

2003

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

## Statute Law Amendment Bill 2003

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## **Statute Law Amendment Bill 2003**

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### **A Bill for**

An Act to amend or repeal certain Acts and regulations 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 2003*.

3    **2    Commencement**

4       (1) This Act commences on the 28th 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 as the  
9           commencement date or time of the amendment.

10      (3) In this section:

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

14           **Example**

15           An amendment followed by ‘(commencement: the 90th day after this Act’s  
16           notification day)’ means that the amendment commences on the 90th day after the  
17           notification day.

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 or repealing Acts and regulations for  
24           the purpose of statute law revision.

25    **4    Notes**

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

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

1 **5 Acts and regulations amended—schs 1-3**

2 Schedules 1 to 3 amend the Acts and regulations mentioned in them.

3 **6 Act repealed—sch 4**

4 Schedule 4 repeals the Act mentioned in it.

1    **Schedule 1            Minor amendments**

2    (see s 5)

3    **Part 1.1                Health Act 1993**

4    **[1.1] Section 12**

5        *omit everything before subsection (2), substitute*

6    **12    Approval of Calvary Health Care ACT committees**

- 7        (1) The Minister may, in writing, declare a committee appointed by the  
8            peak management body (however described) of Calvary Health Care  
9            ACT that corresponds to a committee of a kind mentioned in  
10           section 8 (2) (a), (b) or (c) to be an approved public sector quality  
11           assurance committee.

12    **Explanatory note**

13    Under the *Health Act 1993*, section 12, the Minister may declare a committee appointed by  
14    the Board of Management of Calvary Hospital that corresponds to a committee of a kind  
15    mentioned in section 8 (2) (a), (b) or (c) to be an approved public sector quality assurance  
16    committee.

17    The reference to Calvary Hospital has been replaced with a reference to Calvary Health  
18    Care ACT, to reflect the current name of the organisation.

19    Under section 8 (1), the Minister may declare that a particular committee is an approved  
20    public sector quality assurance committee for a health facility or for a stated purpose. The  
21    functions of a public sector quality assurance committee are decided by the Minister, and  
22    may include all or any of the functions set out in section 8 (2) (a) to (c), as follows:

- 23            (a) to conduct quality assurance activities among health service providers for  
24            the purpose of assessing and evaluating the health services provided by the  
25            Territory, to report, and make recommendations, to the chief executive in  
26            relation to those services and to monitor the implementation of those  
27            recommendations;
- 28            (b) to conduct research or investigations into morbidity and mortality in the  
29            ACT and to report, and make recommendations, to the chief executive in  
30            relation to that research or those investigations;



1 (c) to investigate, assess, review and evaluate the clinical privileges provided to  
2 health service providers and to report, and make recommendations, to the  
3 chief executive in relation to whether those clinical privileges should be  
4 preserved, varied or withdrawn.

5 A *health service provider* (defined in the *Health Act 1993*, dictionary) is a person who  
6 provides health services at a health facility (ie an institution where health services are  
7 provided by the Territory) or uses the equipment or other facilities of a health facility for  
8 the purpose of providing health services elsewhere, and includes chiropractors, osteopaths,  
9 dental technicians, dental prosthetists, dentists, doctors, nurses, optometrists and  
10 pharmacists.

11 The present management body at Calvary Health Care ACT is not a board. This  
12 amendment replaces the reference to 'Board of Management' to bring the provision into  
13 line with the current management structure at Calvary Health Care ACT.

14 The amendment will enable the management body at Calvary Health Care ACT to appoint  
15 committees that can be declared to be approved public sector quality assurance committees  
16 by the Minister.

17 **[1.2] Dictionary, definition of *approved public sector***  
18 ***committee***

19 *omit*

20 (Approval of Calvary Hospital committees)

21 *substitute*

22 (Approval of Calvary Health Care ACT committees)

23 **Explanatory note**

24 This amendment is consequential on the previous amendment.

1      **Schedule 2                      Structural amendments**

2      (see s 5)

3      **Part 2.1                              Legislation Act 2001**

4      **[2.1] Section 19 (6) to (11)**

5                      *renumber as section 19 (8) to (13)*

6      **[2.2] New section 19 (6) and (7)**

7                      *insert*

8      (6) Without limiting subsection (3) or (5), the regulations may prescribe  
9                      requirements to be satisfied for additional material to be entered in  
10                      the register under this section, including, for example, requirements  
11                      about—

12                      (a) the form of the material; and

13                      (b) the making of requests for its entry in the register.

14      (7) The regulations may also make provision about the following in  
15                      relation to instruments (other than registrable instruments) to be  
16                      entered in the register under this section:

17                      (a) the numbering of the instruments by the parliamentary counsel,  
18                      whether in a series of numbers allocated under section 59  
19                      (Numbering) or otherwise;

20                      (b) the identification of the instruments, including, for example,  
21                      authorising the parliamentary counsel to—

22                              (i) add a name to an unnamed instrument; or

23                              (ii) amend an instrument's name; or

24                              (iii) add notes to an instrument to assist in its identification; or

- 1 (iv) do anything else in relation to an instrument to assist  
2 users of the register to identify or refer to the instrument.

3 **Explanatory note**

4 This amendment makes it clear that regulations can be made to improve consistency in the  
5 entry of additional material in the legislation register. This will help users to access the  
6 material more easily. Under the Act, section 19 (3) and (5), the parliamentary counsel may  
7 enter additional material in the register in any way the parliamentary counsel considers  
8 will help users of the register. The additional material includes, for example, statutory  
9 instruments that are not registrable instruments, the administrative arrangements for the  
10 ACT under the *Australian Capital Territory (Self-Government) Act 1988*, (Cwlth) and the  
11 Australian Road Rules applying in all States and Territories including the ACT. As this  
12 kind of material is generally similar to registrable instruments, it is helpful to users if  
13 regulations ensure that it can be entered and numbered in the register in a similar way to  
14 registrable instruments.

15 **[2.3] Chapter 3 heading**

16 *substitute*

17 **Chapter 3** **Authorised versions and**  
18 **evidence of laws and**  
19 **legislative material**

20 **Explanatory note**

21 This amendment and the other amendments of chapter 3 permit authorised electronic  
22 versions of Acts, statutory instruments and republications (*legislation*) to be downloaded  
23 from a web site approved under the Act. They also allow authorised written versions of  
24 legislation to be produced directly from authorised electronic versions of the legislation.

25 At present, electronic versions of legislation are only authorised when viewed at an  
26 approved web site. Printed versions of legislation are presently only authorised when  
27 printed by authority of the ACT government. Improvements to the legislation register will  
28 allow digital signatures to be included in locked pdf files of legislation accessible at an  
29 approved web site. This will allow legislation users to verify whether downloaded copies  
30 of those files are the same as the digitally signed pdf files authorised by the parliamentary  
31 counsel.

1    The proof of authorised electronic versions of legislation is supported by the presumptions  
2    in new section 24. Written copies of legislation produced directly from authorised  
3    electronic versions will be authorised versions, and proof is supported by the presumptions  
4    in new section 25.

5    The amendments of chapter 3 also extend the range of legislative material for which  
6    authorised electronic and written versions will be available. The legislative material  
7    (defined in new section 22A) includes additional material entered in the legislation register  
8    under section 19 and material used under chapter 14 to work out the meaning of Acts and  
9    statutory instruments.

10    **[2.4] New section 22A**

11         *in chapter 3, insert*

12    **22A Definitions for ch 3**

13         In this chapter:

14         *law* means an Act or statutory instrument, whether or not it has been  
15         amended, and includes, in relation to a republication—

- 16         (a) a collection of 2 or more Acts or statutory instruments; or  
17         (b) all or part of an agreement or other instrument that has the  
18         force of law or is in, or attached to, an Act or statutory  
19         instrument.

20         *Note*         A reference to an Act or statutory instrument includes a reference to a  
21         provision of the Act or instrument (see s 7 and s 13).

22         *legislative material* means material (other than a law or provision of  
23         a law) relating to an Act or statutory instrument.

24         **Examples of legislative material**

25         1    Additional material entered in the register under section 19 (3) (Contents of  
26         register) that is not an Act or statutory instrument, for example—

- 27                 •    the Australian Road Rules: These rules apply throughout Australia and  
28                 apply in the ACT under the *Road Transport (Safety and Traffic  
29                 Management) Regulations 2000*. They have been entered in the  
30                 register as a notifiable instrument even though they are not a statutory  
31                 instrument and are not taken to be a notifiable instrument under  
32                 section 47 (Statutory instruments may make provision by applying law  
33                 or instrument);

- 1                   • appointments of Ministers: Ministers are appointed by the Chief  
2                   Minister under the Self-Government Act, section 41. An instrument  
3                   notifying an appointment may be entered in the register even though  
4                   the instrument is not a statutory instrument.
- 5           2    Material that may be considered under chapter 14 in working out the  
6           meaning of an Act or statutory instrument, for example, an explanatory  
7           statement for the bill that became the relevant Act that was presented to the  
8           Legislative Assembly before the Act was passed.
- 9           *Note*     An example is part of the Act, is not exhaustive and may extend, but  
10           does not limit, the meaning of the provision in which it appears (see  
11           s 126 and s 132).

12                   *republication* includes part of a republication.

13   **Explanatory note**

14   See the explanatory note for the amendment of the heading to chapter 3.

15   This amendment relocates the definition of *law* from sections 24 and 25 so that it applies  
16   generally in chapter 3. The definition repeats the definition of *law* in section 107 rather  
17   than picking it up by reference using a signpost definition. The extension of the definition  
18   (paragraphs (a) and (b)) applies only in relation to republications, to more clearly reflect  
19   the use of the definition in chapter 3. Paragraph (b) has been widened to include any part  
20   of an agreement or instrument mentioned. This brings this part of the definition into line  
21   with the position of Acts and statutory instruments (see sections 7 and 13).

22   In addition, the amendment inserts a new definition of *legislative material* wide enough to  
23   encompass material entered in the legislation register under section 19 (eg additional  
24   material that the parliamentary counsel considers likely to be useful to users of the  
25   register) and extrinsic material that may be used under chapter 14 in working out the  
26   meaning of an Act or statutory instrument (eg explanatory statements for bills).

27   The amendment also includes a new definition of *republication*. This definition ensures  
28   that the chapter applies to parts of republications in the same way as it applies to whole  
29   republications. This means that users of legislation can print and use as an authorised  
30   republication only the parts of the republication they need. The definition brings the  
31   position of republications into line with the position of Acts and statutory instruments  
32   (see sections 7 and 13). A note has been included in the definition of *law* to remind users  
33   of this.

1    **[2.5] Section 23**

2      *substitute*

3    **23 Authorisation of versions by parliamentary counsel**  
4      (LRA s 8)

5      The parliamentary counsel may authorise written or electronic  
6      versions of a law, republication or legislative material.

7      *Note*      **Written** includes printed (see dict, pt 1, def **writing**).

8    **Explanatory note**

9      See the explanatory note for the amendment of the heading to chapter 3.

10     This amendment remakes section 23 to widen its scope to include legislative material as  
11     defined in new section 22A. The remade section refers to **written** versions (rather than  
12     printed) to take advantage of the definition of **writing** in the Legislation Act (dictionary,  
13     part 1), that is, **writing** includes any way of representing or reproducing words in visible  
14     form. In the context of the legislation register, printing is the most common form.

15   **[2.6] Section 24**

16      *substitute*

17    **24 Authorised electronic versions (LRA s 20, s 22, s 23)**

18      (1) An electronic copy of a law, republication or legislative material is  
19      an authorised version if—

20          (a) it is accessed at, or downloaded from, an approved web site in  
21          a format authorised by the parliamentary counsel; or

22          (b) it is authorised by the parliamentary counsel and is in the  
23          format in which it is authorised by the parliamentary counsel.

24      **Example of authorised electronic format**

25      a locked pdf file

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

- 1 (2) It is presumed, unless the contrary is proved—
- 2 (a) that an internet site purporting to be an approved web site is an  
3 approved web site; and
- 4 (b) that an electronic copy of a law, republication or legislative  
5 material accessed at, or downloaded from, an approved web  
6 site and purporting to be authorised by the parliamentary  
7 counsel (however expressed) is an authorised version of the  
8 law, republication or legislative material; and
- 9 (c) that any other electronic copy of a law, republication or  
10 legislative material purporting to be authorised by the  
11 parliamentary counsel (however expressed) is an authorised  
12 version of the law, republication or legislative material; and
- 13 (d) that an authorised electronic version of an Act or statutory  
14 instrument correctly shows the Act or instrument; and
- 15 (e) that an authorised electronic version of a republication of a law  
16 correctly shows the law as at the republication date; and
- 17 (f) that an authorised electronic version of legislative material  
18 correctly shows the material.

19 **Examples of an electronic copy of a republication purporting to be**  
20 **authorised by the parliamentary counsel**

- 21 1 The republication has the words ‘Authorised by the ACT Parliamentary  
22 Counsel’ on the front cover and the words ‘Authorised when accessed at  
23 [www.legislation.act.gov.au](http://www.legislation.act.gov.au) or in authorised printed form’ at the foot of each  
24 page of the republication.
- 25 2 The republication has the words ‘Authorised by the ACT Parliamentary  
26 Counsel’ on the front cover and the words ‘Authorised by the ACT  
27 Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)’ at the  
28 foot of each page of the republication.

29 *Note* A reference to an Act or statutory instrument includes a reference to a  
30 provision of the Act or instrument (see s 7 and s 13). A reference to a  
31 republication includes a reference to part of a republication (see s 22A).

32 **Explanatory note**

33 See the explanatory note for the amendment of the heading to chapter 3.

1 Remade section 24 extends the form and range of authorised electronic versions of laws,  
2 republications and legislative material. The section will permit authorised versions to be  
3 downloaded from an approved web site. At present electronic versions of laws are only  
4 authorised when viewed at an approved web site. Improvements to the legislation register  
5 and the ease with which the accuracy of downloaded files can be verified using digital  
6 signatures have enabled this step to be made.

7 New section 24 (2) widens the presumptions in favour of authorised electronic copies of  
8 legislation to include electronic copies in authorised format downloaded from an approved  
9 web site.

10 The presumption of accuracy in existing section 24 (2) has been extended to authorised  
11 electronic versions of legislative material (defined in new section 22A). New section 24  
12 (2) (f) provides this presumption for legislative material.

13 Section 24 as remade no longer defines *law*. The definition has been relocated in new  
14 section 22A inserted by another amendment.

15 **[2.7] Section 25**

16 *substitute*

17 **25 Authorised written versions (LRA ss 6-9, ss 20-23)**

18 (1) A written copy of a law, republication or legislative material is an  
19 authorised version if—

20 (a) it is a written copy produced directly from an authorised  
21 electronic version of the law, republication or legislative  
22 material; or

23 (b) it is a written copy of another version of the law, republication  
24 or legislative material authorised by the parliamentary counsel.

25 **Example for par (a)**

26 An authorised electronic version of an Act is downloaded from an approved web  
27 site and printed. The printed copy is an authorised written version of the Act.

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



- 1 (2) It is presumed, unless the contrary is proved—
- 2 (a) that a written copy of a law, republication or legislative
- 3 material purporting to be authorised by the parliamentary
- 4 counsel (however expressed) is an authorised version of the
- 5 law, republication or legislative material; and
- 6 (b) that an authorised written version of an Act or statutory
- 7 instrument correctly shows the Act or instrument; and
- 8 (c) that an authorised written version of a republication of a law
- 9 correctly shows the law as at the republication date; and
- 10 (d) that an authorised written version of legislative material
- 11 correctly shows the material.

12 **Examples of a written copy of a republication purporting to be authorised by**

13 **the parliamentary counsel**

- 14 1 The republication has the words ‘Authorised by the ACT Parliamentary
- 15 Counsel’ on the front cover and the words ‘Authorised by the parliamentary
- 16 counsel and printed by authority of the ACT Government’ at the foot of each
- 17 page of the republication.
- 18 2 The republication has the words ‘Authorised by the ACT Parliamentary
- 19 Counsel and printed by authority of the ACT Government’ on the front cover
- 20 and the words ‘Authorised by the ACT Parliamentary Counsel—also
- 21 accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)’ at the foot of each page of the
- 22 republication.
- 23 3 The republication has the words ‘Authorised by the ACT Parliamentary
- 24 Counsel’ on the front cover and the words ‘Authorised by the ACT
- 25 Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)’ at the
- 26 foot of each page of the republication.

27 *Note* A reference to an Act or statutory instrument includes a reference to a

28 provision of the Act or instrument (see, s 7 and s 13). A reference to a

29 republication includes a reference to part of a republication (see s 22A).

30 **Explanatory note**

31 See the explanatory note for the amendment of the heading to chapter 3.

32 Traditionally, the only authorised written versions of ACT legislation have been those

33 printed by authority of the ACT Government (eg by the government printer). This is

34 reflected in the presumptions in existing section 25.

1    However, improvements to the legislation register and the use of digital signatures for  
2    verifying electronic material remove the need for such a narrow approach. Consequently,  
3    remade section 25 (1) provides for a written copy of a law, republication or legislative  
4    material to be an authorised version if it is a written copy produced directly from an  
5    authorised electronic version. The authorised electronic format used for ACT laws (locked  
6    pdf) enables downloaded laws to be printed with complete accuracy, irrespective of the  
7    operating system used in the computer into which the laws are downloaded and the system  
8    used for printing. In practice, the same locked pdf file has been (and will continue to be)  
9    used to publish an authorised electronic version of a law and any written version published  
10    by authority of the ACT Government.

11    New section 25 (2) widens the presumptions in favour of authorised written legislation to  
12    include written copies printed from authorised electronic versions.

13    The presumption of accuracy in existing section 25 (2) has also been extended to  
14    authorised written versions of legislative material (defined in new section 22A). New  
15    section 25 (2) (d) provides this presumption for legislative material.

16    Section 25 as remade no longer defines *law*. The definition has been relocated in new  
17    section 22A inserted by another amendment.

### 18    **[2.8] Section 26 (2), example 3**

19            *substitute*

20            3    using an authorised written version of a republication

#### 21    **Explanatory note**

22    This amendment brings the language of the example into line with sections 24 and 25 as  
23    remade by this part.

### 24    **[2.9] Section 26 (4)**

25            *substitute*

26            (4) For subsection (3), an authorised version of a law, republication or  
27            legislative material is a reliable source of information.

#### 28    **Explanatory note**

29    This amendment, consequential on the remaking of sections 24 and 25, widens the scope  
30    of the subsection so that authorised versions of legislative material are a reliable source of  
31    information.

1 **[2.10] Section 28 (5) and (6)**

2 *substitute*

3 (5) The making of the proposed law is notified in the Gazette by—

4 (a) publishing the text of the law in the Gazette; or

5 (b) publishing in the Gazette a statement—

6 (i) that the law has been passed by the Legislative  
7 Assembly; and

8 (ii) of the place or places where copies of the law can be  
9 obtained (whether by purchase or otherwise).

10 (6) If the making of the proposed law is notified in the Gazette, the  
11 parliamentary counsel must enter in the register—

12 (a) a statement that the law has been passed by the Legislative  
13 Assembly; and

14 (b) a statement that the law was notified in the Gazette on a stated  
15 date; and

16 (c) the text of the law.

17 (6A) If the making of the proposed law is notified in the Gazette by  
18 publishing the statement mentioned in subsection (5) (b), copies of  
19 the law must be available on the day of publication (the *Gazette*  
20 *date*), or as soon as practicable after the Gazette date, at the place, or  
21 each of the places, stated in the Gazette.

22 **Explanatory note**

23 The substituted subsections apply to cases where the making of an Act has to be notified in  
24 the Gazette. This would only happen in exceptional cases, for example, if some technical  
25 problem made notification using the legislation register impracticable at the time for  
26 notification.

27 As such a case is likely to be rare, it may be preferable to publish the Act in full in the  
28 Gazette (as can be done at present for registrable instruments—see Legislation Act,  
29 section 61 (4) (a)) or to make copies of the Act available for free rather than setting up  
30 special arrangements for its sale. The remade subsections, therefore, authorise these things  
31 to be done. Under the proposed subsections, if the making of an Act is initially notified in

**Schedule 2**      Structural amendments  
**Part 2.1**      Legislation Act 2001

Amendment [2.11]

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1 the Gazette, the making of the Act and its text must in any event be entered in the register  
2 (and made available at an approved web site). This can be expected to happen very soon  
3 after Gazette notification and any special arrangements for making copies of the Act  
4 available are likely to be needed only for a short time.

5 Existing subsection (6) (b) requires ‘later’ entries to be made in the legislation register  
6 about an Act notified in the Gazette. As these entries should be made as soon as possible,  
7 the express requirement for a later entry serves no purpose and has been omitted from the  
8 remade provision.

9 **[2.11] Section 28 (7)**

10            *omit*

11            for purchase

12 **Explanatory note**

13 This amendment is consequential on the remaking of section 28 (5).

14 **[2.12] Section 28**

15            *renumber subsections when Act next republished under Legislation*  
16            *Act*

17 **Explanatory note**

18 This amendment provides for the consequential renumbering of subsections.

19 **[2.13] Section 59 (2)**

20            *omit*

21            statutory

22            *substitute*

23            registrable

24 **Explanatory note**

25 This amendment brings the language of section 59 (2) more closely into line with the  
26 language of section 59 (1).

1 **[2.14] Section 60 heading**

2 *substitute*

3 **60 Correction etc of name of registrable instrument**

4 **Explanatory note**

5 This amendment changes the heading (by adding ‘etc’) to better reflect the section’s  
6 contents.

7 **[2.15] Section 60 (1) (a)**

8 *omit*

9 made

10 *substitute*

11 notified

12 **Explanatory note**

13 Section 60 deals with the parliamentary counsel’s power to correct the name of a  
14 registrable instrument, including in cases where the name of the instrument includes a year  
15 that is not the year that the instrument was made (section 60 (1) (a)). Usually a registrable  
16 instrument is made and notified in the same year, and it includes in its name the year it was  
17 made. However, if a registrable instrument is made at the end of a year, but is not notified  
18 until the next year, the name it bears should include the year that it was notified, not made.

19 This amendment makes that change.

20 **[2.16] Section 61 (4) (b) (ii)**

21 *substitute*

22 (ii) of the place or places where copies of the instrument can  
23 be obtained (whether by purchase or otherwise).

24 **Explanatory note**

25 This amendment, and the amendments of sections 61 (5), (6) and (7), apply to cases where  
26 the making of a registrable instrument has to be notified in the Gazette. This would only  
27 happen in exceptional cases, for example, if some technical problem made notification  
28 using the legislation register impracticable at the time for notification.

29 As these cases are likely to be rare, it may be preferable to make copies of the instrument  
30 available for free rather than setting up special arrangements for its sale. The amendments

1 of section 61, therefore, authorise this to be done. Under the amended section, if the  
2 making of a registrable instrument is initially notified in the Gazette, the making of the  
3 instrument and its text must in any event be entered in the register (and made available at  
4 an approved web site). This can be expected to happen very soon after Gazette  
5 notification and any special arrangements for making copies of the instrument available  
6 are likely to be needed only for a short time.

7 **[2.17] Section 61 (5)**

8            *omit*

9            later

10 **Explanatory note**

11 Existing subsection (5) requires ‘later’ entries to be made in the legislation register about a  
12 registrable instrument notified in the Gazette. As these entries should be made as soon as  
13 possible, the express requirement for a later entry serves no purpose and has been omitted.

