraph (b) to the definition.

15    **Part 3.20            Lands Acquisition Act 1994**

- 16    **[3.73]    Dictionary, definition of *acquiring authority***  
17            *substitute*  
18            *acquiring authority*—  
19            (a) for this Act generally—means any of the following:  
20                    (i) the Executive;  
21                    (ii) a territory authority;  
22                    (iii) a utility; and

1 (b) for part 9 (Dealings in land vested in acquiring authorities—  
2 see section 97A.

3 **Explanatory note**

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

5 **Part 3.21 Leases (Commercial and Retail)**  
6 **Act 2001**

7 **[3.74] Section 110 (1), note**

8 *substitute*

9 *Note* Section 108 (5) and (6) sets out the circumstances in which the tenant  
10 does not have a right to a preference.

11 **Explanatory note**

12 This amendment corrects the section reference in the note.

13 **Part 3.22 Legal Aid Act 1977**

14 **[3.75] Section 6 (1)**

15 *substitute*

16 (1) The Legal Aid Commission (A.C.T.) is established.

17 **Explanatory note**

18 This amendment brings language into line with current drafting practice.

1    **[3.76]    Section 6 (3)**

2                    *omit*

3    **Explanatory note**

4    This amendment omits a provision that requires judicial notice to be taken of the commission's  
5    seal on a document. It is unnecessary because the *Evidence Act 1995* (Cwlth), section 150  
6    provides that if the imprint of a seal appears on a document and purports to be the imprint of the  
7    seal of a stated kind of body, including a body created under a Territory law, it is presumed that  
8    the imprint is the imprint of that seal and that the document was duly sealed. The *Evidence*  
9    *Act 1995* (Cwlth) applies to proceedings under Territory laws.

10   **[3.77]    Section 7 (2) to (5)**

11                    *substitute*

12            (2) The chief executive officer is a commissioner.

13            (3) The Minister must appoint the other commissioners.

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

16                    *Note 2*    In particular, an appointment may be made by naming a person or  
17                    nominating the occupant of a position (see Legislation Act, s 207).

18                    *Note 3*    Certain Ministerial appointments require consultation with a Legislative  
19                    Assembly committee and are disallowable (see Legislation Act,  
20                    div 19.3.3).

21            (4) A commissioner appointed by the Minister is appointed on a  
22            part-time basis.

23   **Explanatory note**

24   This amendment brings the language of existing section 7 (2) and (3) into line with current  
25   drafting practice and adds standard notes about appointments.

26   Existing section 7 (4) is omitted because the Legislation Act, section 199 (5) provides that the  
27   exercise of a function by a body is not affected only because of a vacancy in the body's  
28   membership.

29   Existing section 7 (5) is omitted because the Legislation Act, sections 212 and 225 provide that  
30   an appointment, or anything done under an appointment, is not invalid only because of a defect  
31   or irregularity in the appointment.



1 **[3.78] Section 8 (4)**

2 *substitute*

- 3 (4) The Minister must present a copy of a direction under  
4 subsection (3) (a), together with a copy of the relevant funding  
5 agreement, to the Legislative Assembly no later than 15 sitting days  
6 after the day on which the direction is issued.

7 **Explanatory note**

8 This amendment updates language.

9 **[3.79] Section 8A (2)**

10 *substitute*

- 11 (2) The following provisions of this Act apply, in relation to the  
12 provision of legal assistance in a matter to which a funding  
13 agreement applies, only to the extent to which the provisions are not  
14 inconsistent with the funding agreement:

- 15 (a) section 10 (1) (g) (Duties of commission);  
16 (b) section 11 (Guidelines for allocation of work);  
17 (c) section 12 (Guidelines for provision of assistance);  
18 (d) part 5 (Provision of legal assistance by commission);  
19 (e) part 6 (Reconsideration and review of decisions).

20 **Explanatory note**

21 This amendment brings the structure of the subsection into line with current drafting practice.

22 **[3.80] Section 9 (1)**

23 *omit*

24 **Explanatory note**

25 This amendment omits an unnecessary subsection. The Legislation Act, section 196 provides  
26 that a provision of law that gives an entity (including a person) a function also gives the entity  
27 powers necessary and convenient to exercise the function. A standard note about necessary and  
28 convenient powers is added to subsection (7) by another amendment.

1    **[3.81]    Section 9 (5)**

2            *omit*

3            powers and duties

4            *substitute*

5            functions

6    **Explanatory note**

7    This amendment brings language more closely into line with current drafting practice.  
8    **Function** is defined in the Legislation Act, dictionary, part 1 to include authority, duty and  
9    power.

10   **[3.82]    Section 9 (7), new note**

11           *insert*

12           *Note*    A provision of a law that gives an entity (including a person) a function  
13                     also gives the entity powers necessary and convenient to exercise the  
14                     function (see Legislation Act, s 196 and dict, pt 1, def of **entity**).

15   **Explanatory note**

16   This amendment adds a standard note about the powers of an entity and is consequential on the  
17   omission of subsection 9 (1) by another amendment.