14 **[2.18] Section 61 (6)**

15            *omit*

16            If

17            *substitute*

18            If the making of

19 **Explanatory note**

20 This amendment brings the language of section 61 (6) more closely into line with the  
21 language of section 61 (5).

22 **[2.19] Section 61 (6) and (7)**

23            *omit*

24            for purchase

25 **Explanatory note**

26 See the explanatory note for the amendment of section 61 (4) (b) (ii).

1 **[2.20] Sections 65A (6) and 69 (6)**

2 *omit*

3 later

4 **Explanatory note**

5 These amendments omit an unnecessary word. The amended provisions apply to cases  
6 where the disallowance or amendment of a subordinate law or disallowable instrument by  
7 the Legislative Assembly has to be notified in the Gazette. This would only happen in  
8 exceptional cases, for example, if some technical problem made notification using the  
9 legislation register impracticable at the time for notification. In these cases, the existing  
10 provisions require that 'later' entries be made in the legislation register about the  
11 disallowance or amendment of the instrument. As these entries should be made as soon as  
12 possible, the express requirement for a later entry serves no purpose.

13 **[2.21] Section 73 (5) (d)**

14 *substitute*

15 (d) section 79A (Commencement of amendment of uncommenced  
16 law);

17 (e) section 81 (Exercise of powers between notification and  
18 commencement).

19 **Explanatory note**

20 This amendment is consequential on the insertion of new section 79A by another  
21 amendment.

22 **[2.22] Section 79 (1)**

23 *omit*

24 the notification

25 *substitute*

26 its notification

27 **Explanatory note**

28 This amendment tightens language.

1    **[2.23] New section 79A**

2        *insert*

3    **79A Commencement of amendment of uncommenced law**

4        (1) This section applies if a law (the *amending law*) amends a law that  
5        has not commenced (the *uncommenced law*).

6        (2) The amendment of the uncommenced law does not of itself  
7        commence that law.

8        (3) The amendment made by the amending law commences on the  
9        commencement of the uncommenced law.

10       (4) This section is a determinative provision.

11       *Note*      See s 5 for the meaning of determinative provisions, and s 6 for their  
12       displacement.

13    **Explanatory note**

14    This amendment inserts proposed new section 79A to make it clear that an amendment of a  
15    law that has not commenced does not of itself commence the law, and that the amendment  
16    commences on the commencement of the uncommenced law. Because of the definition of  
17    *law* in section 72, the proposed section will apply to the amendment of an uncommenced  
18    provision in the same way as it applies to an uncommenced law.

19    **[2.24] Section 91 (9), examples 4 and 5**

20        *substitute*

21        4    If a section numbered '7A' is to be inserted (by an amending section headed  
22        'New section 7A', with the command '*in division 2.2, insert*') into an  
23        amended law with an existing sequence 'section 7 [in division 2.2]—  
24        division 2.3 [heading]—section 8', inserted section 7A is inserted between  
25        section 7 and the heading to division 2.3 (that is, at the end of division 2.2).

26        5    If a section numbered '7A' is to be inserted (by an amending section headed  
27        'New section 7A', with the command '*in division 2.3, insert*') into an  
28        amended law with an existing sequence 'section 7 [in division 2.2]—  
29        division 2.3 [heading]—section 8', inserted section 7A is inserted between  
30        the heading to division 2.3 and section 8 (that is, at the beginning of  
31        division 2.3).



1 **Explanatory note**

2 This amendment brings the examples into line with current drafting practice.

3 **[2.25] Section 94 (4), new definition of *appointment***

4 *insert*

5 *appointment* includes acting appointment.

6 **Explanatory note**

7 This amendment makes it clear that a reference to appointment in section 94 includes an  
8 acting appointment.

9 **[2.26] Section 107, definition of *law*, paragraph (b)**

10 *substitute*

11 (b) all or part of an agreement or other instrument that has the  
12 force of law or is in, or attached to, an Act or statutory  
13 instrument.

14 **Explanatory note**

15 This amendment makes it clear that all or any part of an agreement or instrument  
16 mentioned in the paragraph can be republished. In some cases, republication of the whole  
17 agreement or instrument may not assist users of the republication and may cause needless  
18 cost.

19 **[2.27] Section 109**

20 *omit*

21 printed

22 *substitute*

23 written

24 **Explanatory note**

25 This amendment brings the language of the section into line with sections 24 and 25 as  
26 remade by this part.

1    **[2.28] Section 141 (5) to (7)**

2            *omit*

3    **Explanatory note**

4    This amendment omits provisions that will be covered by the provisions of chapter 3 as  
5    amended by this part.

6    **[2.29] Section 142, table 1, item 1, columns 2 and 3, note**

7            *omit*

8            (Authorised versions and evidence of Acts and statutory instruments)

9            *substitute*

10          (Authorised versions and evidence of laws and legislative material)

11   **Explanatory note**

12   This amendment updates a reference to the heading of chapter 3 as amended by this part.

13   **[2.30] Section 178 heading**

14            *omit*

15            **authority**

16            *substitute*

17            **power**

18   **Explanatory note**

19   This amendment brings the section more closely into line with current drafting practice.  
20   **Power** is defined in the Legislation Act, dictionary, part 1 to include authority, and is the  
21   drafting term used rather than authority.

---

1 **[2.31] Section 178**

2 *omit*

3 authority

4 *substitute*

5 power

6 **Explanatory note**

7 This amendment brings the section more closely into line with current drafting practice.  
8 *Power* is defined in the Legislation Act, dictionary, part 1 to include authority, and is the  
9 drafting term used rather than authority.

10 **[2.32] New section 199 (1A)**

11 *insert*

12 (1A) To remove any doubt, subsection (1) applies in relation to a function  
13 even though a law authorises or requires the function to be exercised  
14 in writing.

15 **Explanatory note**

16 This amendment makes it clear that, if a function must or may be exercised in writing, the  
17 function may be exercised by the body by resolution.

18 **[2.33] Section 199 (6)**

19 *omit*

20 the thing

21 *substitute*

22 the effect of the thing

23 **Explanatory note**

24 This amendment clarifies the provisions.

1    **[2.34] Section 199**

2            *renumber subsections when Act next republished under Legislation*  
3            *Act*

4    **Explanatory note**

5    This amendment provides for the consequential renumbering of subsections because of the  
6    insertion of new subsection (1A).

7    **[2.35] New division 19.3.2A**

8            *insert*

9    **Division 19.3.2A      Standing acting arrangements**

10   **225A Application of div 19.3.2A**

11            This division applies to a position if a law provides that a person  
12            acts in the position in stated circumstances.

13            **Example**

14            The *Hypothetical Act 2003* provides for the deputy director of the hypothetical  
15            entity to act in the position of director of the entity if the position is vacant or the  
16            director cannot for any reason exercise the functions of the position.

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

20   **225B Person acting may exercise functions etc**

- 21    (1) A person acting in the position has, subject to the law providing for  
22    the acting or any other law, all the functions of the occupant of the  
23    position.

24            *Note*      **Function** is defined in the dict, pt 1 to include authority, duty and  
25            power.

- 26    (2) All Territory laws apply in relation to the person as if the person  
27    were the occupant of the position.

1 **Explanatory note**

2 This amendment inserts a new division that contains provisions applying to standing acting  
3 arrangements, that is, where a law itself provides that in stated circumstances a person  
4 automatically acts in a position. The *Planning and Land Act 2002*, section 26 (3) is an  
5 example of such a law. The provisions of the new division are based on provisions of the  
6 Act applying to acting appointments (see section 220).

7 **[2.36] Section 234 (b)**

8 *omit*

9 the function

10 *substitute*

11 a function

12 **Explanatory note**

13 This amendment corrects a minor drafting error.

14 **[2.37] Section 253 (3)**

15 *substitute*

16 (3) A statutory instrument (other than a subordinate law or disallowable  
17 instrument) is taken to be made by the Executive if it is signed by  
18 2 or more Ministers who are members of the Executive.

19 (4) A statutory instrument mentioned in subsection (3) made in  
20 accordance with the subsection is taken to be made when it is signed  
21 by the second Minister signing.

22 (5) This section is subject to section 41 (Making of certain statutory  
23 instruments by Executive).

24 **Explanatory note**

25 This amendment makes it clear when a statutory instrument, other than a subordinate law  
26 or disallowable instrument, made by the Executive is made. Section 41 deals with the  
27 making of subordinate laws and disallowable instruments by the Executive.

1 **[2.38] Section 255 (1), note**

2      *substitute*

3      *Note*      See also s 46 (3), which deals with the repeal and replacement of forms  
4                              that are registrable instruments and prevents their amendment.

5 **Explanatory note**

6 This amendment makes it clear that the forms dealt with in section 46 (3) are forms that  
7 are registrable instruments.

8 **[2.39] Section 302**

9      *substitute*

10 **302 Regulation-making power**

11 (1) The Executive may make regulations for this Act.

12      *Note*      Regulations must be notified, and presented to the Legislative  
13                              Assembly, under this Act.

14 (2) The regulations may make provision in relation to notification in the  
15 Gazette under the following sections:

16      (a) section 28 (Notification of Acts);

17      (b) section 61 (Notification of registrable instruments):

18      (c) section 65A (Notification of disallowance by resolution of  
19                              Assembly);

20      (d) section 69 (Notification of amendments made by resolution of  
21                              Assembly).

22 (3) In particular, the regulations may make provision in relation to the  
23 form of the Gazette and its publication, including how it may or  
24 must be published.

25 **Explanatory note**

26 This amendment remakes the regulation-making power to include provision for cases  
27 where the making of an Act or registrable instrument, or the disallowance or amendment  
28 of a subordinate law or disallowable instrument, has to be notified in the Gazette. This  
29 would only happen in exceptional cases, for example, if some technical problem made  
30 notification using the legislation register impracticable at the time for notification. This

1 could happen after normal business hours at the ACT Government Shopfront. In these  
2 cases, it may be necessary to publish a special edition of the Gazette promptly and make it  
3 available elsewhere. The regulations would set out the requirements to be satisfied in  
4 these cases.

5 **[2.40] Dictionary, part 1, new definition of *OH&S commissioner***

6 *insert*

7 *OH&S commissioner* means the Occupational Health and Safety  
8 Commissioner under the *Occupational Health and Safety Act 1989*.

9 **Explanatory note**

10 This amendment inserts a new definition of *OH&S commissioner*.

11 **[2.41] Dictionary, part 1, definition of *Territory authority***

12 *substitute*

13 *Territory authority* means a body established under an Act, but does  
14 not include a body declared under the regulations not to be a  
15 Territory authority.

16 **Explanatory note**

17 This amendment remakes the existing definition, which was inserted in the former  
18 *Interpretation Act 1967* in 1989 and relocated to the Legislation Act in 2001. The remade  
19 definition refers simply to a ‘body’ without mentioning whether or not it is incorporated.  
20 That amplification is no longer necessary because it is now part of the definition of ‘body’  
21 in the Legislation Act, dictionary, part 1. The remade definition also allows the  
22 regulations to set out bodies that are not to be Territory authorities. For example, a body  
23 registered under the *Cooperatives Act 2002* as a cooperative, or an association  
24 incorporated under the *Associations Incorporation Act 1991*, may be declared under the  
25 regulations not to be a Territory authority.

26 **[2.42] Dictionary, part 2, new definition of *Act***

27 *insert*

28 *Act*, for chapter 14 (Interpretation of Acts and statutory  
29 instruments)—see section 136.

30 *Note* See also def *Act* in dict, pt 1.

1    **Explanatory note**

2    This amendment inserts a signpost definition in accordance with current drafting practice.

3    **[2.43] Dictionary, part 2, definition of *law*, new paragraph (aa)**

4         *before paragraph (a) insert*

5         (aa) for chapter 3 (Authorised versions and evidence of laws and  
6             legislative material)—see section 22A; and

7    **Explanatory note**

8    This amendment amends a signpost definition to take account of the definition of *law* in  
9    new section 22A.

10   **[2.44] Dictionary, part 2, definition of *law***

11         *renumber paragraphs when Act next republished under Legislation*  
12         *Act*

13   **[2.45] Dictionary, part 2, new definition of *legislative material***

14         *insert*

15         *legislative material*, for chapter 3 (Authorised versions and evidence  
16             of laws and legislative material)—see section 22A.

17   **Explanatory note**

18   This amendment inserts a signpost definition in line with current drafting practice.

19   **[2.46] Dictionary, part 2, definition of *republication***

20         *substitute*

21         *republication*—

22             (a) for chapter 3 (Authorised versions and evidence of laws and  
23             legislative material)—see section 22A; and

24             (b) for chapter 11 (Republication of Acts and statutory  
25             instruments)—see section 107.

26   **Explanatory note**

27   This amendment revises a signpost definition to take account of the definition of  
28   *republication* in new section 22A.

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1 **[2.47] Dictionary, part 2, new definition of *working out the***  
2 ***meaning of an Act***

3 *insert*

4 *working out the meaning of an Act*, for part 14.2 (Key principles of  
5 interpretation)—see section 138.

6 **Explanatory note**

7 This amendment inserts a signpost definition in accordance with current drafting practice.

1      **Schedule 3      Technical amendments**  
2      (see s 5)

3      **Part 3.1      Animal Welfare Regulations**  
4      **2001**

5      **[3.1] Regulation 8 (4)**

6      *omit*

7      subsection (1)

8      *substitute*

9      subregulation (1)

10      **Explanatory note**

11      This amendment corrects a reference to a provision.

12      **Part 3.2      Building and Construction**  
13      **Industry Training Levy Act**  
14      **1999**

15      **[3.2] Section 7 (2) and (3)**

16      *substitute*

17      (2) A member is appointed by the Minister.

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

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

1 (3) An appointment must not be for longer than 3 years.

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, def  
4 *appoint*).

5 **Explanatory note**

6 This amendment brings the subsections into line with current drafting practice. In  
7 particular, it removes a provision that requires the instrument of appointment to state the  
8 period of appointment. The Legislation Act, section 206 (2) provides that, if a law  
9 provides for a maximum period of appointment, the period of appointment must be stated  
10 in the instrument of appointment. The amendment also updates standard appointment  
11 notes.

12 **[3.3] Section 9 (1) (a)**

13 *omit*

14 pecuniary

15 *substitute*

16 financial

17 **Explanatory note**

18 This amendment updates language.

19 **[3.4] Section 11**

20 *omit everything before paragraph (a), substitute*

21 **11 Ending of appointment**

22 The Minister must end the appointment of a member if the  
23 member—

24 **Explanatory note**

25 This amendment updates language (replacing ‘terminate’ with ‘end’). ‘End’ is the drafting  
26 term that is now used in relation to appointments.

1    **[3.5] Section 15, definition of *owner***

2        *omit*

3        for

4        *substitute*

5        of

6    **Explanatory note**

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

8    **[3.6] Section 15, definition of *public authority*, paragraph (b)**

9        *omit*

10       body corporate

11       *substitute*

12       corporation

13    **Explanatory note**

14    This amendment updates language.

15    **[3.7] Section 15, definition of *value***

16        *omit*

17        for

18        *substitute*

19        of

20    **Explanatory note**

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

1 **[3.8] Section 22 (2)**

2 *omit*

3 (as the case requires)

4 **Explanatory note**

5 This amendment omits unnecessary words.

6 **[3.9] Section 22 (2), new note**

7 *insert*

8 *Note* For how documents may be given, see Legislation Act, pt 19.5.

9 **Explanatory note**

10 This amendment inserts a standard note about service of documents.

11 **[3.10] Section 29**

12 *substitute*

13 **29 Appointment**

14 The board may appoint a person as an inspector for this Act.

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

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

20 **Explanatory note**

21 This amendment omits the reference to the appointment being made in writing. The  
22 Legislation Act, section 206 provides that an appointment must be made, or evidenced, in  
23 writing. The amendment also inserts standard notes about appointments.

24 **[3.11] Section 31 (4)**

25 *omit*

26 (as the case requires)

27 **Explanatory note**

28 This amendment omits unnecessary words.

- 1 **[3.12] Dictionary, new notes**
- 2 *insert*
- 3 *Note 1* The Legislation Act contains definitions and other provisions relevant to  
4 this Act.
- 5 *Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:
- 6 • appoint  
7 • document  
8 • exercise  
9 • function  
10 • Minister  
11 • penalty unit (see s 133)  
12 • State  
13 • the Territory.

14 **Explanatory note**  
15 This amendment inserts standard dictionary notes.

- 16 **[3.13] Dictionary, definitions of *owner* and *project owner***
- 17 *substitute*
- 18 *owner*, of land, for part 3 (Levy on building and construction  
19 work)—see section 15.
- 20 *project owner*, for work, for part 3 (Levy on building and  
21 construction work)—see section 15.

22 **Explanatory note**  
23 This amendment brings the signpost definitions into line with current drafting practice.

- 24 **[3.14] Dictionary, new definition of *qualified valuer***
- 25 *insert*
- 26 *qualified valuer*, for part 3 (Levy on building and construction  
27 work)—see section 15.

28 **Explanatory note**  
29 This amendment inserts a signpost definition in line with current drafting practice.

1 **[3.15] Dictionary, definition of *value***

2 *substitute*

3 *value*, of work, for part 3 (Levy on building and construction  
4 work)—see section 15.

5 **Explanatory note**

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

7 **Part 3.3** **Building and Construction**  
8 **Industry Training Levy**  
9 **Regulations 2001**

10 **[3.16] Regulation 3 heading**

11 *substitute*

12 **3 Qualified valuer—Act, s 15, def *qualified valuer***

13 **Explanatory note**

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

15 **[3.17] Regulation 3 (1) (b), new note**

16 *insert*

17 *Note* *State* is defined in the Legislation Act, dict, pt 1.

18 **Explanatory note**

19 This amendment inserts a new note, to help the reader find the meaning of a term used in  
20 the provision.

1 **Part 3.4 Bushfire Inquiry (Protection of**  
2 **Statements) Act 2003**

3 **[3.18] New section 5 (4)**

4 *insert*

- 5 (4) This Act is a law to which the Legislation Act, section 88 (Repeal  
6 does not end effect of transitional laws etc) applies.

7 **Explanatory note**

8 The *Bushfire Inquiry (Protection of Statements) Act 2003* (the *Inquiry Act*), section 4  
9 provides a defence to an action for defamation in relation to making of statements, or the  
10 giving of documents, to the McLeod Inquiry into the operational response to the  
11 January 2003 bushfires in the ACT. It also provides a defence to an action for defamation  
12 arising from the publication of certain reports of the inquiry, or a fair summary of them or  
13 extract from them.

14 The Legislation Act, section 88 (2), provides that if a law (the *savings law*) declares that a  
15 law (the *declared law*) is a law to which that section applies, the effect of the declared law  
16 does not end only because of the repeal of the declared law (which includes its expiry—see  
17 Legislation Act, section 82, definition of *repeal*).

18 The Inquiry Act, section 5 provides for the expiry of the Act on 30 September 2003, or on  
19 a later date determined by the Minister. The proposed amendment removes any doubt  
20 about whether the defence provided by the Act would still be available after  
21 30 September 2003 (or after any Ministerially declared later date).

22 **Part 3.5 Civil Law (Wrongs) Act 2002**

23 **[3.19] Section 38 (3), definition of ABS**

24 *omit*

25 **Explanatory note**

26 This amendment is consequential on the next amendment.



1 **[3.20] Section 38 (3), definition of *average weekly earnings***

2 *substitute*

3 *average weekly earnings* means—

- 4 (a) the average weekly earnings, States and Territories, seasonally  
5 adjusted for the ACT (all males total earnings) contained in  
6 *Average Weekly Earnings, Australia* issued by the Australian  
7 Statistician; or
- 8 (b) if the Australian Statistician issues a publication (however  
9 described) containing average weekly earnings in substitution  
10 for, or instead of, the average weekly earnings mentioned in  
11 paragraph (a)—the substituted average weekly earnings.

12 **Explanatory note**

13 This amendment replaces an incorrect reference to the ABS (the Australian Bureau of  
14 Statistics) with a reference to the ‘Australian Statistician’ and updates the reference to the  
15 publication issued by the Australian Statistician.

16 **Part 3.6** **Crimes (Forensic Procedures)**  
17 **Act 2000**

18 **[3.21] Section 18, table, item 1, column 2**

19 *omit*

20 17

21 *substitute*

22 19

23 **Explanatory note**

24 This amendment updates a cross-reference.

1      **Part 3.7    Discrimination Act 1991**

2      **[3.22] Title**

3                      *omit*

4                      render

5                      *substitute*

6                      make

7      **Explanatory note**

8      This amendment updates language.

9      **[3.23] Section 1**

10                     *substitute*

11      **1                      Name of Act**

12                     This Act is the *Discrimination Act 1991*.

13      **Explanatory note**

14      This amendment revises the section providing for the Act's name to bring it into line with  
15      current drafting practice.

16      **[3.24] Section 3**

17                     *renumber as section 4*

18      **Explanatory note**

19      New section 2 (Dictionary) and new section 3 (Notes) are inserted by a later amendment,  
20      so this amendment rennumbers existing section 3 as new section 4.

21      **[3.25] Section 4 (1), definition of *commissioner***

22                     *substitute*

23                     ***commissioner*** means the Discrimination Commissioner.

24      **Explanatory note**

25      This amendment updates the definition.

1 **[3.26] Section 4 (1), definition of *contract worker***

2 *substitute*

3 *contract worker* means a person (the *worker*) who does work for  
4 someone else (the *third person*) under a contract between the  
5 worker's employer and the third person.

6 **Explanatory note**

7 This amendment revises the language of the definition to bring it more closely into line  
8 with current drafting practice.

9 **[3.27] Section 4 (1), new definition of *disability***

10 *insert*

11 *disability*—see section 5AA (Meaning of *disability*).

12 **Explanatory note**

13 This amendment inserts a new definition of *disability* that replaces the existing definition  
14 of *impairment* (omitted by the next amendment). The term 'disability' is to be used in the  
15 Act instead of 'impairment'.

16 This is a textual change that brings terminology used in the Act into line with other  
17 legislation (including the *Disability Services Act 1991* (ACT) and the *Disability*  
18 *Discrimination Act 1992* (Cwlth)) and common usage.

19 **[3.28] Section 4 (1), definition of *impairment***

20 *omit*

21 **Explanatory note**

22 This amendment is consequential to the above amendment.

23 **[3.29] Section 4 (1), definition of *principal***

24 *substitute*

25 *principal* means—

- 26 (a) for a commission agent—a person for whom the commission  
27 agent does work as a commission agent; or

- 1            (b) for a contract worker—a person for whom the contract worker  
2            does work under a contract between the contract worker’s  
3            employer and the person.

4      **Explanatory note**

5      This amendment revises the language of the definition to bring it more closely into line  
6      with current drafting practice.

7      **[3.30] Section 4 (1), definition of *relevant class of persons***

8            *substitute*

9            *relevant class of people* means a class of people whose members are  
10          identified by reference to an attribute mentioned in section 7.

11      **Explanatory note**

12      This amendment revises the definition to bring it more closely into line with current  
13      drafting practice.

14      **[3.31] Section 4 (1), definition of *services*, paragraph (e)**

15            *substitute*

16            (e) services provided by a government, government authority,  
17            local government body or corporation in which a government  
18            has a controlling interest; and

19      **Explanatory note**

20      This amendment replaces the reference to ‘a company or other body corporate’ with  
21      ‘corporation’. *Corporation* is defined in the Legislation Act, dictionary, part 1 to include a  
22      body politic or corporate.