18   **[3.83]    Section 17 (2)**

19           *substitute*

20           (2) The commission must appoint a chief executive officer.

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

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

27   **Explanatory note**

28   This amendment brings language into line with current drafting practice and adds standard notes  
29   about appointments.

1 **[3.84] Section 19**

2 *substitute*

3 **19 Duties of assistant executive officers**

4 An assistant executive officer must act in accordance with the chief  
5 executive officer's directions in relation to the management of the  
6 operations or affairs of the commission.

7 **Explanatory note**

8 This amendment brings language more closely into line with current drafting practice.

9 **[3.85] Sections 19A and 19B**

10 *substitute*

11 **19A Statutory officers of the commission to give reports**

12 A statutory officer of the commission must, if requested by the  
13 commission, give a report in writing to the commission about—

- 14 (a) the exercise of the officer's functions under this Act; or  
15 (b) the policy the officer is pursuing, or proposes to pursue, in  
16 relation to the functions.

17 **19B Statutory officers of the commission to follow directions**

18 (1) The commission may issue directions to a statutory officer of the  
19 commission in relation to—

- 20 (a) the exercise of the officer's functions under this Act; or  
21 (b) the policy the officer is pursuing, or proposes to pursue, in  
22 relation to the functions.

1            (2) A statutory officer of the commission who is given a direction under  
2            subsection (1) must comply with the direction.

3            **Explanatory note**

4            This amendment brings the sections more closely into line with current drafting practice. It  
5            omits unnecessary references to ‘duties’ and ‘powers’. *Function* is defined in the Legislation  
6            Act, dictionary, part 1 to include authority, duty and power. The amendment also omits a  
7            reference to ‘furnish’ and substitutes ‘give’, which is the current drafting term.

8            **[3.86]            Section 21**

9            *substitute*

10          **21            Delegation**

11            The chief executive officer may delegate the chief executive  
12            officer’s functions to another officer of the commission.

13            *Note*            For the making of delegations and the exercise of delegated functions,  
14            see the Legislation Act, pt 19.4.

15          **Explanatory note**

16          This amendment updates the delegation provision as follows:

- 17          • the words ‘in writing’ have been omitted because the Legislation Act, section 232  
18          provides that a delegation must be made, or evidenced, in writing;
- 19          • existing subsection (2) is omitted because the Legislation Act, section 239 (4) provides  
20          that the exercise of a function by a delegate is taken to have been done by the appointer of  
21          the delegate;
- 22          • existing subsection (3) is omitted because the Legislation Act, section 240 provides that a  
23          function that has been delegated may, despite the delegation, be exercised by the  
24          appointer.

25          The Legislation Act, section 234 allows the delegation of any part of functions that may be  
26          delegated.

1 **[3.87] Section 33 (9)**

2 *substitute*

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

5 **Explanatory note**

6 The subsection is no longer necessary because the Legislation Act, section 177 deals with  
7 recovery amounts owing under laws. This amendment replaces the subsection with a note about  
8 the Legislation Act, section 177.

9 **[3.88] Section 48**

10 *substitute*

11 **48 Term of office**

12 (1) In this section:

13 *commissioner* does not include the chief executive officer.

14 (2) Subject to this division, a commissioner holds office for a period of  
15 not longer than—

16 (a) for the president of the commission—5 years; or

17 (b) for a commissioner other than the president—3 years.

18 (3) The instrument of appointment must state the period for which a  
19 commissioner is appointed.

20 *Note* A person may be reappointed to a position if the person is eligible to be  
21 appointed to the position (see Legislation Act, s 208 and dict, pt 1,  
22 def of *appoint*).

23 **Explanatory note**

24 This amendment brings the structure of the section into line with current drafting practice. It  
25 also omits an unnecessary reference to eligibility for reappointment and substitutes a standard  
26 note about reappointment.

1    **[3.89]    Section 52 (2) (a)**

2                    *substitute*

3                    (a) becomes bankrupt or executes a personal insolvency  
4                    agreement; or

5    **Explanatory note**

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

10   **[3.90]    Section 56**

11                    *substitute*

12   **56            Term of appointment of statutory officers**

13                    A statutory officer of the commission must be appointed for a term  
14                    of not longer than 7 years.

15                    *Note*    A person may be reappointed to a position if the person is eligible to be  
16                    appointed to the position (see Legislation Act, s 208 and dict, pt 1,  
17                    def *appoint*).

18   **57            Conditions of appointment**

19                    A statutory officer of the commission holds office on the conditions  
20                    (if any) about matters not provided for under this Act or another  
21                    territory law that are determined by the commission with the  
22                    approval of the Minister.

23   **Explanatory note**

24    This amendment updates existing section 56 and brings it into line with current drafting  
25    practice.

26    The existing reference to holding office for the period specified in the instrument of  
27    appointment is omitted. It is unnecessary because the Legislation Act, section 206 (2) provides  
28    that if a law provides for a maximum period of appointment, the instrument of appointment  
29    must state the period for which the appointment is made.

1 The existing reference to eligibility for reappointment is unnecessary because the Legislation  
2 Act provides that if a person is eligible for appointment the person may be reappointed. A  
3 standard note about reappointment is added.

4 **[3.91] Section 58 (2), new note**

5 *insert*

6 *Note* For the making of delegations and the exercise of delegated functions  
7 see the Legislation Act, pt 19.4.

8 **Explanatory note**

9 This amendment inserts a standard note about delegations.

10 **[3.92] Section 60 (2) (a)**

11 *substitute*

12 (a) becomes bankrupt or executes a personal insolvency  
13 agreement; or

14 **Explanatory note**

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

19 **[3.93] Section 62 (2), note 2**

20 *omit*

21 **Explanatory note**

22 This amendment omits a redundant note about the making of appointments.

1    **[3.94]    Section 78 (2) (a)**

2            *substitute*

3            (a) becomes bankrupt or executes a personal insolvency  
4            agreement; or

5    **Explanatory note**

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

10   **[3.95]    Section 83 (3) and (4)**

11           *substitute*

12           (3) The Minister must appoint the members of a consultative committee  
13           for a period of 1 year.

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

16           *Note 2*    Certain Ministerial appointments require consultation with an Assembly  
17           committee and are disallowable (see Legislation Act, div 19.3.3).

18           *Note 3*    A person may be reappointed to a position if the person is eligible to be  
19           appointed to the position (see Legislation Act, s 208 and dict, pt 1,  
20           def of *appoint*).

21   **Explanatory note**

22   This amendment updates the appointment section for consultative committees to bring it into  
23   line with current drafting practice. In particular, it removes from subsection (3) the words ‘but  
24   are eligible for reappointment’ because the Legislation Act, section 208 provides that the  
25   appointer’s power to make the appointment includes the power to reappoint the appointee if the  
26   appointee is eligible to be appointed to the position.

27   Subsection (4) is no longer needed because the Legislation Act, section 210 provides that an  
28   appointment ends if the appointee resigns by signed notice of resignation given to the appointer.

29   The amendment also inserts standard notes about appointments.



1 **[3.96] Section 84A, definition of *prescribed matter***

2 *substitute*

3 *prescribed matter* means any matter relating to—

- 4 (a) the operations or affairs of the commission; or
- 5 (b) the exercise by the commission of its functions under this Act;
- 6 or
- 7 (c) the exercise of a function by anyone under this Act.

8 **Explanatory note**

9 This amendment brings the definition more closely into line with current drafting practice. It  
10 omits unnecessary references to ‘performance’, ‘duty’ and ‘power’. *Function* is defined in the  
11 Legislation Act, dictionary, part 1 to include authority, duty and power. *Exercise* a function is  
12 defined in the Legislation Act, dictionary, part 1 to include perform the function. It is the  
13 drafting term that is now used in relation to functions.

14 Also, the reference to ‘operations and affairs’ of the commission in existing paragraph (a) is  
15 changed to ‘operations or affairs’ to make it clear that the matter could relate to operations or  
16 affairs, or both.

17 **[3.97] Section 91 (1)**

18 *substitute*

- 19 (1) The commission must indemnify an officer of the commission  
20 against any liability incurred by the officer for a negligent act or  
21 omission in the honest exercise or purported exercise of the officer’s  
22 functions.

23 **Explanatory note**

24 This amendment brings the subsection more closely into line with current drafting practice. It  
25 omits an unnecessary reference to ‘duties’. *Function* is defined in the Legislation Act,  
26 dictionary, part 1 to include authority, duty and power. The amendment also omits a reference  
27 to ‘good faith’ and substitutes ‘honest’, which is the current drafting term.

- 1    **[3.98]    Section 91 (3) and (4)**
- 2            *substitute*
- 3            (3) The commission has the same liability for acts or omissions by an
- 4            officer of the commission in the exercise of the officer's functions
- 5            as an employer has for any acts or omissions by the employer's
- 6            employees.
- 7            (4) A member of the commission, a review committee or a consultative
- 8            committee is not liable for any act or omission of the member,
- 9            commission, or committee of which he or she is a member, if the act
- 10           was done, or the omission occurred, in the honest exercise or
- 11           purported exercise of the member's functions.

12    **Explanatory note**

13    This amendment brings the subsections more closely into line with current drafting practice.

14    The amendment omits references in subsection (3) to 'master' and 'servants' and substitutes

15    references to 'employer' and 'employees'. The amendment also omits a reference in

16    subsection (4) to 'good faith' and substitutes 'honest', which is the current drafting term.

17    **[3.99]    Section 99 (2), new note**

18            *insert*

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

20    **Explanatory note**

21    This amendment inserts a standard note about forms.

22    **[3.100]   Further amendments, mentions of *duties***

23            *omit*

24            duties

25            *substitute*

26            functions

27            *in*

28            • section 24

- 1           • section 61
- 2           • section 68A (2) (b) and (9), definition of *unjustified*
- 3           *discrimination*
- 4           • section 79
- 5           • section 84 (2)

6           **Explanatory note**

7           This amendment updates language. *Function* is defined in the Legislation Act, dictionary,  
8           part 1 to include authority, duty and power.