23      **[3.32] Section 4 (1), definitions (as amended)**

24            *relocate to dictionary*

25      **Explanatory note**

26      This amendment relocates the definitions to a new dictionary inserted by a later  
27      amendment.

1 **[3.33] Section 4, remainder**

2 *substitute*

3 **2 Dictionary**

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

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

9 For example, the signpost definition '*discriminate*—see section 8.'  
10 means that the word 'discriminate' is defined in section 8.

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 **3 Notes**

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

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

18 **Explanatory note**

19 This amendment inserts standard dictionary and notes provisions in line with current  
20 drafting practice. A new dictionary is inserted by a later amendment.

21 **[3.34] New section 4A**

22 *insert*

23 **4A Meaning of *doing* an act**

24 (1) In this Act:

25 *doing* an act includes failing to do the act.

26 *Note* The Legislation Act, dict, pt 1 defines *fail* to include refuse.

27 (2) In this Act, a reference to doing an act because of a particular matter  
28 includes a reference to doing an act because of 2 or more matters

1            that include the particular matter, whether or not the particular  
2            matter is the dominant or substantial reason for doing the act.

3    **Explanatory note**

4    This amendment converts former section 4 (2) into a new definition of *doing* in new  
5    section 4A (1), and former section 4 (3) into new section 4A (2), in line with current  
6    drafting practice.

7    **[3.35] Section 5**

8            *substitute*

9    **5    Meaning of *complainant* and *respondent***

10    In this Act:

11    ***complainant*** means—

- 12            (a) for a complaint lodged by an agent—the person or each person  
13            on whose behalf the complaint is lodged; and  
14            (b) for an investigation for which there are 2 or more  
15            complainants—each complainant.

16    ***respondent*** means—

- 17            (a) for a complaint—the person who is alleged to have done the  
18            act or acts to which the complaint relates; and  
19            (b) for an investigation of a complaint for which there are 2 or  
20            more respondents—each respondent; and  
21            (c) for an investigation initiated by the commissioner—each  
22            person whose actions are the subject of the investigation.

23    **Explanatory note**

24    This amendment brings the definitions into line with current drafting practice.

1 **[3.36] Section 5AA heading**

2 *omit*

3 ***impairment***

4 *substitute*

5 ***disability***

6 **Explanatory note**

7 This amendment is consequential on the next amendment.

8 **[3.37] Section 5AA (1), definition of *impairment***

9 *omit*

10 ***impairment***

11 *substitute*

12 ***disability***

13 **Explanatory note**

14 This amendment amends what was the definition of *impairment* to make it a definition of  
15 *disability*. The term ‘disability’ is to be used in the Act instead of ‘impairment’.

16 This is a textual change that brings terminology used in the Act into line with other  
17 legislation (including the *Disability Services Act 1991* (ACT) and the *Disability*  
18 *Discrimination Act 1992* (Cwlth)) and common usage.

19 **[3.38] Section 5AA (2)**

20 *omit*

21 ***impairment*** includes an impairment

22 *substitute*

23 ***disability*** includes a disability

24 **Explanatory note**

25 This amendment is consequential on the change of terminology from ‘impairment’ to  
26 ‘disability’.

1    **[3.39] Section 5AA (2) (a) to (c)**

2            *omit*

3            impairment

4            *substitute*

5            disability

6    **Explanatory note**

7    This amendment is consequential on the change of terminology from ‘impairment’ to  
8    ‘disability’.

9    **[3.40] Section 5A**

10           *omit everything before paragraph (a), substitute*

11    **5A    Meaning of *potential pregnancy***

12           In this Act:

13           *potential pregnancy*, of a woman, includes—

14    **Explanatory note**

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

16    **[3.41] Section 6**

17           *substitute*

18    **6      MLAs as employers**

19           (1) For this Act, a member of the Legislative Assembly (in his or her  
20           capacity as an office-holder or otherwise) is taken to be an employer  
21           in relation to a person who is, or who is seeking to be, employed  
22           under the *Legislative Assembly (Members’ Staff) Act 1989*, section 5  
23           or 10 as a member of the staff of the member.

24           (2) In this section:

25           *office-holder*—see the *Legislative Assembly (Members’ Staff) Act*  
26           *1989*, section 3.



1 **Explanatory note**

2 This amendment updates language and brings the form of the provision in line with current  
3 drafting practice. In particular, the Legislation Act, dictionary, part 1 defines *for*, in  
4 relation to an Act, to include for the purposes of the Act.

5 **[3.42] Section 7 (1) (j)**

6 *substitute*

7 (j) disability;

8 **Explanatory note**

9 This amendment replaces ‘impairment’ with ‘disability’. The term ‘disability’ is to be  
10 used in the Act instead of ‘impairment’.

11 This is a textual change that brings terminology used in the Act into line with other  
12 legislation (including the *Disability Services Act 1991* (ACT) and the *Disability*  
13 *Discrimination Act 1992* (Cwlth)) and common usage.

14 **[3.43] Section 7 (2)**

15 *omit everything before paragraph (a), substitute*

16 (2) In this Act, a reference to an attribute mentioned in subsection (1)  
17 includes—

18 **Explanatory note**

19 This amendment updates language.

20 **[3.44] Section 8 (3)**

21 *omit*

22 determining

23 *substitute*

24 deciding

25 **Explanatory note**

26 This amendment updates language.

1    **[3.45] Section 9 (2)**

2        *substitute*

3        (2) This section does not limit the operation of section 8 in relation to  
4        discrimination on the ground of disability.

5    **Explanatory note**

6    This amendment updates language and is also consequential on the change of terminology  
7    from ‘impairment’ to ‘disability’.

8    **[3.46] Section 9 (3)**

9        *omit*

10       Nothing in this Act shall be taken to

11       *substitute*

12       This Act does not

13    **Explanatory note**

14    This amendment updates language.

15    **[3.47] Section 9 (4), definition of *assistance animal***

16        *omit*

17        a disability

18        *substitute*

19        the person’s disability

20    **Explanatory note**

21    This amendment is consequential on the change of terminology from ‘impairment’ to  
22    ‘disability’.

1 **[3.48] Section 10 (1) (a) and (b)**

2 *omit*

3 determining

4 *substitute*

5 deciding

6 **Explanatory note**

7 This amendment updates language.

8 **[3.49] Section 12 (1) (a) and (b)**

9 *omit*

10 determining

11 *substitute*

12 deciding

13 **Explanatory note**

14 This amendment updates language.

15 **[3.50] Section 14 (1) (a) and (2) (a)**

16 *omit*

17 determining

18 *substitute*

19 deciding

20 **Explanatory note**

21 This amendment updates language.

1    **[3.51] Section 15 (2) (a)**

2        *omit*

3        refusing or

4    **Explanatory note**

5    This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines  
6    *fail* to include refuse.

7    **[3.52] Section 15 (2), new note**

8        *insert*

9        *Note*    The Legislation Act, dict, pt 1 defines *fail* to include refuse.

10   **Explanatory note**

11   This amendment inserts a note to remind readers about the extended meaning of *fail*.

12   **[3.53] Section 16 (a)**

13        *omit*

14        refusing or

15   **Explanatory note**

16   This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines  
17   *fail* to include refuse.

18   **[3.54] Section 16, new note**

19        *insert*

20        *Note*    The Legislation Act, dict, pt 1 defines *fail* to include refuse.

21   **Explanatory note**

22   This amendment inserts a note to remind readers about the extended meaning of *fail*.

1 **[3.55] Section 18 (1) (a)**

2 *omit*

3 refusing or

4 **Explanatory note**

5 This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines  
6 *fail* to include refuse.

7 **[3.56] Section 18 (1), new note**

8 *insert*

9 *Note* The Legislation Act, dict, pt 1 defines *fail* to include refuse.

10 **Explanatory note**

11 This amendment inserts a note to remind readers about the extended meaning of *fail*.

12 **[3.57] Section 19 (a)**

13 *after*

14 premises

15 *insert*

16 (*public premises*)

17 **Explanatory note**

18 This amendment inserts a tagged-term definition to allow the language of the section to be  
19 updated.

20 **[3.58] Section 19 (b)**

21 *omit*

22 any such

23 *substitute*

24 public

25 **Explanatory note**

26 This amendment updates language.

1    **[3.59] Section 19 (c)**

2        *omit*

3        such

4        *substitute*

5        public

6    **Explanatory note**

7    This amendment updates language.

8    **[3.60] Section 19 (d)**

9        *substitute*

10        (d) by refusing to allow the other person the use of any facilities  
11            (*public facilities*) in public premises that the public or a section  
12            of the public is entitled or allowed to use (whether for payment  
13            or not); or

14    **Explanatory note**

15    This amendment inserts a tag-term definition to allow the language of the section to be  
16    updated and updates language.

17    **[3.61] Section 19 (e)**

18        *omit*

19        any such

20        *substitute*

21        public

22    **Explanatory note**

23    This amendment updates language.

---

1 **[3.62] Section 19 (f)**

2 *omit*

3 such

4 *substitute*

5 public

6 **Explanatory note**

7 This amendment updates language.

8 **[3.63] Section 20**

9 *omit 1st mention of*

10 person

11 *substitute*

12 person (the *provider*)

13 **Explanatory note**

14 This amendment allows the next amendment to update language by replacing  
15 ‘firstmentioned’ with the tag term ‘provider’.

16 **[3.64] Section 20 (b) and (c)**

17 *omit*

18 firstmentioned person

19 *substitute*

20 provider

21 **Explanatory note**

22 This amendment updates language.

1    **[3.65] Section 22 (1) (a)**

2            *omit*

3            refusing or

4    **Explanatory note**

5    This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines  
6    *fail* to include refuse.

7    **[3.66] Section 22 (1), new note**

8            *insert*

9            *Note*      The Legislation Act, dict, pt 1 defines *fail* to include refuse.

10   **Explanatory note**

11   This amendment inserts a note to remind readers about the extended meaning of *fail*.

12   **[3.67] Section 22 (2) (b)**

13            *omit*

14            refusing or

15   **Explanatory note**

16   This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines  
17   *fail* to include refuse.

18   **[3.68] Sections 24 and 25**

19            *substitute*

20   **24    Domestic duties**

21            Section 10 (1) (a) or (b) or section 13 (b) does not make it unlawful  
22            for a person (the *first person*) to discriminate against someone else  
23            in relation to a position as an employee or contract worker if the  
24            duties of the position involve doing domestic duties on the premises  
25            where the first person lives.



1 **25 Residential care of children**

2 Section 10 (1) (a) or (b) or section 13 (b) does not make it unlawful  
3 for a person to discriminate against someone else in relation to a  
4 position as an employee or contract worker if the duties of the  
5 position involve the care of a child where the child lives.

6 **Explanatory note**

7 This amendment updates language.

8 **[3.69] Section 25A**

9 *omit*

10 Nothing in this Act prevents

11 *substitute*

12 This Act does not prevent

13 **Explanatory note**

14 This amendment updates language.

15 **[3.70] Section 26A**

16 *substitute*

17 **26A Preselection by employment agencies**

18 Part 3 or 4 does not make unlawful discrimination by an  
19 employment agency in the selection of people as suitable for a job  
20 vacancy if, had the proposed employer discriminated against the  
21 person in the same way, the discrimination would not have been  
22 unlawful.

23 **Explanatory note**

24 This amendment updates language.

1    **[3.71] Section 27 (1)**

2        *omit*

3        Nothing in part 3 renders

4        *substitute*

5        Part 3 does not make

6    **Explanatory note**

7    This amendment updates language.

8    **[3.72] Section 28**

9        *substitute*

10 **28    Insurance**

11        Part 3 does not make it unlawful for a person (the *first person*) to  
12        discriminate against someone else (the *second person*) in relation to  
13        the terms on which an annuity or policy of insurance is offered to, or  
14        may be obtained by, the second person, if the discrimination is  
15        reasonable in the circumstances, having regard to any actuarial or  
16        statistical data on which it is reasonable for the first person to rely.

17 **Explanatory note**

18 This amendment updates language.

19 **[3.73] Section 29 (1)**

20        *omit*

21        Nothing in part 3 renders

22        *substitute*

23        Part 3 does not make

24 **Explanatory note**

25 This amendment updates language.

1 **[3.74] Section 29 (2)**

2 *omit everything before paragraph (a), substitute*

3 (2) For discrimination on the ground of age, subsection (1) applies only  
4 if—

5 **Explanatory note**

6 This amendment updates language.

7 **[3.75] Section 29 (3) (a) and (4)**

8 *omit*

9 the commencement date

10 *substitute*

11 4 March 1994

12 **Explanatory note**

13 This amendment replaces a reference to the commencement date with the actual date to  
14 assist readers.

15 **[3.76] Section 29 (5), definition of *commencement date***

16 *omit*

17 **Explanatory note**

18 This amendment omits the definition consequential on the substitution of the actual date by  
19 other amendments.

20 **[3.77] Section 29 (5), definitions of *existing superannuation***  
21 ***fund condition and new superannuation fund condition***

22 *omit*

23 the commencement date

24 *substitute*

25 4 March 1994

1    **Explanatory note**

2    This amendment replaces references to the commencement date with the actual date to  
3    assist readers.

4    **[3.78] Section 30 (1)**

5        *omit*

6        Nothing in this Act renders

7        *substitute*

8        This Act does not make

9    **Explanatory note**

10   This amendment updates language.

11   **[3.79] Section 31**

12        *substitute*

13   **31    Voluntary bodies**

14        Part 3 does not make it unlawful for a voluntary body to  
15        discriminate against a person in relation to—

16        (a) the admission of people as members of the body; or

17        (b) the provision of benefits, facilities or services to people,  
18        whether the people are members of the body or otherwise.

19   **Explanatory note**

20   This amendment updates language.

21   **[3.80] Section 32**

22        *omit*

23        Nothing in part 3 applies

24        *substitute*

25        Part 3 does not apply

1 **Explanatory note**

2 This amendment updates language.

3 **[3.81] Section 33 (1)**

4 *omit everything before paragraph (a), substitute*

5 (1) Section 10 or 13 does not make it unlawful for a person (the *first*  
6 *person*) to discriminate against someone else in relation to—

7 **Explanatory note**

8 This amendment updates language and allows a later amendment to replace  
9 ‘firstmentioned’ with the tag term ‘first person’.

10 **[3.82] Section 33 (1) (b)**

11 *omit*

12 the doing of work

13 *substitute*

14 doing work

15 **Explanatory note**

16 This amendment simplifies language as a result of the new definition of *doing* an act (see  
17 proposed new section 4A (Meaning of *doing* an act)) inserted by an earlier amendment.

18 **[3.83] Section 33 (1)**

19 *omit*

20 firstmentioned

21 *substitute*

22 first

23 **Explanatory note**

24 This amendment updates language.

1    **[3.84] Section 33 (2)**

2        *omit everything before*

3        the provision

4        *substitute*

5        (2) Section 18 does not make it unlawful for a person (the *first person*)  
6        to discriminate against someone else in relation to

7    **Explanatory note**

8    This amendment updates language.

9    **[3.85] Section 33 (2)**

10       *omit*

11       firstmentioned

12       *substitute*

13       first

14   **Explanatory note**

15   This amendment updates language.

16   **[3.86] Section 34 heading**

17       *substitute*

18   **34    Genuine occupational qualifications—sex**

19   **Explanatory note**

20   This amendment distinguishes the section heading from other section headings in the Act.

21   **[3.87] Section 34 (1)**

22       *substitute*

23       (1) Section 10 (1) (a) or (b), section 12 (1) (a) or (b), section 13 (b) or  
24       section 14 (1) (a) or (2) (a) does not make it unlawful for a person to  
25       discriminate against someone else (the *relevant person*) on the  
26       ground of sex in relation to a position as an employee, commission

1 agent, contract worker or partner if it is a genuine occupational  
2 qualification for the position that the position be filled by a person  
3 of the opposite sex to the relevant person.

4 **Explanatory note**

5 This amendment updates language.

6 **[3.88] Section 34 (2)**

7 *omit*

8 the generality of

9 **Explanatory note**

10 This amendment omits unnecessary words.

11 **[3.89] Section 36**

12 *omit*

13 Nothing in section 18 renders

14 *substitute*

15 Section 18 does not make

16 **Explanatory note**

17 This amendment updates language.

18 **[3.90] Section 36**

19 *omit*

20 refusal or

21 **Explanatory note**

22 This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines  
23 *fail* to include refuse.

1    **[3.91] Section 36, new note**

2        *insert*

3        *Note*      The Legislation Act, dict, pt 1 defines *fail* to include refuse.

4    **Explanatory note**

5    This amendment inserts a note to remind readers about the extended meaning of *fail*.

6    **[3.92] Section 37**

7        *substitute*

8    **37      Pregnancy, childbirth or breastfeeding**

9        Part 3 does not make it unlawful for a person to discriminate against  
10       a man on the ground of sex only because the person gives a woman  
11       rights or privileges in relation to pregnancy, childbirth or  
12       breastfeeding.

13   **Explanatory note**

14   This amendment updates language.

15   **[3.93] Section 38**

16        *omit*

17        Nothing in part 3 renders

18        *substitute*

19        Part 3 does not make

20   **Explanatory note**

21   This amendment updates language.

22   **[3.94] Section 39 (1) (a)**

23        *omit*

24        determined

25        *substitute*

26        decided



1 **Explanatory note**

2 This amendment updates language.

3 **[3.95] Section 39 (2)**

4 *substitute*

5 (2) Part 3 does not make unlawful discrimination on the ground of sex  
6 in relation to the provision of accommodation if the accommodation  
7 is provided solely for people of one sex who are students at an  
8 educational institution.

9 **Explanatory note**

10 This amendment updates language.

11 **[3.96] Section 40 (1)**

12 *omit*

13 Nothing in section 22 renders

14 *substitute*

15 Section 22 does not make

16 **Explanatory note**

17 This amendment updates language.

18 **[3.97] Section 40 (2)**

19 *omit*

20 Nothing in section 22 (1) (b) or 22 (2) renders

21 *substitute*

22 Section 22 (1) (b) or 22 (2) does not make

23 **Explanatory note**

24 This amendment updates language.

1    **[3.98] Section 40 (3)**

2            *omit everything before paragraph (a), substitute*

3            (3) In deciding any matter relating to the application of subsection (2),  
4            the following must be taken into account:

5    **Explanatory note**

6    This amendment updates language.

7    **[3.99] Section 40 (3) (a) to (c)**

8            *omit*

9            and

10   **Explanatory note**

11   This amendment is consequential on another amendment of section 40 (3).

12   **[3.100] Section 40 (3) (d)**

13            *omit*

14            women; and

15            *substitute*

16            women;

17   **Explanatory note**

18   This amendment is consequential on another amendment of section 40 (3).

19   **[3.101] Section 41 (1)**

20            *omit*

21            Nothing in part 3 renders

22            *substitute*

23            Part 3 does not make

24   **Explanatory note**

25   This amendment updates language.

1 **[3.102] Section 42 heading**

2 *substitute*

3 **42 Genuine occupational qualifications—race**

4 **Explanatory note**

5 This amendment distinguishes the section heading from other section headings in the Act.

6 **[3.103] Section 42 (1)**

7 *substitute*

8 (1) Section 10 (1) (a) or (b), section 12 (1) (a) or (b), section 13 (b) or  
9 section 14 (1) (a) or (2) (a) does not make it unlawful for a person to  
10 discriminate against someone else (the *relevant person*) on the  
11 ground of race in relation to a position as an employee, commission  
12 agent, contract worker or partner if it is a genuine occupational  
13 qualification for the position that the position be filled by a person  
14 of a different race to the relevant person.

15 **Explanatory note**

16 This amendment updates language.

17 **[3.104] Section 42 (2)**

18 *omit*

19 the generality of

20 **Explanatory note**

21 This amendment omits unnecessary words.

22 **[3.105] Section 43 (1) and (2)**

23 *substitute*

24 (1) Section 22 does not make unlawful discrimination on the ground of  
25 race in relation to a club that has as its principal object providing  
26 benefits for people of a stated race if those people are described  
27 other than—

28 (a) by reference to colour; or

1            (b) in a way that has the effect of excluding some members of that  
2            race on the basis of colour.

3            (2) In deciding what the principal object of the club is for  
4            subsection (1), the following must be taken into account:

5            (a) the essential character of the club;

6            (b) if the people mainly enjoying the benefits of membership are  
7            of the race stated in the principal object;

8            (c) any other relevant circumstance.

9            **Explanatory note**

10           This amendment updates language.

11           **[3.106]      Section 44**

12           *omit everything before paragraph (a), substitute*

13           **44      Religious workers**

14           Section 10 (1) (a) or (b), section 12 (1) (a) or (b), section 13 (b) or  
15           section 14 (1) (a) or (2) (a) does not make unlawful—

16           **Explanatory note**

17           This amendment updates language.

18           **[3.107]      Section 45**

19           *omit everything before paragraph (a), substitute*

20           **45      Political workers etc**

21           Section 10 (1) (a) or (b), section 12 (1) (a) or (b), section 13 (b) or  
22           section 14 (1) (a) or (2) (a) does not make unlawful discrimination  
23           on the ground of political conviction in relation to employment or  
24           work—

25           **Explanatory note**

26           This amendment updates language.

1 **[3.108] Section 46**

2 *omit*

3 Nothing in section 18 renders

4 *substitute*

5 Section 18 does not make

6 **Explanatory note**

7 This amendment updates language.

8 **[3.109] Section 46**

9 *omit*

10 refusal or

11 **Explanatory note**

12 This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines  
13 *fail* to include refuse.

14 **[3.110] Section 46, new note**

15 *insert*

16 *Note* The Legislation Act, dict, pt 1 defines *fail* to include refuse.

17 **Explanatory note**

18 This amendment inserts a note to remind readers about the extended meaning of *fail*.

19 **[3.111] Section 47**

20 *substitute*

21 **47 Unjustifiable hardship**

22 In deciding what is unjustifiable hardship for this division, all the  
23 relevant circumstances of the particular case must be taken into  
24 account, including the following:

- 25 (a) the nature of the benefit or detriment likely to accrue or be  
26 suffered by all people concerned;

- 1            (b) the nature of the disability of the person concerned;
- 2            (c) the financial circumstances of, and the estimated amount of
- 3            expenditure by, the person claiming unjustifiable hardship.

4      **Explanatory note**

5      This amendment updates language.

6      **[3.112]      Section 48**

7            *omit everything before paragraph (a), substitute*

8      **48      Genuine occupational qualifications—disability**

9            Section 10 (1) (a) or (b), section 12 (1) (a) or (b), section 13 (b) or

10           section 14 (1) (a) or (2) (a) does not make it unlawful to

11           discriminate against a person on the ground of disability in relation

12           to employment or work that involves any of the following activities:

13      **Explanatory note**

14      This amendment distinguishes the section heading from other section headings in the Act

15      and updates language.

16      **[3.113]      Section 48 (c)**

17            *substitute*

- 18            (c) providing people who have a particular disability with services
- 19            for the purpose of promoting their welfare, if the services can
- 20            most effectively be provided by a person with a similar
- 21            disability;

22      **Explanatory note**

23      This amendment updates language.

24      **[3.114]      Section 49 (2)**

25            *omit everything before paragraph (a), substitute*

- 26            (2) Section 10 (1) (c) or (2) (a) or (b), section 12 (1) (c) or (2) (a) or (b),
- 27            section 13 (a) or (c) or section 14 (1) (b), (2) (b) or (3) (a) does not
- 28            make it unlawful for a person (the *first person*) to discriminate

1 against someone else on the ground of disability in relation to any  
2 setting by the first person of terms or conditions for the performance  
3 of work that is essential to the position concerned, if the terms or  
4 conditions are reasonable having regard to either or both of the  
5 following:

6 **Explanatory note**

7 This amendment updates language.

8 **[3.115] Section 49 (3)**

9 *substitute*

10 (3) In this section:

11 *disability*, of a person, includes a disability that the person has.