9           **[3.101] Further amendments, mentions of *perform***

10           *omit*

11           perform

12           *substitute*

13           exercise

14           *in*

- 15           • section 20 (1)
- 16           • section 22
- 17           • section 82 (2)
- 18           • section 83 (2)
- 19           • section 94 (1)

20           **Explanatory note**

21           This amendment updates language. *Exercise* a function is defined in the Legislation Act,  
22           dictionary, part 1 to include perform the function. It is the drafting term that is now used in  
23           relation to functions.

1    **[3.102] Further amendments, mentions of *performance***

2            *omit*

3            performance

4            *substitute*

5            exercise

6            *in*

- 7            • section 7 (1)
- 8            • section 10
- 9            • section 17 (3)
- 10          • section 22 (8)
- 11          • section 24
- 12          • section 37 (5)
- 13          • section 54 (1)
- 14          • section 61
- 15          • section 79
- 16          • section 80 (1)
- 17          • section 82 (1)
- 18          • section 84 (2)
- 19          • section 92 (2) (a) and (3)

20    **Explanatory note**

21    This amendment updates language. *Exercise* a function is defined in the Legislation Act,  
22    dictionary, part 1 to include perform the function. It is the drafting term that is now used in  
23    relation to functions.

1 **[3.103] Further amendments, mentions of *performing***

2 *omit*

3 performing

4 *substitute*

5 exercising

6 *in*

7 • section 13 (1) and (3)

8 • section 22 (6)

9 **Explanatory note**

10 This amendment updates language. *Exercise* a function is defined in the Legislation Act,  
11 dictionary, part 1 to include perform the function. It is the drafting term that is now used in  
12 relation to functions.

13 **[3.104] Further amendments, mentions of *performs***

14 *omit*

15 performs

16 *substitute*

17 exercises

18 *in*

19 • section 13 (2)

20 • section 84E (2)

21 **Explanatory note**

22 This amendment updates language. *Exercise* a function is defined in the Legislation Act,  
23 dictionary, part 1 to include perform the function. It is the drafting term that is now used in  
24 relation to functions.

1    **[3.105] Further amendments, mentions of *persons***

2            *omit*

3            persons

4            *substitute*

5            people

6            *in*

7            • section 7 (1)

8            • section 10 (1)

9            • section 11

10          • section 20 (1)

11          • section 24

12          • section 25 (6)

13          • section 32

14          • section 33 heading

15          • section 34 heading

16          • section 37 (5)

17          • section 55 (1)

18          • section 81 (1)

19          • section 82 (2)

20          • section 83

21          • section 84C

22    **Explanatory note**

23    This amendment updates language.

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

3 **[3.106] Section 1**

4 *substitute*

5 **1 Name of Act**

6 This Act is the *Legislative Assembly (Members' Staff) Act 1989*.

7 **Explanatory note**

8 This amendment brings the naming section into line with current drafting practice.

9 **[3.107] Section 3, definitions**

10 *relocate to dictionary*

11 **Explanatory note**

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

14 **[3.108] Section 3 (remainder)**

15 *substitute*

16 **2 Dictionary**

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

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

21 For example, the signpost definition '*relevant chief executive*—see the  
22 PSM Act.' means that the term 'relevant chief executive' is defined in  
23 that Act and the definition applies to this Act.

24 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
25 the entire Act unless the definition, or another provision of the Act,  
26 provides otherwise or the contrary intention otherwise appears (see  
27 Legislation Act, s 155 and s 156 (1)).

1    **3**            **Notes**

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

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

5    **Explanatory note**

6    This amendment adds standard dictionary and notes provisions consequent on the insertion of a  
7    new dictionary by the amendment below.

8    **[3.109]    New dictionary**

9                    *insert*

10   **Dictionary**

11   (see s 2)

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

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

- 15                    •    Chief Minister  
16                    •    disallowable instrument  
17                    •    Executive instrument.

18   **Explanatory note**

19   This amendment inserts a new dictionary in accordance with current drafting practice.



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## 1 **Part 3.24** **Liquor Act 1975**

### 2 **[3.110] Section 11, new note**

3 *insert*

4 *Note* A provision of a law that gives an entity (including a person) a function  
5 also gives the entity powers necessary and convenient to exercise the  
6 function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

#### 7 **Explanatory note**

8 This amendment adds a standard note about the powers of an entity.

### 9 **[3.111] Section 13**

10 *substitute*

## 11 **13 Appointment of members**

- 12 (1) The Minister must not appoint a person to be the chairperson unless  
13 the person has been a lawyer for at least 5 years.

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

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

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

- 22 (2) A member (other than the registrar) must not be appointed for more  
23 than 5 years.

1            (3) A member holds office on a part-time basis.

2            *Note*        A person may be reappointed to a position if the person is eligible to be  
3                            appointed to the position (see Legislation Act, s 208 and dict, pt 1,  
4                            def of *appoint*).