12 *Note* *Disability* is defined for the Act in s 5AA.

13 **Explanatory note**

14 This amendment amends what was the definition of *impairment* for the section to make it  
15 a definition of *disability*. The term ‘disability’ is to be used in the Act instead of  
16 ‘impairment’.

17 This is a textual change that brings terminology used in the Act into line with other  
18 legislation (including the *Disability Services Act 1991* (ACT) and the *Disability*  
19 *Discrimination Act 1992* (Cwlth)) and common usage.

20 **[3.116] Section 50 (2)**

21 *substitute*

22 (2) In this section:

23 *disability*, of a person, includes a disability that the person has.

24 *Note* *Disability* is defined for the Act in s 5AA.

25 **Explanatory note**

26 This amendment amends what was the definition of *impairment* for the section to make it  
27 a definition of *disability*. The term ‘disability’ is to be used in the Act instead of  
28 ‘impairment’.

1    This is a textual change that brings terminology used in the Act into line with other  
2    legislation (including the *Disability Services Act 1991* (ACT) and the *Disability*  
3    *Discrimination Act 1992* (Cwlth)) and common usage.

4    **[3.117]      Section 51 (1)**

5        *omit*

6        Nothing in section 18 renders

7        *substitute*

8        Section 18 does not make

9    **Explanatory note**

10   This amendment updates language.

11   **[3.118]      Section 51 (1)**

12        *omit*

13        refusal or

14   **Explanatory note**

15   This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines  
16   *fail* to include refuse.

17   **[3.119]      Section 51 (1), new note**

18        *insert*

19        *Note*      The Legislation Act, dict, pt 1 defines *fail* to include refuse.

20   **Explanatory note**

21   This amendment inserts a note to remind readers about the extended meaning of *fail*.

22   **[3.120]      Section 51 (2)**

23        *omit*

24        Nothing in section 18 renders

25        *substitute*

26        Section 18 does not make



1 **Explanatory note**

2 This amendment updates language.

3 **[3.121] Section 51 (2)**

4 *omit*

5 refusal or

6 **Explanatory note**

7 This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines  
8 *fail* to include refuse.

9 **[3.122] Section 52 (1)**

10 *omit*

11 Nothing in section 19 renders

12 *substitute*

13 Section 19 does not make

14 **Explanatory note**

15 This amendment updates language.

16 **[3.123] Section 53**

17 *substitute*

18 **53 Discrimination in the provision of goods and services**

19 (1) Section 20 does not make unlawful discrimination on the ground of  
20 disability in relation to the provision of goods, services or facilities  
21 if—

22 (a) because of a person's disability, the goods, services or facilities  
23 would have to be provided in a special way; and

24 (b) their provision in that way would impose unjustifiable hardship  
25 on the person providing, or proposing to provide, the goods,  
26 services or facilities.

1        (2) In this section:

2                *services* includes services provided by an employment agency.

3        **Explanatory note**

4        This amendment updates language and brings the provision into line with current drafting  
5        practice.

6        **[3.124]      Section 54**

7                *omit*

8                Nothing in section 21 renders

9                *substitute*

10              Section 21 does not make

11        **Explanatory note**

12        This amendment updates language.

13        **[3.125]      Section 55 (1)**

14              *omit*

15              Nothing in section 22 renders

16              *substitute*

17              Section 22 does not make

18        **Explanatory note**

19        This amendment updates language.

20        **[3.126]      Section 55 (2)**

21              *substitute*

22        (2) In deciding what the principal object of a club is for subsection (1),  
23        the following must be taken into account:

24              (a) the essential character of the club;

25              (b) if the people mainly enjoying the benefits of membership have  
26              the particular disability;

1 (c) any other relevant circumstance.

2 **Explanatory note**

3 This amendment updates language.

4 **[3.127] Section 55 (3)**

5 *substitute*

6 (3) Section 22 does not make it unlawful to discriminate against a  
7 person on the ground of disability if the discrimination is in relation  
8 to the enjoyment of any benefit provided by a club if—

9 (a) because of the person's disability, the benefit would have to be  
10 provided to the person in a special way; and

11 (b) the provision of the benefit in that way would impose  
12 unjustifiable hardship on the club.

13 **Explanatory note**

14 This amendment updates language.

15 **[3.128] Sections 56 and 57 (1)**

16 *omit*

17 Nothing in part 3 renders

18 *substitute*

19 Part 3 does not make

20 **Explanatory note**

21 This amendment updates language.

1    **[3.129]      Section 57 (1) (b)**

2        *substitute*

3            (b) if the activity is conducted for, or mainly for, people who have  
4            a particular kind of disability—the person does not have a  
5            disability of that kind.

6    **Explanatory note**

7    This amendment updates language.

8    **[3.130]      Section 57A**

9        *omit everything before paragraph (a), substitute*

10   **57A   Genuine occupational qualifications—age**

11            Section 10 (1) (a) or (b), section 12 (1) (a) or (b), section 13 (b) or  
12            section 14 (1) (a) or (2) (a) does not make it unlawful to  
13            discriminate against a person on the ground of age in relation to  
14            employment or work that involves any of the following activities:

15   **Explanatory note**

16   This amendment distinguishes the section heading from other section headings in the Act  
17   and updates language.

18   **[3.131]      Section 57A (c)**

19        *substitute*

20            (c) providing people belonging to a particular age group with  
21            services for the purpose of promoting their welfare, if the  
22            services can most effectively be provided by a person  
23            belonging to a particular age group.

24   **Explanatory note**

25   This amendment updates language.

1 **[3.132] Section 57B (1) and (2)**

2 *substitute*

3 (1) This section applies if an award provides for the payment of reduced  
4 wages to employees under 21 years old.

5 (2) If this section applies, section 10 (1) or 10 (2) (a) or (b) does not  
6 make it unlawful for an employer to discriminate against a person  
7 on the ground of age—

8 (a) if the person is 21 years old or older—in relation to the offer of  
9 employment to a person under 21 years old; or

10 (b) if the person is under 21 years old—in relation to the payment  
11 of reduced wages to the person in accordance with the award.

12 **Explanatory note**

13 This amendment updates language.

14 **[3.133] Section 57C**

15 *substitute*

16 **57C Employment and work—health and safety**

17 (1) Section 10 (1) (c) or (2) (a) or (b), section 12 (1) (c) or (2) (a) or (b),  
18 section 13 (a) or (c) or section 14 (1) (b), (2) (b) or (3) (a) does not  
19 make it unlawful to discriminate against a person on the ground of  
20 age in relation to employment or work, or qualifications for  
21 employment or work, if the discrimination is practised in order to  
22 comply with reasonable health and safety requirements relevant to  
23 the employment or work.

24 (2) In deciding what health and safety requirements are reasonable for  
25 subsection (1), all the relevant circumstances of the particular case  
26 must be taken into account, including the effects of the  
27 discrimination on the person discriminated against.

28 **Explanatory note**

29 This amendment updates language.

1    **[3.134]      Section 57E (1)**

2        *substitute*

3        (1) Section 18 does not make it unlawful to discriminate against a  
4            person on the ground of age in relation to the admission of the  
5            person to an educational institution if the level of education or  
6            training sought is provided only for students older than a particular  
7            age.

8    **Explanatory note**

9        This amendment updates language.

10   **[3.135]      Section 57E (2)**

11        *omit*

12        Nothing in section 18 renders it unlawful to refuse or fail

13        *substitute*

14        Section 18 does not make it unlawful to fail

15   **Explanatory note**

16        This amendment updates language and omits unnecessary words. The Legislation Act,  
17        dictionary, part 1 defines *fail* to include refuse.

18   **[3.136]      Section 57E (2), new note**

19        *insert*

20        *Note*      The Legislation Act, dict, pt 1 defines *fail* to include refuse.

21   **Explanatory note**

22        This amendment inserts a note to remind readers about the extended meaning of *fail*.

---

1 **[3.137] Section 57G**

2 *substitute*

3 **57G Legal incapacity**

4 Part 3 does not make it unlawful to discriminate against a person on  
5 the ground of age in relation to a transaction if the person is subject  
6 to a legal incapacity because of his or her age and the incapacity is  
7 relevant to the transaction.

8 **Explanatory note**

9 This amendment updates language.

10 **[3.138] Section 57H**

11 *substitute*

12 **57H Benefits and concessions**

13 Division 3.2 does not make it unlawful to discriminate against a  
14 person in relation to the provision of genuine benefits, including  
15 concessions, to someone else because of his or her age.

16 **Explanatory note**

17 This amendment updates language.

18 **[3.139] Section 57J (1)**

19 *omit*

20 Nothing in section 19 or 20 renders

21 *substitute*

22 Section 19 or 20 does not make

23 **Explanatory note**

24 This amendment updates language.

1    **[3.140]      Section 57J (2)**

2        *substitute*

3        (2) In deciding what health and safety requirements are reasonable for  
4            subsection (1), all the relevant circumstances of the particular case  
5            must be taken into account, including the effects of the  
6            discrimination on the person discriminated against.

7    **Explanatory note**

8    This amendment updates language.

9    **[3.141]      Section 57K**

10        *omit*

11        Nothing in section 20 or 21 renders

12        *substitute*

13        Section 20 or 21 does not make

14    **Explanatory note**

15    This amendment updates language.

16    **[3.142]      Section 57L**

17        *substitute*

18    **57L    Clubs**

19        (1) Section 20 or 22 does not make it unlawful for a club to discriminate  
20            against a person on the ground of age if the club's principal object is  
21            providing benefits for people belonging to a particular age group.

22        (2) In deciding what the principal object of a club is for subsection (1),  
23            the following must be taken into account:

24            (a) the essential character of the club;

25            (b) if the people mainly enjoying the benefits of membership  
26            belong to the particular age group stated in the club's objects;



1 (c) any other relevant circumstances.

2 **Explanatory note**

3 This amendment updates language.

4 **[3.143] Section 57M**

5 *substitute*

6 **57M Sport**

7 (1) Part 3 does not make it unlawful to discriminate against a person on  
8 the ground of age by his or her exclusion from participation in any  
9 competitive sport if competition is only allowed between people  
10 belonging to a particular age group.

11 (2) This section does not apply in relation to the exclusion of people  
12 from participation in—

13 (a) coaching people doing any sporting activity; or

14 (b) umpiring or refereeing any sporting activity; or

15 (c) administering any sporting activity; or

16 (d) any sporting activity prescribed under the regulations.

17 **Explanatory note**

18 This amendment updates language.

19 **[3.144] Section 57N**

20 *omit*

21 Nothing in part 3 renders

22 *substitute*

23 Part 3 does not make

24 **Explanatory note**

25 This amendment updates language.

1    **[3.145]      Section 58**

2        *substitute*

3    **58      Meaning of *sexual harassment* for pt 5**

4        (1) In this part:

5            *sexual harassment*—a person subjects someone else to *sexual*  
6            *harassment* if the person makes an unwelcome sexual advance, or  
7            an unwelcome request for sexual favours, to the other person or  
8            engages in other unwelcome conduct of a sexual nature in  
9            circumstances in which the other person reasonably feels offended,  
10           *humiliated* or *intimidated*.

11        (2) In this section:

12            *conduct*, of a sexual nature, includes the making of a statement of a  
13            sexual nature to, or in the presence of, a person, whether the  
14            statement is made orally or in writing.

15    **Explanatory note**

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

17    **[3.146]      Section 65 heading**

18        *substitute*

19    **65      Meaning of *public act* for pt 6**

20    **Explanatory note**

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

22    **[3.147]      Section 65, definition of *public act*, paragraph (b)**

23        *omit*

24        not being

25        *substitute*

26        other than

1 **Explanatory note**

2 This amendment updates language.

3 **[3.148] Section 66 (2)**

4 *omit everything before paragraph (a), substitute*

5 (2) This section does not make unlawful—

6 **Explanatory note**

7 This amendment updates language.

8 **[3.149] Section 68 (1)**

9 *omit everything before paragraph (a), substitute*

10 (1) It is unlawful for a person (the *first person*) to subject someone else  
11 to any detriment on the ground that the other person has—

12 **Explanatory note**

13 This amendment updates language and allows a later amendment to update language by  
14 replacing ‘firstmentioned’ with the tag term ‘*first person*’.

15 **[3.150] Section 68 (1) (c)**

16 *substitute*

17 (c) given information or produced a document to a person  
18 exercising a function under or for this Act; or

19 **Explanatory note**

20 This amendment omits unnecessary words and updates language. *Function* is defined in  
21 the Legislation Act, dictionary, to include authority, duty and power.

22 **[3.151] Section 68 (1)**

23 *omit*

24 firstmentioned

25 *substitute*

26 first

1    **Explanatory note**

2    This amendment updates language.

3    **[3.152]      Section 70 heading**

4        *substitute*

5    **70      Meaning of *party* for pt 8**

6    **Explanatory note**

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

8    **[3.153]      Section 71 (2)**

9        *omit everything before*

10       *conduct*

11       *substitute*

12       (2) If, apart from an exception, excuse, qualification or exemption  
13       under this Act,

14    **Explanatory note**

15    This amendment updates language and omits unnecessary words. The Legislation Act,  
16    dict, pt 1 defines *under* to include 'by virtue of'.

17    **[3.154]      Section 72 (2)**

18       *omit everything before paragraph (b), substitute*

19       (2) A person must not act as an agent unless the person is—

20           (a) authorised in writing to act on behalf of the aggrieved person  
21           or people concerned; or

22    **Explanatory note**

23    This amendment updates language.

1 **[3.155] Section 73**

2 *omit everything before paragraph (a), substitute*

3 **73 Investigation**

4 The commissioner must investigate a complaint made in accordance  
5 with section 72 to decide—

6 **Explanatory note**

7 This amendment updates language.

8 **[3.156] Section 74**

9 *substitute*

10 **74 Notice of investigation**

11 Before beginning an investigation in relation to a complaint, the  
12 commissioner must give each party written notice that the complaint  
13 is to be investigated.

14 **Explanatory note**

15 This amendment updates language.

16 **[3.157] Section 75 (1)**

17 *substitute*

18 (1) Subject to this part, an investigation is to be conducted in the way  
19 the commissioner considers appropriate.

20 **Explanatory note**

21 This amendment updates language.

1    **[3.158]      Section 79 heading**

2        *omit*

3        **precluded**

4        *substitute*

5        **prevented**

6    **Explanatory note**

7    This amendment updates language.

8    **[3.159]      Section 79**

9        *omit*

10       Nothing in section 78 prevents

11       *substitute*

12       Section 78 does not prevent

13    **Explanatory note**

14    This amendment updates language.

15    **[3.160]      Section 80 (1)**

16       *omit*

17       of his or her own motion

18       *substitute*

19       on his or her own initiative

20    **Explanatory note**

21    This amendment updates language.

1 **[3.161] Section 81 (1)**

2 *substitute*

- 3 (1) If, because of the investigation of a complaint lodged under  
4 section 72, the commissioner decides that a relevant ground exists in  
5 relation to the complaint, the commissioner must decline the  
6 complaint.

7 **Explanatory note**

8 This amendment updates language.

9 **[3.162] Section 81 (2)**

10 *omit*

11 the purposes of

12 **Explanatory note**

13 This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines  
14 *for*, in relation to an Act, to include for the purposes of the Act.

15 **[3.163] Section 82 (3)**

16 *substitute*

- 17 (3) A conference must be held in private and is to be conducted in the  
18 way the commissioner considers appropriate.

19 **Explanatory note**

20 This amendment updates language.

21 **[3.164] Section 82 (4) (a)**

22 *substitute*

- 23 (a) an individual is not entitled to be represented at a conference  
24 by someone else; and

25 **Explanatory note**

26 This amendment updates language and replaces ‘natural person’ with ‘individual’.  
27 *Individual* is defined in the Legislation Act, dictionary, part 1 to mean a natural person.

1    **[3.165]      Section 82 (4) (b)**

2            *omit*

3            of persons (whether incorporated or unincorporated)

4    **Explanatory note**

5    This amendment omits an unnecessary reference to body ‘of persons (whether  
6    incorporated or unincorporated)’. *Body* is defined in the Legislation Act, dictionary, part 1  
7    to include any group of people joined together for a common purpose, whether  
8    incorporated or unincorporated.

9    **[3.166]      Section 83 (2)**

10           *omit*

11           determined

12           *substitute*

13           decided

14    **Explanatory note**

15    This amendment updates language.

16    **[3.167]      Section 84**

17           *substitute*

18    **84      Conduct of conciliation**

19           Conciliation is to be conducted in the way the commissioner  
20           considers appropriate.

21    **Explanatory note**

22    This amendment updates language.



---

1 **[3.168] Section 91 (1) (c) and (d)**

2 *omit*

3 determine

4 *substitute*

5 decide

6 **Explanatory note**

7 This amendment updates language.

8 **[3.169] Section 92 (2)**

9 *substitute*

10 (2) The tribunal may, on application or its own initiative, direct that a  
11 hearing or part of a hearing take place in private and give directions  
12 about the people who may be present.

13 **Explanatory note**

14 This amendment updates language.

15 **[3.170] Section 93 (1)**

16 *substitute*

17 (1) The tribunal may sit in the places in the ACT that the president  
18 decides.

19 **Explanatory note**

20 This amendment updates language. In particular, when ‘the Territory’ is used in the  
21 geographical sense, current drafting practice is to use ‘ACT’ instead. *ACT* is defined in  
22 the Legislation Act, dictionary, part 1.

1    **[3.171]      Section 95 (2)**

2        *substitute*

3        (2) Subsection (1) does not prevent the representation of a party that is a  
4        body by a member, officer or employee of the party.

5    **Explanatory note**

6    This amendment updates language and omits an unnecessary reference to body 'of  
7    persons'. *Body* is defined in the Legislation Act, dictionary, part 1 to include any group of  
8    people joined together for a common purpose, whether incorporated or unincorporated.

9    **[3.172]      Section 102 (3) (b) and (4) (b)**

10       *omit*

11       determined

12       *substitute*

13       decided

14    **Explanatory note**

15    This amendment updates language.

16    **[3.173]      Section 105**

17       *omit*

18       Nothing in this division permits

19       *substitute*

20       This division does not permit

21    **Explanatory note**

22    This amendment updates language.

1 **[3.174] Section 106**

2 *omit*

3 commencement

4 *substitute*

5 beginning

6 **Explanatory note**

7 This amendment updates language.

8 **[3.175] Section 108 (1)**

9 *omit everything after paragraph (c), substitute*

10 must not be published, or must not be published except in the way,  
11 or to the people, the commissioner or tribunal specifies.

12 **Explanatory note**

13 This amendment updates language.

14 **[3.176] Section 108C (4) (c)**

15 *substitute*

16 (c) must permit a person who would be entitled to inspect the  
17 document (if it was not in the possession of the commissioner  
18 or tribunal) to inspect the document at any reasonable time  
19 during the period.

20 **Explanatory note**

21 This amendment updates language.

22 **[3.177] Section 108G**

23 *omit*

24 nothing in this Act confers on

25 *substitute*

26 this Act does not give

1    **Explanatory note**

2    This amendment updates language.

3    **[3.178]      Section 108H**

4        *omit*

5        shall, for the purposes of this Act, be taken

6        *substitute*

7        is taken, for this Act,

8    **Explanatory note**

9    This amendment updates language. The Legislation Act, dictionary, part 1 defines *for*, in  
10 relation to an Act, to include for the purposes of the Act.

11 **[3.179]      Section 108K (b)**

12        *omit*

13        determines

14        *substitute*

15        decides

16 **Explanatory note**

17 This amendment updates language.

18 **[3.180]      Section 110A, new note**

19        *insert*

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

23 **Explanatory note**

24 This amendment inserts a new note, consequent on the omission of section 110B (2) by the  
25 next amendment. Section 110B (2) stated that the tribunal has the powers necessary and  
26 convenient to exercise the tribunal's function.

1 **[3.181] Section 110B**

2 *omit*

3 **Explanatory note**

4 This amendment omits an unnecessary provision. Section 110B (1) states that the tribunal  
5 has the functions and powers given to it under the Act. It is not necessary to state that.

6 Section 110B (2) is not necessary, because the Legislation Act, section 196 provides that a  
7 provision of a law that gives a function to an entity (including a person) also gives the  
8 entity powers necessary and convenient to exercise the function.

9 **[3.182] Section 110C (2), new notes**

10 *insert*

11 *Note 1* For the making of appointments (including acting appointments), see  
12 Legislation Act, div 19.3.

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

15 **Explanatory note**

16 This amendment inserts standard notes.

17 **[3.183] Section 110E heading**

18 *substitute*

19 **110E Conditions of appointment generally**

20 **Explanatory note**

21 This amendment updates language (replacing ‘terms’ with ‘conditions’) in line with  
22 current drafting practice.

23 **[3.184] Section 110E (2)**

24 *omit*

25 terms

26 *substitute*

27 conditions

1    **Explanatory note**

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

3    **[3.185]      Section 110F (b)**

4        *omit*

5    **Explanatory note**

6    This amendment removes a provision that requires the instrument of appointment to state  
7    the period of appointment. The Legislation Act, section 206 (2) provides that, if a law  
8    provides for a maximum period of appointment (see section 110G (1)), the period of  
9    appointment must be stated in the instrument of appointment.

10   **[3.186]      Section 110F (c)**

11        *renumber as section 110F (b)*

12   **Explanatory note**

13   This amendment provides for the consequential renumbering of a provision.

14   **[3.187]      Section 110G (2), new note**

15        *insert*

16        *Note*      A person's appointment also ends if the person resigns (see Legislation  
17        Act, s 210).

18   **Explanatory note**

19   This amendment inserts a standard note about the ending of an appointment.

20   **[3.188]      Section 110H (3)**

21        *omit*

22        powers

23        *substitute*

24        functions

25   **Explanatory note**

26   The reference to 'powers' is replaced with 'functions' because *function* is defined in the  
27   Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting  
28   term used now.

---

1 **[3.189] Section 110H (4)**

2 *substitute*

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

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

7 **Explanatory note**

8 This amendment updates the delegation provision, as follows:

- 9 • the words 'in writing' have been omitted because the Legislation Act, section 232  
10 provides that a delegation must be made, or evidenced, in writing;
- 11 • the word 'powers' is omitted because *function* is defined in the Legislation Act,  
12 dictionary, part 1 to include authority, duty and power, and is the drafting term used  
13 now;
- 14 • the words 'all or any' (of the registrar's functions) have been omitted because the  
15 Legislation Act, section 234 provides that the delegation instrument may provide that  
16 the delegation has effect in stated circumstances or subject to stated conditions,  
17 limitations or directions or that all of the function, or a stated part of the function, is  
18 delegated.

19 This amendment also inserts a standard note about delegations.

20 **[3.190] Section 110K (1), new note**

21 *insert*

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

23 **Explanatory note**

24 This amendment inserts a standard note about approved forms.

1    **[3.191]      Section 111**  
2        *omit everything before subsection (1) (a), substitute*

3    **111    The Discrimination Commissioner**

4        There is to be a Discrimination Commissioner.

5    **112    Functions of commissioner**

6        The commissioner has the following functions:

7    **Explanatory note**

8    This amendment updates language and is consequential on other amendments of the  
9    section and existing section 112. Existing section 111 is also renumbered as section 112  
10   by the amendment.

11   **[3.192]      Section 111 (1) (f) and (g)**

12        *substitute*

13        (f) to exercise any other function given to the commissioner under  
14        this Act or another Territory law;

15        (g) to exercise any functions of the Commonwealth commission  
16        given to the commissioner under an arrangement made under  
17        the *Human Rights and Equal Opportunity Commission Act*  
18        1986 (Cwlth);

19    **Explanatory note**

20    This amendment updates language and brings the paragraphs into line with current drafting  
21    practice.

22   **[3.193]      Section 111 (1), new note**

23        *insert*

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



1 **Explanatory note**

2 This amendment inserts a new note, consequent on the omission of section 111 (2) by the  
3 next amendment. Section 111 (2) stated that the commissioner has the powers necessary  
4 and convenient to exercise the commissioner's function.

5 **[3.194] Section 111 (2)**

6 *omit*

7 **Explanatory note**

8 This provision is not necessary, because the Legislation Act, section 196 provides that a  
9 provision of a law that gives a function to an entity (including a person) also gives the  
10 entity powers necessary and convenient to exercise the function.

11 **[3.195] Sections 112 and 114**

12 *substitute*

13 **113 Appointment of commissioner**

14 The discrimination commissioner is appointed by the Executive.

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

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

19 **114 Term of appointment of commissioner**

20 The commissioner must be appointed for a term of not longer than  
21 7 years.

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

25 **Explanatory note**

26 Existing section 112 (1) is remade, in an updated form, as new section 113. Standard notes  
27 about appointments are also inserted.

28 The part of section 112 setting up the office of Discrimination Commissioner has been  
29 moved to a separate section in accordance with current drafting practice (see new  
30 section 111).

1 Existing section 112 (2) is remade, in an updated form, as new section 114. The existing  
2 subsection included an unnecessary reference to the commissioner holding office for the  
3 period stated in the instrument of appointment. The Legislation Act, section 206 (2)  
4 provides that, if a law provides for a maximum period of appointment (which this  
5 provision does), the instrument of appointment must state the period for which the  
6 appointment is made.

7 Existing section 112 (2) also included an unnecessary reference to reappointment. The  
8 Legislation Act, section 208 provides that a person may be reappointed to a position if the  
9 person is eligible to be appointed to the position. A standard note about section 208 is also  
10 inserted.

11 Existing section 114 dealt with resignation. This is unnecessary, because the Legislation  
12 Act, section 210 provides that a person's appointment also ends if the person resigns. A  
13 note to this effect is inserted in section 115 by the next amendment.

14 **[3.196]      Sections 115 to 117**

15            *substitute*

16 **115      Ending of appointment of commissioner**

17            The Executive may end the appointment of the commissioner for  
18            misbehaviour or physical or mental incapacity.

19            *Note*      A person's appointment also ends if the person resigns (see Legislation  
20            Act, s 210).

21 **116      Conditions of appointment of commissioner**

22            The commissioner holds the position on the conditions (if any)  
23            about matters not provided for by this Act that are decided by the  
24            Minister in writing.

25 **Explanatory note**

26            This amendment updates language and inserts a standard note about the ending of an  
27            appointment.

28            Existing section 117 (about acting appointments) is no longer necessary, for the following  
29            reasons:

- 30            • the Legislation Act, section 209 provides that a power to make an  
31            appointment includes the power to make an acting appointment during  
32            vacancies and when the holder of the position is not available; and

- 1           • the bar on acting for longer than 1 year is contained in the Legislation Act,  
2           section 221 (1); and  
3           • the Legislation Act, section 225 states that an acting appointment is not  
4           affected by a defect etc.

5   **[3.197]       Section 120**

6           *substitute*

7   **120   Delegation**

8           The commissioner may delegate the commissioner's functions under  
9           section 80 or 82 to a member of the commissioner's staff.

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

12   **Explanatory note**

13   This amendment updates the delegation provision, as follows:

- 14           • the words 'in writing' have been omitted because the Legislation Act, section 232  
15           provides that a delegation must be made, or evidenced, in writing;
- 16           • the word 'powers' is omitted because *function* is defined in the Legislation Act,  
17           dictionary, part 1 to include authority, duty and power, and is the drafting term used  
18           now;
- 19           • the word 'any' (of the commissioner's functions) has been omitted because the  
20           Legislation Act, section 234 provides that the delegation instrument may provide that  
21           the delegation has effect in stated circumstances or subject to stated conditions,  
22           limitations or directions or that all of the function, or a stated part of the function, is  
23           delegated.

24   This amendment also inserts a standard note about delegations.

25   **[3.198]       Section 121 (a)**

26           *omit*

27           or an acting president

28   **Explanatory note**

29   This amendment omits unnecessary words. The Legislation Act, section 220 (b) states that  
30   where a person is acting in a position, all Territory laws apply in relation to the person as if  
31   the person were the occupant of the position.

1    **[3.199]      Section 121 (f)**

2                *omit*

3                or power

4    **Explanatory note**

5    This amendment omits unnecessary words. *Function* is defined in the Legislation Act,  
6    dictionary, to include authority, duty and power.

7    **[3.200]      Section 122 (1), definition of *person to whom this***  
8                    ***section applies*, paragraph (a)**

9                *omit*

10               or an acting president

11    **Explanatory note**

12    This amendment omits unnecessary words. The Legislation Act, section 220 (b) states that  
13    where a person is acting in a position, all Territory laws apply in relation to the person as if  
14    the person were the occupant of the position.

15    **[3.201]      Section 122 (1), definition of *person to whom this***  
16                    ***section applies*, paragraph (e) and definition of**  
17                    ***protected information*, paragraph (b)**

18                *omit*

19                or power

20    **Explanatory note**

21    This amendment omits unnecessary words. *Function* is defined in the Legislation Act,  
22    dictionary, to include authority, duty and power.

23    **[3.202]      Section 124 (2)**

24                *omit*

25                think

26                *substitute*

27                consider

1 **Explanatory note**

2 This amendment updates language.

3 **[3.203] Section 125**

4 *omit*

5 shall be deemed, for the purposes of this Act

6 *substitute*

7 is taken, for this Act

8 **Explanatory note**

9 This amendment updates language and omits unnecessary words. The Legislation Act,  
10 dictionary, part 1 defines *for*, in relation to an Act, to include for the purposes of the Act.

11 **[3.204] Section 126A (1), new note**

12 *insert*

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

14 **Explanatory note**

15 This amendment inserts a standard note about approved forms.

16 **[3.205] New dictionary**

17 *insert*

18 **Dictionary**

19 (see s 2)

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

22 *Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

- 23
- 24 • body
  - 25 • chief executive
  - 26 • corporation
  - 27 • domestic partner (see s 169)
  - domestic partnership (see s 169)

- 1                    • external Territory
- 2                    • fail
- 3                    • for
- 4                    • individual
- 5                    • in relation to
- 6                    • State
- 7                    • Territory authority
- 8                    • the Territory
- 9                    • under.

10                *complainant*—see section 5.

11                *doing* an act—see section 4A.

12                *party*, for part 8 (Complaints)—see section 70.

13                *public act*, for part 6 (Racial vilification)—see section 65.

14                *respondent*—see section 5.

15                *sexual harassment*, for part 5 (Sexual harassment)—see section 58.

16                **Explanatory note**

17                This amendment inserts a new dictionary and standard dictionary notes. The amendment  
18                also includes signpost definitions in the dictionary in line with current drafting practice.  
19                The signpost definitions help readers locate terms defined elsewhere in the Act.

20                **[3.206] Further amendments, mentions of persons**

21                *omit*

22                persons

23                *substitute*

24                people

25                *in*

- 26                • section 3 (d)
- 27                • section 4 (1), definition of *committee of management*
- 28                • section 4 (1), definition of *employment agency*
- 29                • section 7 (2) (a) and (b)

- 1           • section 8 (1) (b)
- 2           • section 9 (1)
- 3           • section 11 (a)
- 4           • section 14 (1)
- 5           • section 25A (a)
- 6           • section 26
- 7           • section 27 (1) (a) and (b)
- 8           • section 32 (b) and (c)
- 9           • section 34 (2)
- 10          • section 39 (1) (a)
- 11          • section 40 (1)
- 12          • section 41
- 13          • section 42 (2) (c) and (d)
- 14          • section 49 (2) (b)
- 15          • section 55 (1)
- 16          • section 57 (2)
- 17          • section 59 (6)
- 18          • section 66 (1)
- 19          • section 72 (1) (b)
- 20          • section 72 (3)
- 21          • section 78 (a)
- 22          • section 127 (2)

23       **Explanatory note**

24       These amendments update language.

1 **[3.207] Further amendments, mentions of *impairment* etc**

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
1	section 9 heading	<b>Impairment</b>	<b>Disability</b>
2	section 9 (1) to (3)	impairment	disability
3	division 4.5 heading	<b>impairment</b>	<b>disability</b>
4	section 48 (a) and (b)	impairment	disability
5	section 49 (1) (1st mention)	impairment	disability
6	section 49 (1)	an impairment	a disability
7	section 49 (1) (b)	impairment	disability
8	section 49 (2) (a)	impairment	disability
9	section 49 (2) (b)	an impairment	a disability
10	section 50 (1) (1st mention)	impairment	disability
11	section 50 (1)	an impairment	a disability
12	section 51 (1) (1st mention)	impairment	disability
13	section 51 (1)	an impairment	a disability
14	section 51 (2) (1st mention)	impairment	disability
15	section 51 (2)	an impairment	a disability
16	section 52 (1) (1st mention)	impairment	disability
17	section 52 (1) (a)	an impairment	a disability
18	section 54 (1st mention)	impairment	disability
19	section 54	an impairment	a disability
20	section 55 (1)	impairment	disability
21	section 56	impairment	disability



column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
22	section 57 (1) (1st mention)	impairment	disability
23	section 57 (1) (a)	an impairment	a disability

1 **Explanatory note**

2 This amendment replaces references to ‘impairment’ with ‘disability’ The term  
3 ‘disability’ is to be used in the Act instead of ‘impairment’, and earlier amendments  
4 replaced definitions of *impairment* with definitions of *disability* (see the amendments of  
5 sections 5AA, 49 and 50).

6 This is a textual change that brings terminology used in the Act into line with other  
7 legislation (including the *Disability Services Act 1991* (ACT) and the *Disability*  
8 *Discrimination Act 1992* (Cwlth)) and common usage.

9 **[3.208] Further amendments, mentions of *shall* etc**

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
1	section 75 (2) and (3)	shall	must
2	section 76 (1) and (2)	shall	must
3	section 80 (2)	shall	must
4	section 81 (3) and (4)	shall	must
5	section 82 (2)	shall	must
6	section 83 (1)	shall	must
7	sections 86, 87, 88 and 90	shall	must
8	section 91 (1)	shall	is to
9	section 91 (2) and (3)	shall	must
10	section 93 (2)	The tribunal shall	However, the tribunal must
11	section 96 (3)	shall be	is
12	section 96 (4)	shall	must

**Schedule 3** Technical amendments  
**Part 3.7** Discrimination Act 1991

Amendment [3.209]

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
13	section 96A (3)	shall be	is
14	sections 99 (3) and 100 (4)	shall cause a copy of the order to be served	must serve a copy of the order
15	section 101	shall remit	must remit
16	section 101	shall be	is
17	section 102 (2) and (5)	shall	must
18	section 108 (2) and (4)	shall	must
19	section 108C (2)	shall	must
20	section 108D (2)	shall	must
21	section 109 (3), (5) and (6)	shall	must
22	section 118 (1)	shall be	are
23	section 124 (4)	shall	must

1 **Explanatory note**

2 These amendments update language.

3 **[3.209] Further amendments, mentions of *where* etc**

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
1	section 29 (4)	where	if
2	section 34 (2) (i)	where	if
3	section 40 (2)	where	if
4	section 42 (2) (d)	where	if
5	section 51 (2)	where	if
6	section 57E (2)	where	if

<b>column 1 item</b>	<b>column 2 provision</b>	<b>column 3 omit</b>	<b>column 4 substitute</b>
7	section 57J (1)	where	if
8	section 57N	where	if
9	section 76 (1)	Where	If
10	section 80 (3)	Where	If
11	section 81 (3)	Where	If
12	section 83 (1)	Where	If
13	section 86 (1) and (2)	Where	If
14	sections 87 and 88	Where	If
15	section 96A (1)	where	if
16	section 96A (2)	Where	If
17	section 99 (1) and (3)	Where	If
18	section 100 (1) and (4)	Where	If
19	section 101	Where	If
20	section 102 (4) and (5)	Where	If
21	section 106	Where	If
22	section 108C (1), (3) and (4)	Where	If
23	section 109 (3) (b)	where	if
24	section 109 (5)	Where	If
25	section 122 (4)	where	if

1 **Explanatory note**

- 2 These amendments update language.

1      **Part 3.8    Duties Act 1999**

2      **[3.210]                          Section 145 (2)**

3                          *omit*

4                          consumer price index last issued

5                          *substitute*

6                          CPI number last published

7      **Explanatory note**

8      This amendment clarifies a reference to an increase in the consumer price index number.

9      **[3.211]                          Section 145 (4)**

10                          *omit*

11                          consumer price index last issued

12                          *substitute*

13                          CPI number last published

14      **Explanatory note**

15      This amendment clarifies a reference to a decrease in the consumer price index number.

16      **[3.212]                          Section 145 (4)**

17                          *omit*

18                          index.

19                          *substitute*

20                          CPI number.

21      **Explanatory note**

22      This amendment is consequential on the previous amendment.

1 **[3.213] Section 145 (7)**

2 *substitute*

3 (7) In this section:

4 *CPI number* means the number appearing for Canberra in the  
5 Consumer Price Index (All Groups Index) published by the  
6 Australian Statistician.

7 **Explanatory note**

8 This amendment clarifies a reference to the consumer price index number and replaces an  
9 incorrect reference to the Australian Bureau of Statistics with a reference to the ‘Australian  
10 Statistician’.

11 **Part 3.9 Environment Protection Act**  
12 **1997**

13 **[3.214] Section 4 (1), definition of *development***

14 *substitute*

15 *development*—see the Land Act, section 222.

16 **Explanatory note**

17 This amendment updates a cross-reference.

18 **[3.215] Section 49 (6)**

19 *omit*

20 part 4

21 *substitute*

22 part 6 (Approvals and orders)

23 **Explanatory note**

24 This amendment updates a cross-reference.

1    **[3.216]      Section 149 (2) (a)**

2            *substitute*

- 3            (a) the application under the Land Act, division 6.2 (Approvals)  
4            for approval to undertake the relevant development; or

5    **Explanatory note**

6    This amendment updates a cross-reference and replaces the incorrect reference to  
7    controlled activity with 'development'. An approval under the *Land (Planning and*  
8    *Environment) Act 1991*, division 6.2 is for a development, not for a controlled activity.

9    **Part 3.10                      Fire Brigade (Administration)**  
10    **Act 1974**

11    **[3.217]      Section 19B**

12            *substitute*

13    **19B   Equal employment opportunity program**

- 14    (1) For section 19A (1) (b), the commissioner must—
- 15            (a) develop an equal employment opportunity program for the  
16            brigade; and
- 17            (b) review the program.
- 18    (2) The commissioner must consult with the staff organisation, and  
19    other people the commissioner considers appropriate, before  
20    developing or reviewing the equal employment opportunity  
21    program.
- 22    (3) As soon as practicable after the development or review of the equal  
23    employment opportunity program, the commissioner must give the  
24    commissioner for public administration written particulars of the  
25    program.

- 1 (4) The commissioner for public administration may give written  
2 guidelines to the commissioner about—
- 3 (a) the matters to be included in the equal employment opportunity  
4 program; and
- 5 (b) the development, implementation or review of the program.
- 6 (5) The commissioner must take any action necessary to give effect to  
7 the equal employment opportunity program and to comply with any  
8 guidelines given under subsection (4).
- 9 (6) A report presented by the commissioner, or information given by the  
10 commissioner, under the *Annual Reports (Government Agencies)*  
11 *Act 1995*, section 8 must include particulars of the operation of this  
12 section during the period to which the report or information relates.

13 **Explanatory note**

14 This amendment updates language and replaces an obsolete reference to the ‘Head of  
15 Administration’ with the ‘commissioner for public administration’.

16 The amendment also removes—

- 17 • a spent provision that required the commissioner to do a thing within 12 months  
18 of the commencement of the section; and
- 19 • a reference to reviewing a program ‘from time to time’. The Legislation Act,  
20 section 197 provides that if a law gives a function to a person, the function may  
21 be exercised from time to time.

1      **Part 3.11**                      **First Home Owner Grant Act**  
2    **2000**

3      **[3.218]      Section 3**

4                      *substitute*

5      **2      Dictionary**

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

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

11    For example, the signpost definition '*identity card*—see the *Taxation*  
12    *Administration Act 1999*, section 3.' means that the expression 'identity  
13    card' is defined in that section and the definition applies to this Act.

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

18      **3      Notes**

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

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

21      **Explanatory note**

22                      This amendment renumbers the dictionary provision as section 2 and updates the example  
23    to note 1. The amendment also inserts a standard notes provision in line with current  
24    drafting practice.



1 **[3.219] Section 5 (3)**

2 *omit*

3 relevant interest

4 *substitute*

5 ***relevant interest***

6 **Explanatory note**

7 This amendment makes it clear that the use of the term ‘relevant interest’ in the subsection  
8 is part of the defined meaning of the term in line with the signpost definition of it in the  
9 dictionary: ‘***relevant interest*** in land—see section 5 (2), (3) and (4).’

10 **[3.220] Section 5 (4)**

11 *omit*

12 section (2) and (3)

13 *substitute*

14 subsections (2) and (3)

15 **Explanatory note**

16 This amendment corrects a minor misdescription.

17 **[3.221] Section 5 (4)**

18 *omit*

19 relevant interest

20 *substitute*

21 ***relevant interest***

22 **Explanatory note**

23 This amendment makes it clear that the use of the term ‘relevant interest’ in the subsection  
24 is part of the defined meaning of the term in line with the signpost definition of it in the  
25 dictionary: ‘***relevant interest*** in land—see section 5 (2), (3) and (4).’

1    **[3.222]      Division 2.2 heading**

2            *substitute*

3    **Division 2.2                      Eligibility criteria for applicants**

4    **Explanatory note**

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

6    **[3.223]      New section 11 (4)**

7            *insert*

8            (4) In this section:

9                    *residential property*—land in Australia is *residential property* at a  
10                    particular time if there is, at that time, a building on the land  
11                    lawfully occupied as a place of residence or suitable for occupation  
12                    as a place of residence.

13    **Explanatory note**

14    This amendment reproduces the dictionary definition of an expression that is used only in  
15    this section. The dictionary definition is omitted by a later amendment.

16    **[3.224]      Section 13 heading**

17            *substitute*

18    **13      Meaning of *eligible transaction etc***

19    **Explanatory note**

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

1 **[3.225] Section 13 (2)**

2 *omit*

3 eligible transaction

4 *substitute*

5 *eligible transaction*

6 **Explanatory note**

7 This amendment makes it clear that the use of the term ‘eligible transaction’ in the  
8 subsection is part of the defined meaning of the term in line with the signpost definition of  
9 it in the dictionary: ‘*eligible transaction*—see section 13 (1) and (2).’.

10 **[3.226] Section 13 (3)**

11 *omit*

12 **Explanatory note**

13 This amendment omits the definition of *contract for the purchase of a home* consequent  
14 on the insertion of new section 13 (7) by a later amendment.

15 **[3.227] Section 13 (4) to (7)**

16 *renumber as section 13 (3) to (6)*

17 **Explanatory note**

18 This amendment is consequential on the omission of subsection (3) by an earlier  
19 amendment.

20 **[3.228] Section 13 (5), new note**

21 *insert*

22 *Note* For when certain transactions related to moveable buildings are  
23 completed, see s (5).

24 **Explanatory note**

25 This amendment inserts a note to draw a reader’s attention to a related provision.

1    **[3.229]      New section 13 (7)**

2            *insert*

3            (7) In this section:

4            *comprehensive home building contract* means a contract under  
5            which a builder undertakes to build a home on land from the  
6            inception of the building work to the point where the home is ready  
7            for occupation and if, for any reason, the work to be carried out  
8            under such a contract is not completed, includes any further contract  
9            under which the work is to be completed.

10           *contract for the purchase of a home* means a contract for the  
11           acquisition of a relevant interest in land on which a home is built.

12           *option* to purchase includes a right of pre-emption or a right of first  
13           refusal.

14           *owner-builder* means an owner of land who builds a home, or has a  
15           home built, on the land without entering into a comprehensive home  
16           building contract.

17           *Note*      For when a person is taken to be an owner-builder in relation to a  
18           moveable building, see s (5).

19    **Explanatory note**

20    This amendment reproduces the dictionary definitions of expressions that will be used only  
21    in this section after the expiry of section 13A. The dictionary definitions are omitted by  
22    later amendments.

23    **[3.230]      Section 13A (12)**

24            *renumber as section 13A (13)*

25    **Explanatory note**

26    This amendment is consequential on the next amendment.

1 **[3.231] New section 13A (12)**

2 *insert*

3 (12) In this section:

4 *comprehensive home building contract*—see section 13 (7).

5 *contract for the purchase of a home*—see section 13 (7).

6 *owner-builder*—see section 13 (7).

7 **Explanatory note**

8 The defined terms are used only in sections 13 and 13A. Section 13A expires on 1 July  
9 2004. When the section expires the inclusion of the definitions in the dictionary will not  
10 be in accordance with current drafting practice. This amendment removes the need for  
11 further technical amendments after the expiry of section 13A.

12 **[3.232] Section 14 (1), note 2**

13 *substitute*

14 *Note 2* For how documents may be given, see Legislation Act, pt 19.5.

15 **Explanatory note**

16 This amendment removes a non-standard note and substitutes a standard note about service  
17 of documents.

18 **[3.233] Section 25 (1), note**

19 *substitute*

20 *Note 1* For how documents may be given, see Legislation Act, pt 19.5.

21 *Note 2* A fee may be determined under s 54 (Determination of fees) for this  
22 section.

23 **Explanatory note**

24 This amendment inserts a standard note about service of documents.

1    **[3.234]      Section 36 (1) (a)**

2            *after*  
3            first home owner  
4            *insert*  
5            grant

6    **Explanatory note**

7    This amendment corrects an error in a reference to the first home owner grant scheme.

8    **[3.235]      Section 39 (1), new note**

9            *insert*  
10          *Note*      For how documents may be given, see Legislation Act, pt 19.5.

11   **Explanatory note**

12   This amendment inserts a standard note about service of documents.

13   **[3.236]      Section 41 (2)**

14          *omit*  
15          conferred  
16          *substitute*  
17          given

18   **Explanatory note**

19   This amendment updates language.

20   **[3.237]      New section 50 (3) (b) (iii)**

21          *substitute*  
22                  (iii) a Commonwealth or State law for the assessment or  
23                  imposition of a tax; or

24   **Explanatory note**

25   This amendment incorporates the substance of the dictionary definition of *taxation law*.  
26   The expression is used only in this section. The dictionary definition is omitted by a later  
27   amendment.

1 **[3.238] Section 52 (2)**

2 *omit*

3 performance

4 *substitute*

5 exercise

6 **Explanatory note**

7 This amendment brings the subsection into line with current drafting practice. The  
8 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the  
9 function, and is the drafting term used now.