5            **Explanatory note**

6            This amendment brings the section into line with current drafting practice. In particular,  
7            existing subsection (2) is amended as follows:

- 8            •        omitting a reference to an appointment being in writing because the Legislation Act,  
9                            section 206 provides that an appointment must be made, or evidenced, by writing signed  
10                            by the appointer;
- 11            •        omitting a reference to the period of appointment being specified in the instrument because  
12                            the Legislation Act, section 206 (2) provides that if a law provides for a maximum period  
13                            of appointment, the instrument of appointment must state the period for which the  
14                            appointment is made.

15            Standard notes about the making of appointments have also been added.

16            **[3.112] Section 18 (2) (a)**

17                            *substitute*

18                            (a) if the member becomes bankrupt or executes a personal  
19                            insolvency agreement; or

20            **Explanatory note**

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

- 1 **[3.113] Section 32**
- 2 *substitute*
- 3 **32 Revocation of cautions**
- 4 (1) The chief police officer may revoke a caution if satisfied that—
- 5 (a) the caution was not issued in accordance with section 31; or
- 6 (b) the young person to whom the caution was issued was not
- 7 apprehended in accordance with section 30 (1) or (2) (People
- 8 under 18—powers of inspectors and police officers).
- 9 (2) If the chief police officer revokes a caution, the chief police officer
- 10 must—
- 11 (a) arrange for the caution to be removed from police records and
- 12 destroyed; and
- 13 (b) take reasonable steps to notify the person to whom the caution
- 14 was issued of the revocation; and
- 15 (c) notify the registrar of the revocation.

16 **Explanatory note**

17 This amendment updates the section to bring it more closely into line with current drafting  
18 practice. In particular, the references to the commissioner of police are changed to the chief  
19 police officer. The chief police officer is the police officer responsible to the commissioner of  
20 police of the Australian Federal Police for the day-to-day administration and control of police  
21 services in the ACT.

22 **[3.114] Section 162, definition of *matter***

23 *omit*

24 , being a matter

25 **Explanatory note**

26 This amendment omits unnecessary words.



1 **Part 3.26** **Long Service Leave (Building**  
2 **and Construction Industry)**  
3 **Regulation 1984**

4 **[3.117] Section 1**

5 *omit*

6 *1988*

7 *substitute*

8 *1984*

9 **Explanatory note**

10 This amendment corrects the name of the regulation.

11 **[3.118] Section 2**

12 *omit*

13 *section 3 (1)*

14 *substitute*

15 *dictionary*

16 **Explanatory note**

17 This amendment updates a reference to a provision of the Act.

18 **Part 3.27** **Lotteries Act 1964**

19 **[3.119] Section 2 (1), definitions**

20 *relocate to dictionary*

21 **Explanatory note**

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



1 **[3.122] New dictionary**

2 *insert*

3 **Dictionary**

4 (see s 2)

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

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

- 8 • disallowable instrument  
9 • Executive  
10 • penalty unit.

11 *exempt lottery*—see section 6 (1).

12 **Explanatory note**

13 This amendment inserts a new dictionary in accordance with current drafting practice. It  
14 includes a signpost definition for *exempt lottery*, which is not included in the existing  
15 interpretation section.





1 **[3.126] Section 16**

2 *omit*

3 **Explanatory note**

4 This amendment omits section 16. It states that the flora and fauna committee has power to do  
5 all things necessary or convenient to be done in connection with the performance of its  
6 functions. This is unnecessary because the Legislation Act, section 196 provides that a  
7 provision of a law that gives an entity (including a person) a function also gives the entity  
8 powers necessary and convenient to exercise the function.

9 **[3.127] Section 17 (1)**

10 *substitute*

- 11 (1) The committee consists of 7 members appointed by the Minister, at  
12 least 2 of whom must not be public servants.

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

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

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

21 **Explanatory note**

22 This amendment updates the appointment section by omitting the words ‘in writing’ because  
23 the Legislation Act, section 206 provides that an appointment must be made, or evidenced, by  
24 writing signed by the appointer.

25 The amendment also inserts standard appointment notes.

26 **[3.128] Section 17 (4) and (5)**

27 *substitute*

- 28 (4) A member must not be appointed for more than 3 years.

29 *Note* A person may be reappointed to a position if the person is eligible to be  
30 appointed to the position (see Legislation Act, s 208 and dict, pt 1,  
31 def of *appoint*).



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1 **Part 3.30 Payroll Tax Act 1987**

2 **[3.131] Section 4 (8), definition of *regulated contract***

3 *substitute*

4 *regulated contract*—see the *Credit Act 1985*, dictionary.

5 **Explanatory note**

6 This amendment is consequential on the insertion of a new dictionary into the *Credit Act 1985*  
7 by another amendment.

8 **Part 3.31 Pool Betting Act 1964**

9 **[3.132] Section 3, definitions**

10 *relocate to dictionary*

11 **Explanatory note**

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

14 **[3.133] Section 3 (remainder)**

15 *substitute*

16 **2 Dictionary**

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

18 *Note 1* The dictionary at the end of this Act defines certain terms used in this  
19 Act.