10 **[3.239] Section 55 (1), new note**

11 *insert*

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

13 **Explanatory note**

14 This amendment inserts a standard note about approved forms.

15 **[3.240] Dictionary**

16 *omit*

17 (see s 3)

18 *substitute*

19 (see s 2)

20 **Explanatory note**

21 This amendment is consequential on the renumbering of section 3 by an earlier  
22 amendment.

1      **[3.241]      Dictionary, new notes**

2                    *insert*

3                    *Note 1*      The Legislation Act contains definitions and other provisions relevant to  
4                    this Act.

5                    *Note 2*      In particular, the Legislation Act, dict, pt 1, defines the following terms:

- 6                    • administrative unit
- 7                    • commissioner for revenue
- 8                    • contravene
- 9                    • corporation
- 10                  • exercise
- 11                  • fail
- 12                  • function
- 13                  • penalty unit
- 14                  • State
- 15                  • writing.

16      **Explanatory note**

17      This amendment inserts standard dictionary notes.

18      **[3.242]      Dictionary, definition of *Australian citizen***

19                    *substitute*

20                    *Australian citizen* means a person who is an Australian citizen  
21                    under the *Australian Citizenship Act 1948* (Cwlth).

22      **Explanatory note**

23      This amendment updates the definition.



1 **[3.243] Dictionary, definition of *commencement date***

2 *omit*

3 section 13 (4) and (6)

4 *substitute*

5 section 13 (3) and (5)

6 **Explanatory note**

7 This amendment is consequential on the renumbering of section 13 by an earlier  
8 amendment.

9 **[3.244] Dictionary, definition of *commissioner, note***

10 *omit*

11 **Explanatory note**

12 This amendment omits a note that is made redundant by the standard dictionary notes  
13 inserted by an earlier amendment.

14 **[3.245] Dictionary, definition of *completed***

15 *omit*

16 section 13 (5) and (6)

17 *substitute*

18 section 13 (4)

19 **Explanatory note**

20 This amendment omits the reference to existing subsection (6) which does not define the  
21 term but states when a particular transaction is taken to be completed and is consequential  
22 on the renumbering of section 13 by an earlier amendment.

23 **[3.246] Dictionary, definition of *comprehensive home***  
24 ***building contract***

25 *omit*

26 This amendment is consequential on the incorporation of the definition into section 13 by  
27 an earlier amendment.

1    **[3.247]      Dictionary, definition of *consideration***

2            *omit*

3            section 13 (7)

4            *substitute*

5            section 13 (6)

6    **Explanatory note**

7    This amendment is consequential on the renumbering of section 13 by an earlier  
8    amendment.

9    **[3.248]      Dictionary, definition of *contract for the purchase***  
10            ***of a home***

11            *omit*

12    **Explanatory note**

13    This amendment is consequential on the incorporation of the definition into section 13 by  
14    an earlier amendment

15    **[3.249]      Dictionary, definition of *corresponding law*, note**

16            *omit*

17    **Explanatory note**

18    This amendment omits a note that is made redundant by the standard dictionary notes  
19    inserted by an earlier amendment.

20    **[3.250]      Dictionary, definition of *function***

21            *omit*

22    **Explanatory note**

23    This amendment omits an unnecessary definition. *Function* is defined in the Legislation  
24    Act, dictionary, part 1 to include authority, duty and power.

1 **[3.251] Dictionary, definition of *home owner***

2 *substitute*

3 *home owner*—see section 5 (1).

4 **Explanatory note**

5 This amendment updates the reference to the relevant provision.

6 **[3.252] Dictionary, definition of *identity card***

7 *omit*

8 section 3 (1)

9 *substitute*

10 section 3

11 **Explanatory note**

12 This amendment updates the reference to the relevant provision.

13 **[3.253] Dictionary, definition of *option***

14 *omit*

15 **Explanatory note**

16 This amendment is consequential on the incorporation of the definition into section 13 by  
17 an earlier amendment.

18 **[3.254] Dictionary, definition of *owner*, paragraph (b)**

19 *substitute*

20 (b) of a home—see section 5 (1).

21 **Explanatory note**

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

1    **[3.255]      Dictionary, definition of *owner-builder***

2                    *omit*

3    **Explanatory note**

4    This amendment is consequential on the incorporation of the definition into section 13 by  
5    an earlier amendment

6    **[3.256]      Dictionary, definition of *partner***

7                    *substitute*

8                    *partner*, of an applicant—see section 6.

9    **Explanatory note**

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

11   **[3.257]      Dictionary, definition of *residential property***

12                    *omit*

13   **Explanatory note**

14   This amendment is consequential on the incorporation of the definition into section 11 by  
15   an earlier amendment

16   **[3.258]      Dictionary, definition of *taxation law***

17                    *omit*

18   **Explanatory note**

19   This amendment is consequential on the incorporation of the definition into section 50 by  
20   an earlier amendment

21   **[3.259]      Dictionary, definition of *tribunal***

22                    *omit*

23   **Explanatory note**

24   This amendment omits an unnecessary definition. In each relevant use of the term it is  
25   clear that the reference is to the administrative appeals tribunal.

1 **Part 3.12 Fisheries Act 2000**

2 **[3.260] Section 7 (1) (c), new note**

3 *insert*

4 *Note* For how documents may be given, see Legislation Act, pt 19.5.

5 **Explanatory note**

6 This amendment inserts a standard note about service of documents.

7 **[3.261] Section 23, new note**

8 *insert*

9 *Note 3* For how documents may be given, see Legislation Act, pt 19.5.

10 **Explanatory note**

11 This amendment inserts a standard note about service of documents.

12 **[3.262] Sections 24 (1), 31 (2), 33 (1) and 34 (2), new note**

13 *insert*

14 *Note* For how documents may be given, see Legislation Act, pt 19.5.

15 **Explanatory note**

16 This amendment inserts a standard note about service of documents.

17 **[3.263] Section 38, new note**

18 *insert*

19 *Note 3* For how documents may be given, see Legislation Act, pt 19.5.

20 **Explanatory note**

21 This amendment inserts a standard note about service of documents.

22 **[3.264] Sections 41 and 49 (1), new note**

23 *insert*

24 *Note* For how documents may be given, see Legislation Act, pt 19.5.

25 **Explanatory note**

26 This amendment inserts a standard note about service of documents.

---

1    **[3.265]      Sections 60 (c) and 61 (1) (e)**

2            *omit*

3            persons

4            *substitute*

5            people

6    **Explanatory note**

7    This amendment updates language.

8    **[3.266]      Part 9**

9            *omit*

10    (commencement: the 90th day after this Act's notification day)

11    **Explanatory note**

12    This amendment omits a part that deals with infringement notices. The *Magistrates Court Act 1930*, part 8 (Infringement notices for certain offences) provides a system of infringement notices for offences against various Acts. Regulations are made under the *Magistrates Court Act 1930* that contain the detail for the infringement notice scheme for a particular Act.

17    The commencement of this amendment is delayed in order to allow the *Fisheries Regulations 2001* to be amended and to allow new Magistrates Court (Fisheries Infringement Notices) Regulations 2003 to be prepared.

1 **[3.267] Section 109**

2 *substitute*

3 **109 Delegation**

4 The conservator may delegate the conservator's functions under this  
5 Act to a conservation officer.

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

8 **Explanatory note**

9 This amendment updates the delegation provision by omitting the words 'in writing'  
10 because the Legislation Act, section 232 provides that a delegation must be made, or  
11 evidenced, in writing.

12 The reference to the conservator's 'powers' is replaced with 'functions', because *function*  
13 is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power,  
14 and is the drafting term used now.

15 This amendment also inserts a standard note about delegations.

16 **[3.268] Section 115 (1), new note**

17 *insert*

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

19 **Explanatory note**

20 This amendment inserts a standard note about forms.

21 **[3.269] Section 117**

22 *omit*

23 (commencement: the 90th day after this Act's notification day)

24 **Explanatory note**

25 This amendment is consequential on the omission of part 9 by an earlier amendment. The  
26 commencement of this amendment is delayed because the omission of part 9 is delayed.

- 1 **[3.270] Dictionary, new notes**
- 2 *insert*
- 3 *Note 1* The Legislation Act contains definitions and other provisions relevant to  
4 this Act.
- 5 *Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:
- 6 • administrative appeals tribunal
- 7 • conservator of flora and fauna
- 8 • contravene
- 9 • disallowable instrument
- 10 • document
- 11 • function
- 12 • magistrate
- 13 • Magistrates Court
- 14 • penalty unit (see s 133)
- 15 • power.

16 **Explanatory note**

17 This amendment inserts standard dictionary notes.

18 **[3.271] Dictionary, new definition of *commercial fishing***  
19 ***licence***

- 20 *insert*
- 21 *commercial fishing licence* means a licence mentioned in  
22 section 20.

23 **Explanatory note**

24 This amendment inserts a definition of a term used in the Act.



---

1 **[3.272] Dictionary, definition of *conservator***

2 *substitute*

3 *conservator* means the conservator of flora and fauna.

4 **Explanatory note**

5 This amendment updates the definition consequent on the insertion of a definition of  
6 conservator of flora and fauna into the Legislation Act, dictionary, part 1 by earlier  
7 legislation.

8 **[3.273] Dictionary, new definition of *import and export***  
9 ***licence***

10 *insert*

11 *import and export licence* means a licence mentioned in section 22.

12 **Explanatory note**

13 This amendment inserts a definition of a term used in the Act.

14 **[3.274] Dictionary, definition of *licence***

15 *substitute*

16 *licence* means any of the following licences issued under section 25:

- 17 (a) a commercial fishing licence;  
18 (b) a scientific licence;  
19 (c) an import and export licence.

20 **Explanatory note**

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

22 **[3.275] Dictionary, new definition of *occupier***

23 *insert*

24 *occupier*, of a place, for division 7.1 (Powers for places)—see  
25 section 53.

26 **Explanatory note**

27 This amendment inserts a signpost definition in line with current drafting practice.

1    **[3.276]      Dictionary, new definition of *scientific licence***

2                    *insert*

3                    *scientific licence* means a licence mentioned in section 21.

4    **Explanatory note**

5    This amendment inserts a definition of a term used in the Act.

6    **Part 3.13                    Gas Safety Act 2000**

7    **[3.277]      Section 22 (2), new note**

8                    *insert*

9                    *Note*      For how documents may be given, see Legislation Act, pt 19.5.

10   **Explanatory note**

11   This amendment inserts a standard note about service of documents.

12   **[3.278]      Section 29 (2) (a)**

13                    *omit*

14                    manner specified

15                    *substitute*

16                    way stated

17   **Explanatory note**

18   This amendment updates language.

19   **[3.279]      Section 29 (2), new note**

20                    *insert*

21                    *Note*      For how documents may be given, see Legislation Act, pt 19.5.

22   **Explanatory note**

23   This amendment inserts a standard note about service of documents.

---

1 **[3.280] Section 30 (3)**

2 *substitute*

- 3 (3) A person is not personally liable for an honest act or omission in  
4 relation to the exercise or purported exercise of a function under this  
5 section.

6 **Explanatory note**

7 This amendment updates language. In particular, *exercise* a function is defined in the  
8 Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term  
9 that is used now.

10 **[3.281] Section 35 (2)**

11 *substitute*

- 12 (2) A person is not personally liable for an honest act or omission in  
13 relation to the exercise or purported exercise of a function under this  
14 section.

15 **Explanatory note**

16 This amendment updates language. In particular, *exercise* a function is defined in the  
17 Legislation Act, dictionary, part 1 to include perform the function. It is the drafting term  
18 that is now used in relation to functions.

19 **[3.282] Section 36, new definition of *connected***

20 *insert*

21 *connected*—a thing is *connected* with an offence if—

- 22 (a) the offence has been committed in relation to it; or  
23 (b) it will provide evidence of the commission of the offence; or  
24 (c) it was used, or is intended to be used, to commit the offence.

25 **Explanatory note**

26 This amendment brings the form of the definition of this term in section 37 more closely  
27 into line with current drafting practice and updates language.

1    **[3.283]      Section 37**

2            *omit*

3    **Explanatory note**

4    This amendment is consequential on the insertion of a revised definition of *connected* into  
5    section 36 by the previous amendment.

6    **[3.284]      Section 38 (1), new note**

7            *insert*

8            *Note*      For how documents may be given, see Legislation Act, pt 19.5.

9    **Explanatory note**

10   This amendment inserts a standard note about service of documents.

11   **[3.285]      Section 40 (1)**

12            *substitute*

13        (1) The chief executive may appoint a person as an inspector for the gas  
14        safety legislation.

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

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

20   **Explanatory note**

21   This amendment omits the reference to the appointment being ‘in writing’ and brings the  
22   provision into line with current drafting practice. The Legislation Act, section 206  
23   provides that an appointment must be made, or evidenced, in writing.

24   The amendment also inserts standard notes about appointments.

---

1 **[3.286] Section 40 (2)**

2 *omit*

3 perform his or her

4 *substitute*

5 exercise the inspector's

6 **Explanatory note**

7 *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
8 the function, and is the drafting term used now.

9 **[3.287] Section 40 (3) (c)**

10 *omit*

11 powers

12 *substitute*

13 functions

14 **Explanatory note**

15 The reference to 'powers' is replaced with 'functions' because *function* is defined in the  
16 Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting  
17 term used now.

18 **[3.288] Section 49 (1)**

19 *omit*

20 ascertain

21 *substitute*

22 find out

23 **Explanatory note**

24 This amendment updates language.

1    **[3.289]      Section 51 (2)**

2            *substitute*

3            (2) Unless the appliance is made safe and compliant with the gas safety  
4            legislation, the inspector may give the person a written direction—

5            (a) not to use the appliance; or

6            (b) to arrange for it to be disconnected from the consumer piping  
7            system; or

8            (c) not to sell the appliance.

9            *Note*      For how documents may be served, see Legislation Act, pt 19.5.

10    **Explanatory note**

11    This amendment brings the structure of the section into line with current drafting practice  
12    and inserts a standard note about the service of documents.

13    **[3.290]      Section 53 (2) (a)**

14            *omit*

15            inform

16            *substitute*

17            tell

18    **Explanatory note**

19    This amendment updates language.

20    **[3.291]      Section 53 (2) (b)**

21            *omit*

22            thereafter

23            *substitute*

24            after telling the person

25    **Explanatory note**

26    This amendment updates archaic language.

1 **[3.292] Section 63 (1)**

2 *omit*

3 performance, or purported performance,

4 *substitute*

5 exercise or purported exercise

6 **Explanatory note**

7 *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
8 the function, and is the drafting term used now.

9 **[3.293] Section 63 (2)**

10 *omit*

11 performance or purported performance

12 *substitute*

13 exercise or purported exercise

14 **Explanatory note**

15 *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
16 the function, and is the drafting term used now.

17 **[3.294] Section 63 (3), new note**

18 *insert*

19 *Note* For other ways documents may be given, see Legislation Act, pt 19.5.

20 **Explanatory note**

21 This amendment inserts a standard note about service of documents.

1    **[3.295]      Section 64 (1)**

2            *omit*

3            performance, or purported performance

4            *substitute*

5            exercise, or purported exercise

6    **Explanatory note**

7    *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
8    the function, and is the drafting term used now.

9    **[3.296]      Section 68 (1), new note**

10          *insert*

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

12    **Explanatory note**

13    This amendment inserts a standard note about forms.

14    **[3.297]      Dictionary, new notes**

15          *insert*

16          *Note 1*      The Legislation Act contains definitions and other provisions relevant to  
17          this Act.

18          *Note 2*      In particular, the Legislation Act, dict, pt 1, defines the following terms:

- 19            • administrative appeals tribunal  
20            • chief executive  
21            • contravene  
22            • disallowable instrument  
23            • document  
24            • magistrate  
25            • notifiable instrument  
26            • penalty unit (see s 133)  
27            • State  
28            • the Territory.



1 **Explanatory note**

2 This amendment inserts standard dictionary notes.

3 **[3.298] Dictionary, new definition of *business premises***

4 *insert*

5 *business premises*, for part 6 (Enforcement)—see section 36.

6 **Explanatory note**

7 This amendment inserts a signpost definition in line with current drafting practice.

8 **[3.299] Dictionary, definition of *code***

9 *omit*

10 varied and

11 **Explanatory note**

12 This amendment omits redundant text.

13 **[3.300] Dictionary, new definition of *connected***

14 *insert*

15 *connected*, with an offence, for part 6 (Enforcement)—see  
16 section 36.

17 **Explanatory note**

18 This amendment inserts a signpost definition in line with current drafting practice.

19 **[3.301] Dictionary, definition of *daily newspaper***

20 *omit*

21 Territory

22 *substitute*

23 ACT

24 **Explanatory note**

25 This amendment is in line with current drafting practice. When ‘the Territory’ is used in  
26 the geographical sense, current drafting practice is to use ‘ACT’ instead. **ACT** is defined  
27 in the Legislation Act, dictionary, part 1.

---

1    **[3.302]      Dictionary, new definition of *offence***

2            *insert*

3            *offence*, for part 6 (Enforcement)—see section 36.

4    **Explanatory note**

5    This amendment inserts a signpost definition in line with current drafting practice.

6    **[3.303]      Dictionary, definition of *owner***

7            *substitute*

8            *owner*, of premises, means the lessor.

9    **Explanatory note**

10   This amendment omits a reference to land held in fee simple. Freehold land does not exist  
11   in the ACT.

12   **[3.304]      Dictionary, new definitions**

13            *insert*

14            *relevant utility*, in relation to a serious gas accident, for part 5  
15   (Serious gas accidents)—see section 31.

16            *sell*, for part 4 (Regulation of appliances)—see section 18.

17            *trader*, for part 4 (Regulation of appliances)—see section 18.

18   **Explanatory note**

19   This amendment inserts signpost definitions in line with current drafting practice.

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1 **Part 3.14 Insurance Authority Act 2000**

2 **[3.305] Section 6 (2), definition of *Territory owned***  
3 ***corporation***

4 *substitute*

5 *Note* *Territory owned corporation* is defined in the Legislation Act, dict,  
6 pt 1.

7 **Explanatory note**

8 This amendment omits the definition of an expression that is now defined in the  
9 Legislation Act, dictionary, part 1 and substitutes a note to explain the omission.

10 **[3.306] Section 13 (2)**

11 *omit*

12 , (if any)

13 *substitute*

14 (if any),

15 **Explanatory note**

16 This amendment corrects a typographical error.

17 **[3.307] Section 19 (1), notes**

18 *substitute*

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

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

23 **Explanatory note**

24 This amendment updates standard notes about appointments.

1    **[3.308]      Section 20 (2)**

2            *substitute*

3            (2) The instrument appointing, or evidencing the appointment of, an  
4            appointed director must state that the appointed director is the  
5            government member, a client member or a specialist member.

6    **Explanatory note**

7    This amendment removes a requirement that the instrument of appointment state the  
8    period of appointment. The Legislation Act, section 206 (2) provides that, if a law  
9    provides for a maximum period of appointment (which this Act does, see section 20 (1)),  
10   the period of appointment must be stated in the instrument of appointment.

11   **[3.309]      Section 29 (1), note**

12            *substitute*

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

15   **Explanatory note**

16   This amendment updates the standard note about appointments.

17   **[3.310]      Dictionary, new notes**

18            *insert*

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

21            *Note 2*    In particular, the Legislation Act, dict, pt 1, defines the following terms:

- 22                    • administrative unit  
23                    • Minister  
24                    • Territory authority  
25                    • Territory owned corporation  
26                    • the Territory.

27   **Explanatory note**

28   This amendment inserts standard dictionary notes.

1 **[3.311] Dictionary, new definitions**

2 *insert*

3 *client members*—see section 19 (2) (Appointment of appointed  
4 directors).

5 *government member*—see section 19 (2) (Appointment of  
6 appointed directors).

7 *specialist members*—see section 19 (2) (Appointment of appointed  
8 directors).

9 **Explanatory note**

10 This amendment inserts signpost definitions in line with current drafting practice.

11 **Part 3.15 Legal Aid Act 1977**

12 **[3.312] Section 68**

13 *substitute*

14 **68 Conditions of employment of staff**

15 (1) The commission may determine the conditions of employment of  
16 the commission's staff.

17 (2) The commissioner for public administration must approve the  
18 conditions before the commission determines them.

19 (3) The conditions of employment of the commission's staff are as  
20 determined under this section.

21 **Explanatory note**

22 This amendment brings the provision into line with current drafting practice and replaces  
23 an obsolete reference to the 'head of administration' with the 'commissioner for public  
24 administration'.

25 The amendment also removes a reference to determining terms and conditions 'from time  
26 to time'. The Legislation Act, section 197 provides that if a law gives a function to a  
27 person, the function may be exercised from time to time.

- 1    **[3.313]      Section 68A**
- 2                    *substitute*
- 3    **68A   Personnel management**
- 4            (1) The commission's powers in relation to employment matters must  
5            be exercised—
- 6                    (a) without patronage, favouritism or unjustified discrimination;  
7                    and
- 8                    (b) with regard to the equal employment opportunity program for  
9                    the commission.
- 10           (2) For the selection of a person for employment for longer than  
11           3 months or for promotion, the commission's powers must also be  
12           exercised in accordance with procedures that ensure that—
- 13                    (a) all people who are eligible have, as far as practicable, a  
14                    reasonable opportunity to apply for selection; and
- 15                    (b) the selection is made on the basis of an assessment of the  
16                    relative suitability of the applicants having regard to—
- 17                            (i) the type of duties to be exercised; and
- 18                            (ii) the abilities, qualifications, experience, personal qualities  
19                            and potential for development of each applicant that are  
20                            relevant to the exercise of the duties.
- 21           (3) For subsection (1) (b), the commission must—
- 22                    (a) develop an equal employment opportunity program for the  
23                    commission; and
- 24                    (b) review the program.
- 25           (4) The commission must consult with each relevant staff organisation  
26           and other people the commission considers appropriate before  
27           developing or reviewing the equal employment opportunity  
28           program.

- 1 (5) As soon as practicable after the development or review of the equal  
2 employment opportunity program, the commission must give the  
3 commissioner for public administration written particulars of the  
4 program.
- 5 (6) The commissioner for public administration may give written  
6 guidelines to the commission about—
- 7 (a) the matters to be included in the equal employment opportunity  
8 program; and
- 9 (b) the development, implementation or review of the program.
- 10 (7) The commission must take any action necessary to give effect to the  
11 equal employment opportunity program and to comply with any  
12 guidelines given under subsection (6).
- 13 (8) The commission must give the Minister a written report about the  
14 operation of this section during each financial year.
- 15 (9) In this section:
- 16 ***designated group*** means any of the following classes of people:
- 17 (a) members of the Aboriginal race of Australia or people who are  
18 descendants of indigenous inhabitants of the Torres Strait  
19 Islands;
- 20 (b) people who have migrated to Australia and whose first  
21 language is a language other than English, and their children;
- 22 (c) people with physical or mental disabilities;
- 23 (d) any other class of people declared by the regulations to be a  
24 designated group for this definition.
- 25 ***employment*** means—
- 26 (a) appointment as a statutory officer of the commission under  
27 section 17; or
- 28 (b) employment as a member of the staff of the commission under  
29 section 20.
-

- 1            **employment matter**, in relation to the commission, means—
- 2            (a) the selection of people by the commission for employment or
- 3            promotion; or
- 4            (b) the transfer of employees; or
- 5            (c) training and staff development for employees; or
- 6            (d) the conditions of service of employees; or
- 7            (e) any other matter related to the employment of people.
- 8            **equal employment opportunity program**, in relation to the
- 9            commission, means a program designed to ensure that—
- 10           (a) appropriate action is taken to eliminate unjustified
- 11           discrimination against women and people in designated groups
- 12           in relation to employment matters; and
- 13           (b) measures are taken to enable employees who are women or
- 14           people in designated groups to do the following as effectively
- 15           as other people and to have equal opportunities with others in
- 16           relation to other employment matters:
- 17               (i) to compete for employment, transfer or promotion;
- 18               (ii) to pursue careers.
- 19           **exercise**, of a power, includes making a report or recommendation
- 20           in relation to the exercise of the power.
- 21           **promotion** means movement within the commission resulting in an
- 22           employee doing work, and being paid, at a higher level than
- 23           previously.
- 24           **relevant staff organisation** means an organisation—
- 25           (a) within the meaning of the *Workplace Relations Act 1996*
- 26           (Cwlth); and
- 27           (b) that people employed by the commission are eligible to join;
- 28           and



- 1 (c) that is a party to an industrial award that applies in relation to  
2 the salary payable for that employment.
- 3 ***unjustified discrimination*** includes—
- 4 (a) discrimination that is unlawful under the *Discrimination*  
5 *Act 1991*; and
- 6 (b) unjustified discrimination on the ground of age or social origin;  
7 but does not include—
- 8 (c) discrimination that is essential for the effective exercise of the  
9 relevant duties, is not unlawful under the *Discrimination*  
10 *Act 1991* and is prescribed under the regulations; or
- 11 (d) discrimination that is not unlawful under the *Discrimination*  
12 *Act 1991* and is in accordance with the equal employment  
13 opportunity program for the commission or with a program  
14 prescribed under the regulations.

15 **Explanatory note**

16 This amendment updates language, brings the provision into line with current drafting  
17 practice and replaces an obsolete reference to the ‘head of administration’ with the  
18 ‘commissioner for public administration’.

19 The amendment also removes—

- 20 • a spent provision that required the commission to do a thing within 12 months of  
21 the commencement of the section; and
- 22 • a reference to reviewing a program ‘from time to time’. The Legislation Act,  
23 section 197 provides that if a law gives a function to a person, the function may  
24 be exercised from time to time.  
25

1

2 **Part 3.16 Occupational Health and**  
3 **Safety (Certification of Plant**  
4 **Users and Operators)**  
5 **Regulations 2000**

6 **[3.314] Regulation 3, note 1**

7 *substitute*

8 *Note 1* The dictionary at the end of these regulations defines certain words and  
9 expressions used in these regulations, and includes references (*signpost*  
10 *definitions*) to other words and expressions defined elsewhere in these  
11 regulations.

12 For example, the signpost definition '*backhoe*—see schedule 1, part 1,  
13 clause 7.' means that the expression 'backhoe' is defined in that clause.

14 **Explanatory note**

15 This amendment is consequential on the amendment of the definition of *backhoe* by  
16 another amendment in this part.

17 **[3.315] Regulation 4, note**

18 *substitute*

19 *Note* A fee may be determined under the Act, s 96A (Determination of fees)  
20 for an application under this regulation for assessment by an assessor  
21 who is a public employee.

22 **Explanatory note**

23 This amendment limits the operation of the standard fees note to applications to assessors  
24 who are public employees.

25 **[3.316] Regulation 6 (2) (b)**

26 *after*

27 guidelines

28 *insert*

1 under regulation 10

2 **Explanatory note**

3 This amendment makes it clear which guidelines are referred to in the provision and is  
4 related to the omission of the definition of *guidelines* by a later amendment in this part.

5 **[3.317] Regulation 7, new note**

6 *insert*

7 *Note* For how documents may be given, see Legislation Act, pt 19.5.

8 **Explanatory note**

9 This amendment inserts a standard note about service of documents.

10 **[3.318] Regulation 8**

11 *substitute*

12 **8 Non-public employee assessor—notice of refusal to issue**  
13 **satisfactory assessment**

14 (1) This regulation applies if an assessor who is not a public employee  
15 makes a decision to refuse to issue a notice of satisfactory  
16 assessment to a person.

17 *Note* For notice of a decision made by an assessor who is a public employee,  
18 see pt 5.

19 (2) The assessor must give the person written notice of the decision.

20 *Note* For how documents may be given, see Legislation Act, pt 19.5.

21 (3) The notice must include a statement telling the person that the  
22 person may apply to an assessor, who is a public employee, for  
23 another assessment.

24 **Explanatory note**

25 This amendment brings the regulation into line with current drafting practice. In  
26 particular, the regulation's heading is made more descriptive of its contents and the note to  
27 new subregulation (1) is included to assist users to locate relevant provisions about a  
28 related concept.

1    **[3.319]      Regulation 20 (1) (b)**

2            *omit*

3            certificate

4            *substitute*

5            person's certificate of accreditation

6    **Explanatory note**

7    This amendment removes any doubts about which certificate the paragraph refers to.

8    **[3.320]      Regulation 26, note**

9            *omit*

10           *Crimes Act 1900*, s 345

11           *substitute*

12           Criminal Code, s 45

13    **Explanatory note**

14    This amendment updates a cross-reference.

15    **[3.321]      Regulation 26, note**

16           *omit*

17           deemed

18           *substitute*

19           taken

20    **Explanatory note**

21    This amendment updates the language to bring it into line with the language of the  
22    Criminal Code, section 45.

1 **[3.322] Regulation 27 (2) (c) (i)**

2 *substitute*

3 (i) otherwise than in accordance with the guidelines under  
4 regulation 10; or

5 **Explanatory note**

6 This amendment brings the provision into line with current drafting practice and is related  
7 to the omission of the definition of *guidelines* by a later amendment in this part.

8 **[3.323] Regulation 27 (3) (b)**

9 *omit*

10 after the notice

11 *substitute*

12 after the day the notice

13 **Explanatory note**

14 This amendment brings the paragraph more closely into line with current drafting practice  
15 by including a specific reference to the day when the period begins.

16 **[3.324] Regulation 27 (6)**

17 *omit*

18 after the notice

19 *substitute*

20 after the day the notice

21 **Explanatory note**

22 This amendment brings the provision more closely into line with current drafting practice  
23 by including a specific reference to the day when the period begins.

1 **[3.325] Regulation 28 (1)**

2 *omit*

3 suspend a certificate or an endorsement immediately

4 *substitute*

5 suspend immediately a certificate of accreditation or competency, or  
6 an endorsement on a certificate,

7 **Explanatory note**

8 This amendment makes it clear which certificates and endorsements are referred to in the  
9 provision.

10 **[3.326] Regulation 28 (2) (c)**

11 *omit*

12 notice under subregulation (4)

13 *substitute*

14 suspension notice

15 **Explanatory note**

16 This amendment brings the paragraph into line with current drafting practice by using a  
17 defined expression instead of a cross-reference.

18 **[3.327] Part 5**

19 *substitute*

20 **Part 5 Review of decisions**

21 **29 Meaning of *reviewable decision* for pt 5**

22 In this part:

23 *reviewable decision* means—

1 (a) a decision of the commissioner mentioned in schedule 3,  
2 column 3 under a provision of these regulations mentioned in  
3 schedule 3, column 2 in relation to the decision; and

4 (b) a decision of an assessor who is a public employee to refuse to  
5 issue a notice of satisfactory assessment.

6 *Note* For a decision mentioned in par (b) made by an assessor who is not a  
7 public employee, see reg 8.

## 8 **29A Notice of decisions**

9 (1) The commissioner must give written notice of a reviewable decision  
10 mentioned in schedule 3 to the person mentioned in schedule 3,  
11 column 4 in relation to the decision.

12 *Note* For how documents may be given, see Legislation Act, pt 19.5.

13 (2) The commissioner must also give written notice of a decision of an  
14 assessor who is a public employee to refuse to issue a notice of  
15 satisfactory assessment.

16 (3) The notice must be in accordance with the requirements of the code  
17 of practice in force under the *Administrative Appeals Tribunal Act*  
18 *1989*, section 25B (1).

## 19 **30 Review by administrative appeals tribunal of reviewable** 20 **decisions**

21 A person may apply in writing to the administrative appeals tribunal  
22 for review of a reviewable decision within 28 days after the day the  
23 person receives notice of the decision.

### 24 **Explanatory note**

25 This amendment brings the review provisions into line with current drafting practice. In  
26 particular, the commissioner is required to give notice in accordance with the code of  
27 practice under the *Administrative Appeals Tribunal Act 1989* and the period for making an  
28 application for review is increased from 14 days to 28 days. Also, the note to  
29 regulation 29 is included to assist users to locate a relevant provision about a related  
30 concept.

1 **[3.328] Regulation 31, new note**

2 *insert*

3 *Note* For how documents may be given, see Legislation Act, pt 19.5.

4 **Explanatory note**

5 This amendment inserts a standard note about service of documents.

6 **[3.329] Regulation 32 (1)**

7 *omit*

8 persons from the operation of any of the provisions of

9 *substitute*

10 people from

11 **Explanatory note**

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

14 **[3.330] Regulation 32 (1), new note**

15 *insert*

16 *Note* A reference to a subordinate law includes a reference to a provision of  
17 the subordinate law (see Legislation Act, s 8).

18 **Explanatory note**

19 This amendment inserts a note to assist in the interpretation of the subregulation.

20 **[3.331] Regulation 34 (2) (b), new note**

21 *insert*

22 *Note* For how documents may be given, see Legislation Act, pt 19.5.

23 **Explanatory note**

24 This amendment inserts a standard note about service of documents.



1 **[3.332] Schedule 1, part 1, clause 2 (1)**

2 *omit*

3 is capable of

4 *substitute*

5 is a crane capable of

6 **Explanatory note**

7 This amendment brings the definition of *bridge crane* into line with current drafting  
8 practice.

9 **[3.333] Schedule 2**

10 *omit*

11 **New South Wales**

12 *Occupational Health and Safety Act 1983*

13 *Occupational Health and Safety (Certificates of Competency)*  
14 *Regulation 1996*

15 *substitute*

16 **New South Wales**

17 *Occupational Health and Safety Act 2000*

18 *Occupational Health and Safety Regulation 2001*

19 **Explanatory note**

20 This amendment updates the references to corresponding laws.

1 **[3.334] New schedule 3**

2 *insert*

3 **Schedule 3 Reviewable decisions made**  
4 **by commissioner**

(see reg 29)

5 *Note* For decisions of assessors to refuse to issue a notice of satisfactory  
6 assessment, see reg 8 and reg 29.

column 1 item	column 2 regulation provision	column 3 reviewable decision	column 4 person to be notified
1	12 (1) (c)	refusing to issue certificate of competency	applicant for certificate
2	12 (1) (c)	refusing to vary certificate of competency to include an endorsement	applicant for endorsement
3	13	including condition in certificate of competency	applicant for certificate / certificate holder
4	21 (1) (c)	refusing to accredit person as an assessor	applicant for accreditation

<b>column 1 item</b>	<b>column 2 regulation provision</b>	<b>column 3 reviewable decision</b>	<b>column 4 person to be notified</b>
5	21 (1) (b)	refusing to vary certificate of accreditation to include an endorsement	applicant for endorsement
6	22	including condition in certificate of accreditation	applicant for certificate / certificate holder
7	27 (1)	suspending or cancelling certificate of competency/ endorsement	certificate holder
8	27 (2)	suspending or cancelling certificate of accreditation/ endorsement	certificate holder
9	28 (1)	immediately suspending certificate of accreditation / endorsement	certificate holder
10	28 (1)	immediately suspending certificate of competency/ endorsement	certificate holder

**Schedule 3** Technical amendments  
**Part 3.16** Occupational Health and Safety (Certification of Plant Users and Operators) Regulations 2000

Amendment [3.335]

<b>column 1 item</b>	<b>column 2 regulation provision</b>	<b>column 3 reviewable decision</b>	<b>column 4 person to be notified</b>
11	32 (2) (b)	refusing to give exemption	applicant for exemption

1 **Explanatory note**

2 This amendment restates the reviewable decisions mentioned in existing regulation 29 (1)  
3 in accordance with current drafting practice. In particular, the list of reviewable decisions  
4 includes the provision under which the relevant decision is made.

5 **[3.335] Dictionary, new notes**

6 *insert*

7 *Note 1* The Legislation Act contains definitions and other provisions relevant to  
8 this Act.

9 *Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:  
10 • administrative appeals tribunal  
11 • found guilty  
12 • public employee.

13 *Note 3* Words and expressions used in these regulations have the same meaning  
14 that they have in the *Occupational Health and Safety Act 1989* (see  
15 Legislation Act, s 148). In particular, the following term is defined in  
16 the *Occupational Health and Safety Act 1989*, s 5:  
17 • commissioner.

18 **Explanatory note**

19 This amendment inserts standard dictionary notes.

20 This amendment also inserts a standard note into the dictionary about terms defined in the  
21 Act under which the regulations are made.

22 **[3.336] Dictionary, definition of assessor**

23 *omit*

24 appointed

25 *substitute*

1 accredited

2 **Explanatory note**

3 This amendment revises the definition to bring it into line with regulation 19, which deals  
4 with the accreditation of assessors.

5 **[3.337] Dictionary, definition of *backhoe***

6 *substitute*

7 *backhoe*—see schedule 1, part 1, clause 7.

8 **Explanatory note**

9 This amendment brings the definition into line with current drafting practice by defining it  
10 for the purposes of the regulations as a whole, rather than only for schedule 1.

11 **[3.338] Dictionary, definition of *boom-type elevating work***  
12 ***platform***

13 *substitute*

14 *boom-type elevating work platform*, for schedule 1 (Scheduled  
15 work)—see schedule 1, part 1, clause 8.

16 **Explanatory note**

17 This amendment brings the definition into line with other definitions in the dictionary.

18 **[3.339] Dictionary, new definition of *certificate of***  
19 ***accreditation***

20 *insert*

21 *certificate of accreditation* means a certificate issued under  
22 regulation 21.

23 **Explanatory note**

24 This amendment inserts the definition of an expression used in the regulations.

25 **[3.340] Dictionary, definitions of *forklift truck, front-end***  
26 ***loader and front-end loader of the skid-steer type***

27 *substitute*

---

1 *forklift truck*, for schedule 1 (Scheduled work)—see schedule 1,  
2 part 1, clause 13.

3 *front-end loader*—see schedule 1, part 1, clause 14 (1).

4 *front-end loader of the skid-steer type*, for schedule 1 (Scheduled  
5 work)—see schedule 1, part 1, clause 14 (2).

6 **Explanatory note**

7 This amendment brings the definitions into line with other definitions in the dictionary.

8 **[3.341] Dictionary, definition of *guidelines***

9 *omit*

10 **Explanatory note**

11 This amendment omits a redundant definition.

12 **[3.342] Dictionary, definition of *mobile crane***

13 *substitute*

14 *mobile crane*, for schedule 1 (Scheduled work)—see schedule 1,  
15 part 1, clause 16.

16 **Explanatory note**

17 This amendment brings the definition into line with other definitions in the dictionary.

18 **[3.343] Dictionary, definition of *record of training***

19 *omit*

20 **Explanatory note**

21 This amendment omits a redundant definition.

22 **[3.344] Dictionary, new definition of *reviewable decision***

23 *insert*

24 *reviewable decision*, for part 5—see regulation 29.

1 **Explanatory note**

2 This amendment is consequential on the substitution of a new part 5 by another  
3 amendment.

4 **[3.345] Dictionary, definitions of *scaffold* and *scaffolding***

5 *substitute*

6 *scaffold*, for schedule 1 (Scheduled work)—see schedule 1, part 1,  
7 clause 22 (1).

8 *scaffolding*—see schedule 1, part 1, clause 22 (2).

9 **Explanatory note**

10 This amendment brings the definitions into line with other definitions in the dictionary.

11 **[3.346] Dictionary, definition of *supervisor***

12 *substitute*

13 *supervisor*, for a trainee doing scheduled work, for division 2.3  
14 (Trainees)—see regulation 16.

15 **Explanatory note**

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

17 **[3.347] Dictionary, definition of *the Act***

18 *omit*

19 **Explanatory note**

20 This amendment omits an unnecessary definition. The Legislation Act, section 105  
21 provides that in a statutory instrument, a reference to *the Act* is a reference to the Act  
22 under which the instrument is made.

1      **Part 3.17**                      **Public Health Regulations**  
2    **2000**

3      **[3.348]      Regulation 3**

4                      *substitute*

5      **2      Dictionary**

6                      The dictionary at the end of these regulations is part of these  
7                      regulations.

8                      *Note 1*      The dictionary at the end of these regulations defines certain words and  
9                      expressions used in these regulations, and includes references (*signpost*  
10                      *definitions*) to other words and expressions defined elsewhere in these  
11                      regulations or in other legislation.

12                      For example, the signpost definition '*child-care centre*—see the  
13                      *Children and Young People Act 1999*, section 328.' means that the  
14                      expression 'child care centre' is defined in that section and the  
15                      definition applies to these regulations.

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

20      **3      Notes**

21                      A note included in these regulations is explanatory and is not part of  
22                      these regulations.

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

24      **Explanatory note**

25                      This amendment renumbers the regulation, brings the regulation heading into line with  
26                      current drafting practice and updates the standard notes.

27                      This amendment also inserts a standard notes provision in line with current drafting  
28                      practice.



1 **[3.349] Regulation 13 (2), new note**

2 *insert*

3 *Note* For how documents may be given, see Legislation Act, pt 19.5.

4 **Explanatory note**

5 This amendment inserts a standard note about service of documents.

6 **[3.350] Regulation 22**

7 *omit everything before paragraph (a), substitute*

8 **22 Meaning of *registrable information* for div 3.1**

9 In this division:

10 *registrable information* means the following information about a  
11 woman and her cervical smear or cervical tissue:

12 **Explanatory note**

13 This amendment brings the provision into line with current drafting practice.

14 **[3.351] Regulation 23 (4)**

15 *omit*

16 Territory

17 *substitute*

18 ACT

19 **Explanatory note**

20 This amendment is in line with current drafting practice. When ‘the Territory’ is used in  
21 the geographical sense, current drafting practice is to use ‘ACT’ instead. *ACT* is defined  
22 in the Legislation Act, dictionary, part 1.

1    **[3.352]      Regulation 25 (1)**

2                    *substitute*

3            (1) The chief health officer must maintain a cervical cytology register.

4    **Explanatory note**

5    This amendment brings the provision into line with current drafting practice.

6    **[3.353]      Regulation 31**

7                    *substitute*

8    **31      Establishment**

9            The chief health officer must maintain a management committee in  
10          accordance with this division.

11   **Explanatory note**

12   This amendment brings the provision into line with current drafting practice.

13   **[3.354]      Regulation 35 (1), new note**

14                    *insert*

15            *Note*    For the making of appointments (including acting appointments), see  
16          Legislation Act, div 19.3.

17   **Explanatory note**

18   This amendment inserts a standard note about appointments.

19   **[3.355]      Regulation 37**

20                    *substitute*

21   **37      Ending of appointment**

22            The chief health officer may end the appointment of a member—

23            (a) for misbehaviour or physical or mental incapacity; or

1 (b) on written notice from the organisation who nominated the  
2 member.

3 *Note* A person's appointment also ends if the person resigns (see Legislation  
4 Act, s 210).

5 **Explanatory note**

6 This amendment updates language (replacing 'terminate' with 'end'). 'End' is the drafting  
7 term that is now used in relation to appointments. It also inserts a standard note about the  
8 ending of an appointment.

9 **[3.356] Regulation 42 (1)**

10 *omit*

11 Territory

12 *substitute*

13 ACT

14 **Explanatory note**

15 This amendment is in line with current drafting practice. When 'the Territory' is used in  
16 the geographical sense, current drafting practice is to use 'ACT' instead. *ACT* is defined  
17 in the Legislation Act, dictionary, part 1.

18 **[3.357] Regulation 42 (1), note**

19 *substitute*

20 *Note 1* If a form is approved under the Act, s 137A (Approved forms) for a  
21 notice, the form must be used.

22 *Note 2* For how documents may be given, see Legislation Act, pt 19.5.

23 **Explanatory note**

24 This amendment inserts a standard note about service of documents.

1    **[3.358]      Regulations 43 (1) and 55 (4) (a)**

2            *omit*

3            Territory

4            *substitute*

5            ACT

6    **Explanatory note**

7    This amendment is in line with current drafting practice. When ‘the Territory’ is used in  
8    the geographical sense, current drafting practice is to use ‘ACT’ instead. *ACT* is defined  
9    in the Legislation Act, dictionary, part 1.

10   **[3.359]      Dictionary**

11           *omit*

12           (see reg 3)

13           *substitute*

14           (see reg 2)

15   **Explanatory note**

16   This amendment is consequential on the renumbering of regulation 3 by an earlier  
17   amendment.

18   **[3.360]      Dictionary, note 2**

19           *substitute*

20           *Note 2*    In particular, the Legislation Act, dict, pt 1, defines the following terms:

- 21                    • ACT
- 22                    • administrative appeals tribunal
- 23                    • appoint
- 24                    • chief health officer
- 25                    • disallowable instrument
- 26                    • doctor
- 27                    • document
- 28                    • function
- 29                    • nurse
- 30                    • State

- 1                                   • the Territory.

2           *Note 3*   Words and expressions used in these regulations have the same meaning  
3                                   that they have in the *Public Health Act 1997* (see Legislation Act,  
4                                   s 148). In particular, the following terms are defined in the *Public*  
5                                   *Health Act 1997*, dict:

- 6                                   • authorised officer  
7                                   • authorised medical officer  
8                                   • insanitary condition  
9                                   • transmissible notifiable condition.

10   **Explanatory note**

11   This amendment inserts standard dictionary notes.

12   This amendment also inserts a standard note into the dictionary about terms defined in the  
13   Act under which the regulations are made.

14   **[3.361]           Dictionary, definitions of *authorised officer* and**  
15   ***authorised medical officer***

16                                   *omit*

17   **Explanatory note**

18   This amendment omits signpost definitions of terms defined in the *Public Health Act 1997*,  
19   dictionary. It is not legally necessary to include the signpost definitions (see the  
20   Legislation Act, section 148), but they were included to help readers find the meaning of  
21   the terms. Instead of including signpost definitions, current drafting practice is to include  
22   a note that states that terms used in the regulations are defined in the Act, dictionary under  
23   which the regulation is made, and to list some of those terms.

24   **[3.362]           Dictionary, definition of *cancer register***

25                                   *substitute*

26                                   *cancer register* means the register maintained by the chief health  
27                                   officer under regulation 46.

28   **Explanatory note**

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

1    **[3.363]      Dictionary, definition of *Cervical Cytology Register***

2                    *substitute*

3                    *cervical cytology register* means the register maintained by the chief  
4                    health officer under regulation 25.

5    **Explanatory note**

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

7    **[3.364]      Dictionary, definition of *immunisation***

8                    *substitute*

9                    *immunised*—see regulation 4.

10   **Explanatory note**

11   This amendment replaces the definition with the actual term used in regulation 4. The  
12   Legislation Act, section 157 provides that if a word is defined in an Act or regulations,  
13   other parts of speech and grammatical forms of the word have corresponding meanings eg  
14   immunisation.