20 *Note 2* A definition in the dictionary applies to the entire Act unless the  
21 definition, or another provision of the Act, provides otherwise or the  
22 contrary intention otherwise appears (see Legislation Act, s 155 and  
23 s 156 (1)).

1        **3            Notes**

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

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

5        **Explanatory note**

6        This amendment adds standard dictionary and notes provisions consequent on the insertion of a  
7        new dictionary by another amendment. The definitions in existing section 3 are included in the  
8        new dictionary which is inserted by another amendment.

9        **[3.134]    Section 13A (2) (a)**

10                   *omit*

11                   , in writing,

12        **Explanatory note**

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

15        **[3.135]    Section 14**

16                   *omit*

17        **Explanatory note**

18        This amendment omits a redundant provision about delegation. The *Gambling and Racing*  
19        *Control Act 1999*, section 10 gives the gambling and racing commission power to delegate any  
20        of its functions, including functions under the *Pool Betting Act 1964*.

1 **[3.136] New dictionary**

2 *insert*

3 **Dictionary**

4 (see s 2)

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

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

- 8 • Executive
- 9 • exercise
- 10 • disallowable instrument
- 11 • gambling and racing commission
- 12 • penalty unit
- 13 • State
- 14 • Territory.

15 **Explanatory note**

16 This amendment inserts a new dictionary in accordance with current drafting practice.

17 **Part 3.32 Public Sector Management Act**  
18 **1994**

19 **[3.137] Dictionary, definition of *chief executive***

20 *substitute*

21 *chief executive* means—

- 22 (a) for this Act generally—a person employed under section 28  
23 (Chief executives—engagement) or section 30 (Chief  
24 executives—temporary contracts) to perform the duties of an  
25 office of chief executive; and

1                    (b) for division 9.6 (Disciplinary appeal committees)—see  
2                    section 203.

3    **Explanatory note**

4    This amendment brings the form of the definition into line with current drafting practice.

5    **[3.138] Dictionary, definition of *employee***

6                    *omit everything before paragraph (a) (i), substitute*

7                    *employee* means—

8                    (a) for this Act generally—

9    **Explanatory note**

10   This amendment brings the form of the definition into line with current drafting practice.

11   **Part 3.33                    Registrar-General Act 1993**

12   **[3.139] Section 4A (4)**

13                    *omit*

14                    of tobacco

15   (commencement: 12 April 2007)

16   **Explanatory note**

17   This amendment corrects a minor error in an amendment by the *Statute Law Amendment*  
18   *Act 2007* which commenced on 12 April 2007.

19   **Part 3.34                    Wills Act 1968**

20   **[3.140] Dictionary, definition of *will***

21                    *substitute*

22                    *will* includes—

23                    (a) for this Act generally—a codicil; and

1 (b) for part 4 (Miscellaneous)—see section 17.

2 **Explanatory note**

3 This amendment brings the form of the definition into line with current drafting practice.

4 **Part 3.35 Workers Compensation Act 1951**

5 **[3.141] Section 6**

6 *omit*

7 the injured worker

8 *substitute*

9 an injured worker

10 **Explanatory note**

11 Section 6 defines the term *totally incapacitated*. This amendment brings the definition into line  
12 with current drafting practice.

13 **[3.142] Section 7**

14 *omit*

15 the injured worker

16 *substitute*

17 an injured worker

18 **Explanatory note**

19 Section 7 defines the term *partially incapacitated*. This amendment brings the definition into  
20 line with current drafting practice.

- 1    **[3.143]    Section 86**
- 2            *substitute*
- 3    **85A        Meaning of *injured worker* and *personal injury plan*—Act**
- 4            In this Act:
- 5            *injured worker* means a worker who has received a workplace
- 6            injury.
- 7            *personal injury plan*, for a worker, means a plan for coordinating
- 8            and managing the aspects of injury management that relate to
- 9            medical treatment and rehabilitation services for the worker to
- 10            achieve a timely, safe and durable return to work for the worker.
- 11    **86         Definitions—ch 5**
- 12            In this chapter:
- 13            *employer*—see section 87.
- 14            *injury management* means a process that consists of activities and
- 15            procedures that are carried out or established to achieve a timely,
- 16            safe and durable return to work for injured workers.
- 17            *injury management program* means a coordinated and managed
- 18            program that integrates all aspects of injury management (including
- 19            medical treatment, rehabilitation services, claims management and
- 20            employment management practices) to achieve the best results for a
- 21            timely, safe and durable return to work of injured workers.
- 22            *injury notice*—see section 93 (2) (Early notification of workplace
- 23            injury).
- 24            *insurer*—see section 86A and section 87.
- 25            *nominated treating doctor*, for an injured worker, means the doctor
- 26            or medical practice nominated under section 102 (Nomination of
- 27            doctor for personal injury plan).



1                    ***workplace injury*** means an injury in relation to which compensation  
2                    is or may be payable under this Act.

3                    **Explanatory note**

4                    Existing section 86 (Definitions—ch 5) defines terms for the Act generally and for chapter 5.  
5                    This amendment splits section 86 into 2 sections: new section 85A which defines terms for the  
6                    Act and new section 86 which defines terms for chapter 5.

7                    The existing definition of ***personal injury plan*** is defined in existing section 86 (1) for the Act.  
8                    While the term is used in the Act outside chapter 5, the dictionary definition of the term limits  
9                    the defined meaning to chapter 5. The definition is included in new section 85A for the Act  
10                    (and another amendment below revises the dictionary definition to apply it to the Act  
11                    generally).

12                    The existing definition of ***injured worker*** is defined in existing section 86 (2) for chapter 5.  
13                    However, the dictionary definition of the term applies the definition to the Act generally (see  
14                    Legislation Act, s 156 (1), example 3). Accordingly, the definition is included in new  
15                    section 85A for the Act and the dictionary definition is consequentially amended by another  
16                    definition.

17                    The existing definitions of ***injury management***, ***injury management program*** and ***nominated***  
18                    ***treating doctor*** are defined in existing section 86 (2) for chapter 5. The terms are used only in  
19                    the chapter and the definitions are included in new section 86 for chapter 5.

20                    The existing definition of ***injury notice*** is defined in existing section 86 (2) for chapter 5.  
21                    (Section 120 defines the term for the purposes of chapter 6.) The definition is included in new  
22                    section 86 for chapter 5.

23                    The existing definition of ***workplace injury*** is defined in existing section 86 (2) for chapter 5.  
24                    The term is used only in the chapter and the definition is included in new section 86 for  
25                    chapter 5.

26                    New section 86 includes new signpost definitions of ***employer*** and ***insurer*** in accordance with  
27                    current drafting practice.

1    **[3.144]    Section 165, definition of *claims manager***

2            *omit*

3            appointed

4            *substitute*

5            engaged

6    **Explanatory note**

7    Under section 166F (1) the default insurance fund manager may ‘engage’ consultants. This  
8    amendment makes the definition consistent with section 166F (1) and (2).

9    **[3.145]    Section 166F (4)**

10           *omit*

11           appointment

12           *substitute*

13           engagement

14    **Explanatory note**

15    This amendment is related to the amendment above of the definition of *claims manager* and  
16    makes the terminology of subsection (4) consistent with subsections (1) and (2), which refer to  
17    the engagement of consultants.

18    **[3.146]    Section 166H (3)**

19           *omit*

20           appointment

21           *substitute*

22           engagement

23    **Explanatory note**

24    Under section 166H (1) a default insurance fund actuary is engaged by the fund’s manager.  
25    This amendment makes the terminology of subsection (3) consistent with subsection (1).

1 **[3.147] Section 186**

2 *substitute*

3 **186 Discharge of liability out of payments into court**

4 (1) This section applies if—

5 (a) a worker or a dependant of a deceased worker is liable under  
6 section 183 (Remedies both against the employer and a  
7 stranger) or section 185 (Dependants recovering damages and  
8 not claiming compensation) to pay an amount to the worker's  
9 employer; and

10 (b) the Magistrates Court or a person appointed by the Magistrates  
11 Court for the purpose holds on behalf of the worker or  
12 dependant—

13 (i) an amount (a *relevant amount*) of compensation payable  
14 for the benefit of, or of damages awarded to, the worker  
15 or dependant; or

16 (ii) investments (*relevant investments*) acquired out of a  
17 relevant amount.

18 (2) If the Magistrates Court or person holds a relevant amount, the court  
19 or person must—

20 (a) deduct from the relevant amount an amount not exceeding the  
21 amount that the worker or dependant is liable to pay the  
22 employer; and

23 (b) pay the amount deducted to the employer.

24 (3) If the Magistrates Court or person holds relevant investments, the  
25 court or person must—

26 (a) realise some or all of the investments; and

27 (b) deduct from the proceeds of the realisation an amount not  
28 exceeding the amount that the worker or dependant is liable to  
29 pay the employer; and

- 1                      (c) pay the amount deducted to the employer.
- 2                      (4) The payment of an amount under subsection (2) or (3) is a  
3                      discharge, to the extent of the amount paid, of the liability of—
- 4                      (a) the worker or dependant to the employer; and
- 5                      (b) the Magistrates Court or other person to the worker or  
6                      dependant.

7                      **Explanatory note**

8                      This amendment recasts the section to bring its structure into line with current drafting practice.

9                      **[3.148] Section 201 (1)**

10                      *substitute*

- 11                      (1) The Minister may appoint 1 or more doctors as medical referees for  
12                      this Act.

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

15                      **Explanatory note**

16                      This amendment amends the subsection by omitting a reference to ‘in writing’ because the  
17                      Legislation Act, section 216 provides that an acting appointment must be made, or evidenced,  
18                      by writing signed by the appointer. The amendment also adds a standard appointment note.

19                      **[3.149] Section 201 (2)**

20                      *omit*

21                      to be

22                      *substitute*

23                      as

24                      **Explanatory note**

25                      This amendment brings this provision into line with section 201 (1) as remade by the  
26                      amendment above.

1 **[3.150] Section 201 (4)**

2 *omit*

3 appointed to be

4 *substitute*

5 appointed as

6 **Explanatory note**

7 This amendment brings this provision into line with section 201 (1) as remade by another  
8 amendment.

9 **[3.151] Section 223 (3)**

10 *substitute*

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

13 **Explanatory note**

14 This amendment brings language into line with current drafting practice.

15 **[3.152] Schedule 2 heading**

16 *substitute*

17 **Schedule 2 Adjacent areas for States and**  
18 **Territories**

19 **Explanatory note**

20 This amendment provides a more descriptive heading for the schedule.

- 1    **[3.153]    Dictionary, definitions of *committee***
- 2            *substitute*
- 3            *committee*—
- 4            (a) for a matter arising under the Act between an employer and the
- 5                    employer’s workers—means a committee that—
- 6                            (i) represents the employer and workers; and
- 7                            (ii) has the power to decide the matter; and
- 8            (b) for schedule 3 (DI fund advisory committee)—see schedule 3,
- 9                    section 3.1.

10    **Explanatory note**

11    This amendment combines 2 separate definitions of the term in accordance with current drafting

12    practice.

13    **[3.154]    Dictionary, new definitions of *connected* and *continental***

14            *shelf*

15            *insert*

16            *connected*, for chapter 10 (Inspection)—see section 187.

17            *continental shelf*, for schedule 2 (Adjacent areas for States and

18                    Territories)—see schedule 2, section 2.1.

19    **Explanatory note**

20    This amendment inserts signpost definitions for defined terms not included in the dictionary.

21    **[3.155]    Dictionary, definition of *employer***

22            *substitute*

23            *employer*—

24            (a) for this Act generally—see section 5; and

25            (b) for part 4.2A (Employment connection with ACT or State)—

26                    see section 36A (2); and

1 (c) for chapter 5 (Injury management process)—see section 87;  
2 and

3 (d) for part 9.2 (Choice of law)—see section 182A (1).

4 **Explanatory note**

5 This amendment brings paragraph (a) into line with current drafting practice.

6 **[3.156] Dictionary, definition of *injured worker***

7 *substitute*

8 *injured worker*—see section 85A.

9 **Explanatory note**

10 This amendment is consequential on the relocation of the definition from existing section 86 (2)  
11 to new section 85A by another amendment.

12 **[3.157] Dictionary, definition of *injury***

13 *substitute*

14 *injury*—

15 (a) for this Act generally—see section 4; and

16 (b) for chapter 9 (Common law damages claims)—see section 180.

17 **Explanatory note**

18 This amendment brings the definition into line with current drafting practice by omitting a note  
19 referring to section 180 and adding paragraph (b).

20 **[3.158] Dictionary, definition of *insurer*, paragraph (a) (ii)**

21 *omit*

22 of the worker

23 *substitute*

24 of a worker

25 **Explanatory note**

26 This amendment makes a minor correction to the definition.

1    **[3.159]    Dictionary, new definitions of *occupier* and *offence***

2            *insert*

3            *occupier*, for chapter 10 (Inspection)—see section 187.

4            *offence*, for chapter 10 (Inspection)—see section 187.

5    **Explanatory note**

6    This amendment inserts signpost definitions for defined terms not included in the dictionary.

7    **[3.160]    Dictionary, definition of *personal injury plan***

8            *substitute*

9            *personal injury plan*—see section 85A.

10   **Explanatory note**

11   This amendment removes the limited application of the existing dictionary definition to  
12   chapter 5. Existing section 86 (1) defines the term for the Act and new section 85A, which is  
13   inserted by another amendment above, will define the term for the Act.

14   **[3.161]    Dictionary, new definition of *Petroleum (Submerged*  
15   *Lands) Act***

16            *insert*

17            *Petroleum (Submerged Lands) Act*, for schedule 2 (Adjacent areas  
18   for States and Territories)—see schedule 2, section 2.1.

19   **Explanatory note**

20   This amendment inserts a signpost definition for a term not included in the dictionary.

21   **[3.162]    Dictionary, new definition of *premises***

22            *insert*

23            *premises*, for chapter 10 (Inspection)—see section 187.

24   **Explanatory note**

25   This amendment inserts a signpost definition for a term not included in the dictionary.



1 **[3.163] Dictionary, definition of *protocol***

2 *substitute*

3 *protocol*—

4 (a) for this Act generally—means a protocol, approved by  
5 regulation, prescribing how certain activities under this Act  
6 should be performed; and

7 (b) for chapter 7 (Vocational rehabilitation)—see section 141.

8 **Explanatory note**

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

10 **[3.164] Dictionary, new definitions of *Seas and Submerged***  
11 ***Lands Act* and *territorial sea***

12 *insert*

13 *Seas and Submerged Lands Act*, for schedule 2 (Adjacent areas for  
14 States and Territories)—see schedule 2, section 2.1.

15 *territorial sea*, for schedule 2 (Adjacent areas for States and  
16 Territories)—see schedule 2, section 2.1.

17 **Explanatory note**

18 This amendment inserts signpost definitions for defined terms not included in the dictionary.