15   **[3.365]      Dictionary, definition of *insanitary condition***

16                    *omit*

17   **Explanatory note**

18   This amendment omits a signpost definition of a term defined in the *Public Health Act*  
19   *1997*, dictionary. It is not legally necessary to include the signpost definition (see the  
20   Legislation Act, section 148), but it was included to help readers find the meaning of the  
21   term. Instead of including a signpost definition, current drafting practice is to include a  
22   note that states that terms used in the regulations are defined in the Act, dictionary under  
23   which the regulation is made, and to list some of those terms.

1 **[3.366] Dictionary, definition of *laboratory***

2 *omit*

3 Territory

4 *substitute*

5 ACT

6 **Explanatory note**

7 This amendment is in line with current drafting practice. When ‘the Territory’ is used in  
8 the geographical sense, current drafting practice is to use ‘ACT’ instead. *ACT* is defined  
9 in the Legislation Act, dictionary, part 1.

10 **[3.367] Dictionary, definition of *management committee***

11 *substitute*

12 *management committee* means the committee maintained by the  
13 chief health officer under regulation 31.

14 **Explanatory note**

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

16 **[3.368] Dictionary, definition of *occupier***

17 *substitute*

18 *occupier*—see the Act, section 75.

19 **Explanatory note**

20 This amendment corrects a mistake by inserting ‘the Act’ into the definition. This signpost  
21 definition is retained because it is still necessary. The definition is defined in the Act only  
22 for part 5 of the Act. The signpost definition in the regulations has the effect of applying  
23 the definition to the whole regulations.

1    **[3.369]      Dictionary, definition of *registrable information***

2            *substitute*

3            *registrable information*, for division 3.1 (Cervical cytology  
4            register)—see regulation 22.

5    **Explanatory note**

6    This amendment is consequent on the earlier amendment of regulation 22 and brings the  
7    definition into line with current drafting practice.

8    **[3.370]      Dictionary, definition of *sewerage system***

9            *omit*

10          Territory

11          *substitute*

12          ACT

13    **Explanatory note**

14    This amendment is in line with current drafting practice. When ‘the Territory’ is used in  
15    the geographical sense, current drafting practice is to use ‘ACT’ instead. *ACT* is defined  
16    in the Legislation Act, dictionary, part 1.

17    **[3.371]      Dictionary, definition of *store***

18            *substitute*

19            *store* a drug means store the drug for supply.

20    **Explanatory note**

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

22    **[3.372]      Dictionary, definition of *transmissible notifiable*  
23            *condition***

24            *omit*

25    **Explanatory note**

26    This amendment omits a signpost definition of a term defined in the *Public Health Act*  
27    *1997*, dictionary. It is not legally necessary to include the signpost definition (see the  
28    Legislation Act, section 148), but it was included to help readers find the meaning of the  
29    term. Instead of including signpost definitions, current drafting practice is to include a



1 note that states that terms used in the regulations are defined in the Act, dictionary under  
2 which the regulation is made, and to list some of those terms.

3 **Part 3.18** **Road Transport (Alcohol and**  
4 **Drugs) Regulations 2000**

5 **[3.373] Regulation 4 heading**

6 *omit*

7 **s 12 (5)**

8 *substitute*

9 **s 12 (6)**

10 **Explanatory note**

11 This amendment is consequential on the renumbering of a subsection of the *Road*  
12 *Transport (Alcohol and Drugs) Act 1977*, section 12.

13 **[3.374] Regulation 4**

14 *omit*

15 subsection 12 (5)

16 *substitute*

17 section 12 (6) (Breath analysis)

18 **Explanatory note**

19 This amendment is consequential on the renumbering of a subsection of the *Road*  
20 *Transport (Alcohol and Drugs) Act 1977*, section 12 and brings the reference into line with  
21 current drafting practice.

1      **Part 3.19**                      **Territory Superannuation**  
2    **Provision Protection Act 2000**

3      **[3.375]      Section 15**

4                      *omit*

5                      the commencement of this Act

6                      *substitute*

7                      1 July 2000

8      **Explanatory note**

9      This amendment replaces references to the commencement of the Act with the actual date  
10     to assist readers.

11     **[3.376]      Section 15, new note**

12                      *insert*

13                      *Note*      1 July 2000 was the day the Act commenced.

14     **Explanatory note**

15     This amendment inserts a note to explain the significance of the date to assist readers.

16     **[3.377]      Dictionary, new notes**

17                      *insert*

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

20                      *Note 2*      In particular, the Legislation Act, dict, pt 1, defines the following terms:

- 21                      • authorised deposit-taking institution
- 22                      • chief executive
- 23                      • Commonwealth
- 24                      • disallowable instrument
- 25                      • Legislative Assembly
- 26                      • State
- 27                      • Territory owned corporation
- 28                      • the Territory

- 1                           • Treasurer.

2   **Explanatory note**

3   This amendment inserts standard dictionary notes.

4   **[3.378]       Dictionary, definition of *superannuation***  
5                           ***appropriation, paragraph (a)***

6                           *omit*

7                           the commencement of this Act

8                           *substitute*

9                           1 July 2000

10   **Explanatory note**

11   This amendment replaces references to the commencement of the Act with the actual date  
12   of commencement to assist readers.

13   **[3.379]       Dictionary, definition of *superannuation***  
14                           ***appropriation, new note***

15                           *insert*

16                           *Note*     1 July 2000 was the day the Act commenced.

17   **Explanatory note**

18   This amendment inserts a note to explain the significance of the date to assist readers.

19   **[3.380]       Dictionary, definition of *superannuation provision***  
20                           ***account***

21                           *omit*

22                           the commencement of this Act

23                           *substitute*

24                           1 July 2000

25   **Explanatory note**

26   This amendment replaces references to the commencement of the Act with the actual date  
27   of commencement to assist readers.

---

1    **[3.381]      Dictionary, definition of *superannuation provision***  
2                    ***account*, new note**

3                    *insert*

4                    *Note*      1 July 2000 was the day the Act commenced.

5    **Explanatory note**

6    This amendment inserts a note to explain the significance of the date to assist readers.

7    **[3.382]      Dictionary, definition of *Treasurer***

8                    *omit*

9    **Explanatory note**

10   This amendment omits the definition because *Treasurer* is defined in the Legislation Act,  
11   dictionary, part 1.

12   **Part 3.20                    Utilities Act 2000**

13   **[3.383]      Section 20 (2)**

14                    *omit*

15                    performance

16                    *substitute*

17                    exercise

18   **Explanatory note**

19   *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
20   the function, and is the drafting term used now.

21   **[3.384]      Section 20 (2) (e)**

22                    *substitute*

23                    (e) the *Gas Safety Act 2000*;

24   **Explanatory note**

25   This amendment corrects a reference to an Act's name.

---

1 **[3.385] Section 23 (b)**

2 *substitute*

3 (b) for 1 or more classes of people.

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

7 **Explanatory note**

8 This amendment updates language and inserts a standard note about examples.

9 **[3.386] Section 25 (2) (d) (i)**

10 *omit*

11 performance

12 *substitute*

13 exercise

14 **Explanatory note**

15 *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
16 the function, and is the drafting term used now.

17 **[3.387] Section 30 (2)**

18 *omit*

19 In subsection (1):

20 *substitute*

21 In this section:

22 **Explanatory note**

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

1    **[3.388]      Section 36 (2) (c) (ii)**

2            *omit*

3            after the notice

4            *substitute*

5            after the day the notice

6    **Explanatory note**

7    This amendment brings the provision more closely into line with current drafting practice  
8    by including a specific reference to the day when the period begins.

9    **[3.389]      Section 41 (2) (a)**

10           *omit*

11           after the written notice

12           *substitute*

13           after the day the written notice

14    **Explanatory note**

15    This amendment brings the provision more closely into line with current drafting practice  
16    by including a specific reference to the day when the period begins.

17    **[3.390]      Section 45 (2)**

18           *omit*

19           in the performance of functions under this Act or the regulations in  
20           relation to the relevant utility service.

21           *substitute*

22           in the exercise of functions under this Act in relation to the relevant  
23           utility service.

24    **Explanatory note**

25    This amendment replaces ‘performance’ with ‘exercise’ and omits ‘or the regulations’.  
26    *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
27    the function, and is the drafting term used now. The Legislation Act, section 104 provides

1 that a reference to an Act includes a reference to the statutory instruments made or in force  
2 under the Act, including regulations.

3 **[3.391] Section 45 (3), new note**

4 *insert*

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

8 **Explanatory note**

9 This amendment inserts a standard note about examples.

10 **[3.392] Section 45 (4) (b)**

11 *omit*

12 manner in which

13 *substitute*

14 way

15 **Explanatory note**

16 This amendment updates language.

17 **[3.393] Section 45 (6)**

18 *omit*

19 after the notice

20 *substitute*

21 after the day the notice

22 **Explanatory note**

23 This amendment brings the provision more closely into line with current drafting practice  
24 by including a specific reference to the day when the period begins.

1    **[3.394]      Section 49 (1)**

2            *omit*

3            performance

4            *substitute*

5            exercise

6    **Explanatory note**

7    *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
8    the function, and is the drafting term used now.

9    **[3.395]      Section 49 (2) (c), (d) and (f)**

10           *omit*

11           manner

12           *substitute*

13           way

14    **Explanatory note**

15    This amendment updates language.

16    **[3.396]      Sections 49 (2), 55 (2) and 59 (2), new note**

17           *insert*

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    **Explanatory note**

22    This amendment inserts a standard note about examples.



1 **[3.397] Section 67 (1)**

2 *substitute*

3 (1) The chief executive may appoint a person holding the qualifications  
4 mentioned in subsection (2) as a technical inspector.

5 *Note 1* For the making of appointments (including acting appointments), see  
6 Legislation Act, div 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 s 207).

10 **Explanatory note**

11 This amendment omits the reference to the appointment being made in writing. The  
12 Legislation Act, section 206 provides that an appointment must be made, or evidenced, in  
13 writing. The amendment also inserts standard notes about appointments.

14 **[3.398] Section 67 (4)**

15 *omit*

16 perform

17 *substitute*

18 exercise

19 **Explanatory note**

20 *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
21 the function, and is the drafting term used now.

1    **[3.399]      Section 69**

2            *substitute*

3    **69      Inspectors—functions**

4            For this Act, a technical inspector may exercise the functions given  
5            to the inspector under part 10 (Enforcement).

6    **Explanatory note**

7    The reference to ‘powers’ is replaced with ‘functions’ because *function* is defined in the  
8    Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting  
9    term used now.

10   **[3.400]      Section 103, definition of *network operations***

11            *omit*

12            performance

13            *substitute*

14            exercise

15   **Explanatory note**

16   *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
17   the function, and is the drafting term used now.

18   **[3.401]      Section 104 (1)**

19            *omit*

20            performing

21            *substitute*

22            exercising

23   **Explanatory note**

24   *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
25   the function, and is the drafting term used now.

1 **[3.402] Section 105 (2)**

2 *insert*

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

6 **Explanatory note**

7 This amendment inserts a standard note about examples.

8 **[3.403] Section 106 (1)**

9 *insert*

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

13 **Explanatory note**

14 This amendment inserts a standard note about examples.

15 **[3.404] Section 111 (4) (a)**

16 *omit*

17 manner in which

18 *substitute*

19 way

20 **Explanatory note**

21 This amendment updates language.

22 **[3.405] Division 7.4 heading**

23 *substitute*

24 **Division 7.4 Authorised people**

25 **Explanatory note**

26 This amendment updates language (replacing ‘persons’ with ‘people’).

- 1    **[3.406]      Section 114 (1)**
- 2            *substitute*
- 3            (1) A utility may appoint a person as an authorised person for the utility
- 4            for this Act.
- 5            *Note 1* For the making of appointments (including acting appointments), see
- 6            Legislation Act, div 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 s 207).

10    **Explanatory note**

11    This amendment omits the reference to the appointment being made in writing and

12    replaces ‘for the purposes of’ with ‘for’. The Legislation Act, section 206 provides that an

13    appointment must be made, or evidenced, in writing. The Legislation Act, dictionary,

14    part 1 defines *for*, in relation to an Act, to include for the purposes of the Act.

15    The amendment also inserts standard notes about appointments.

- 16    **[3.407]      Section 114 (2)**
- 17            *omit*
- 18            perform
- 19            *substitute*
- 20            exercise

21    **Explanatory note**

22    *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform

23    the function, and is the drafting term used now.

---

1 **[3.408] Section 119 heading**

2 *omit*

3 **powers**

4 *substitute*

5 **functions**

6 **Explanatory note**

7 The reference to ‘powers’ is replaced with ‘functions’ because *function* is defined in the  
8 Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting  
9 term used now.

10 **[3.409] Section 119 (1) (a)**

11 *omit*

12 perform

13 *substitute*

14 exercise

15 **Explanatory note**

16 *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
17 the function, and is the drafting term used now.

18 **[3.410] Section 119 (1) (b)**

19 *omit*

20 performance

21 *substitute*

22 exercise

23 **Explanatory note**

24 *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
25 the function, and is the drafting term used now.

1    **[3.411]      Section 119 (1)**

2            *omit*

3            performed

4            *substitute*

5            exercised

6    **Explanatory note**

7    *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
8    the function, and is the drafting term used now.

9    **[3.412]      Section 133**

10           *substitute*

11    **133    Extended meaning of *network***

12           (1) In sections 130, 131 and 132:

13                *network* includes related infrastructure between the network  
14                boundary and a customer meter.

15           (2) In this section:

16                *customer meter*, in relation to the supply of electricity, gas or water,  
17                means a meter used to measure the supply to a customer's premises.

18    **Explanatory note**

19    This amendment brings the structure of the section into line with current drafting practice.

20    **[3.413]      Section 135 (2), new notes**

21           *insert*

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

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

26    **Explanatory note**

27    This amendment inserts standard notes about appointments.

---

1 **[3.414] Section 135 (4)**

2 *substitute*

3 (4) A controller holds the position on the conditions stated in the  
4 instrument of appointment.

5 **Explanatory note**

6 This amendment brings the provision into line with current drafting practice.

7 **[3.415] Section 135 (5), new note**

8 *insert*

9 *Note* A person's appointment also ends if the person resigns (see Legislation  
10 Act, s 210).

11 **Explanatory note**

12 This amendment inserts a standard note about the ending of an appointment.

13 **[3.416] Section 136 heading**

14 *substitute*

15 **136 Controller's functions**

16 **Explanatory note**

17 This amendment updates the section heading to more accurately reflect the section's  
18 contents.

19 **[3.417] Section 136 (2), new note**

20 *insert*

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

24 **Explanatory note**

25 This amendment inserts a new note, consequent on the omission of section 136 (3) by the  
26 next amendment. Section 136 (3) stated that the controller has the powers necessary and  
27 convenient to exercise the controller's function.

1    **[3.418]      Section 136 (3)**

2            *omit*

3    **Explanatory note**

4    This amendment omits an unnecessary provision. The Legislation Act, section 196  
5    provides that a provision of a law that gives a function to an entity (including a person)  
6    also gives the entity powers necessary and convenient to exercise the function.

7    **[3.419]      Sections 139 (1), 142 (1) and 149 (c)**

8            *omit*

9            performance

10          *substitute*

11          exercise

12    **Explanatory note**

13    *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
14    the function, and is the drafting term used now.

15    **[3.420]      Section 152 (1)**

16          *substitute*

17          (1) ICRC may appoint a person as an ICRC inspector for this Act.

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

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

23    **Explanatory note**

24    This amendment omits the reference to the appointment being made in writing and  
25    replaces ‘for the purposes of’ with ‘for’. The Legislation Act, section 206 provides that an  
26    appointment must be made, or evidenced, in writing. The Legislation Act, dictionary,  
27    part 1 defines *for*, in relation to an Act, to include for the purposes of the Act.

28    The amendment also inserts standard notes about appointments.



---

1 **[3.421] Section 152 (2)**

2 *omit*

3 perform

4 *substitute*

5 exercise

6 **Explanatory note**

7 *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
8 the function, and is the drafting term used now.

9 **[3.422] Section 152 (3)**

10 *omit*

11 powers

12 *substitute*

13 functions

14 **Explanatory note**

15 The reference to ‘powers’ is replaced with ‘functions’ because *function* is defined in the  
16 Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting  
17 term used now.

18 **[3.423] Division 10.4 heading**

19 *substitute*

20 **Division 10.4 Authorised people for utility**

21 **Explanatory note**

22 This amendment updates language (replacing ‘persons’ with ‘people’).

1 **[3.424] Section 170, note**

2 *substitute*

3 *Note 1* The Legislation Act, s 196 (1) provides that a provision of an Act that  
4 gives an entity (including the council) a function also gives the entity  
5 the powers necessary and convenient to exercise the function.

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

9 **Explanatory note**

10 This amendment inserts a standard note about examples.

11 **[3.425] Section 172 (1)**

12 *omit*

13 performance

14 *substitute*

15 exercise

16 **Explanatory note**

17 *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
18 the function, and is the drafting term used now.

19 **[3.426] Section 174 (1)**

20 *omit*

21 in writing

22 **Explanatory note**

23 This amendment omits the reference to an appointment being made in writing. The  
24 Legislation Act, section 206 provides that an appointment must be made, or evidenced, in  
25 writing.

---

1 **[3.427] Section 174 (1), new notes**

2 *insert*

3 *Note 1* For the making of appointments (including acting appointments), see  
4 Legislation Act, div 19.3.

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

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

9 **Explanatory note**

10 This amendment inserts standard notes about appointments.

11 **[3.428] Section 174 (2), note**

12 *substitute*

13 *Note* The Legislation Act, s 199 (4) provides that if an Act gives a function to  
14 a body (including the council), the exercise of the function is not  
15 affected only because of vacancies in the body's membership.

16 **Explanatory note**

17 This amendment updates a note.

18 **[3.429] Section 175 (1)**

19 *substitute*

20 (1) A member of the council holds office on the conditions (if any)  
21 stated in the member's appointment about matters not provided for  
22 in this Act.

23 **Explanatory note**

24 This amendment removes an unnecessary reference to a member holding office for the  
25 period stated in the member's appointment. The Legislation Act, section 206 (2) provides  
26 that if a law provides for a maximum period of appointment (which this provision does,  
27 see section 175 (2) and (3)), the instrument of appointment must state the period for which  
28 the appointment is made.

1      **[3.430]      Section 175 (3), note**

2                      *substitute*

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

6      **Explanatory note**

7      This amendment updates a note.

8      **[3.431]      Section 178**

9                      *substitute*

10      **178      Registrar**

11                      The chief executive may appoint a public servant as the registrar of  
12                      the council.

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

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

17      **Explanatory note**

18      This amendment removes the requirement that the chief executive must create and  
19      maintain an office for the registrar etc in the public service. The Legislation Act,  
20      section 207 provides that an appointment may be made by naming the person appointed or  
21      by nominating the occupant of a position (however described), at a particular time or from  
22      time to time.

23      Standard notes about appointments are also inserted.

---

1 **[3.432] Section 179 (1)**

2 *omit*

3 performance

4 *substitute*

5 exercise

6 **Explanatory note**

7 *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
8 the function, and is the drafting term used now.

9 **[3.433] Section 180**

10 *substitute*

11 **180 Immunity from personal liability**

12 (1) The following are not personally liable for an honest act or omission  
13 in relation to the exercise or purported exercise of a function of the  
14 council under this Act:

15 (a) a person who is, or has been, a member of the council;

16 (b) a person who is, or has been, the registrar;

17 (c) a person who is, or has been, a public servant acting under an  
18 arrangement mentioned in section 179.

19 (2) Subsection (1) does not affect any liability that the Territory would  
20 have in relation to the act or omission apart from that subsection.

21 **Explanatory note**

22 This amendment updates language. In particular, *exercise* a function is defined in the  
23 Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term  
24 used now.

1    **[3.434]      Section 181 (3)**

2            *omit*

3            perform

4            *substitute*

5            exercise

6    **Explanatory note**

7    *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
8    the function, and is the drafting term used now.

9    **[3.435]      Section 182 heading**

10           *omit*

11           **powers**

12           *substitute*

13           **functions**

14    **Explanatory note**

15    The reference to ‘powers’ is replaced with ‘functions’ because *function* is defined in the  
16    Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting  
17    term used now.

18    **[3.436]      Section 182 (1)**

19           *omit*

20           powers

21           *substitute*

22           functions

23    **Explanatory note**

24    The reference to ‘powers’ is replaced with ‘functions’ because *function* is defined in the  
25    Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting  
26    term used now.

1 **[3.437] Section 189 (1) (b), new note**

2 *insert*

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

6 **Explanatory note**

7 This amendment inserts a standard note about examples.

8 **[3.438] Section 191 (1) (b)**

9 *substitute*

10 (b) may conduct its consideration of a complaint in the way it  
11 considers appropriate.

12 **Explanatory note**

13 This amendment updates language.

14 **[3.439] Section 198 (1) (a)**

15 *omit*

16 body politic or corporate, by an officer of the body

17 *substitute*

18 corporation, by a proper officer of the corporation

19 **Explanatory note**

20 This amendment updates language. *Corporation* is defined in the Legislation Act,  
21 dictionary, part 1 to include a body politic or corporate.

22 **[3.440] Section 203 (1)**

23 *omit*

24 manner, or to the persons

25 *substitute*

26 way, or to the people

1    **Explanatory note**

2    This amendment updates language.

3    **[3.441]      Section 205 (3) (b)**

4        *omit*

5        manner

6        *substitute*

7        way

8    **Explanatory note**

9    This amendment updates language.

10   **[3.442]      Section 207 (3), new note**

11        *insert*

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

15   **Explanatory note**

16   This amendment inserts a standard note about examples.

17   **[3.443]      Section 209 (4) (b)**

18        *omit*

19        performance

20        *substitute*

21        exercise

22   **Explanatory note**

23   *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
24   the function, and is the drafting term used now.



1 **[3.444] Section 219, new note**

2 *insert*

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

6 **Explanatory note**

7 This amendment inserts a standard note about examples.

8 **[3.445] Section 221 (2), new note**

9 *insert*

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

13 **Explanatory note**

14 This amendment inserts a standard note about examples.

15 **[3.446] Sections 229A (1) and 229B (1), new note**

16 *insert*

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

18 **Explanatory note**

19 This amendment inserts a standard note about approved forms.

20 **[3.447] Dictionary, new notes**

21 *insert*

22 *Note 1* The Legislation Act contains definitions and other provisions relevant to  
23 this Act.

24 *Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

- 25 • administrative appeals tribunal  
26 • corporation  
27 • disallowable instrument  
28 • exercise  
29 • function  
30 • magistrate

- 1                    • Magistrates Court
- 2                    • Minister
- 3                    • national land
- 4                    • notifiable instrument
- 5                    • public servant
- 6                    • State
- 7                    • Supreme Court
- 8                    • the Territory.

9      **Explanatory note**

10     This amendment inserts standard dictionary notes.

11     **[3.448]      Dictionary, definition of *data storage device***

12                    *insert*

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

16     **Explanatory note**

17     This amendment inserts a standard note about examples.

18     **[3.449]      Dictionary, definitions of *installation* and**  
19                    ***interference***

20                    *substitute*

21                    *installation*, of a network facility, for part 7 (Network operations)—  
22                    see section 103.

23                    *interference*, with a network or network facility, for part 8  
24                    (Protection of networks)—see section 123.

25     **Explanatory note**

26     This amendment brings the definitions into line with current drafting practice.

1 **[3.450] Dictionary, definition of *party***

2 *substitute*

3 *party*, to a complaint, for part 12 (Complaints)—see section 184.

4 **Explanatory note**

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

6 **[3.451] Dictionary, definition of *respondent***

7 *substitute*

8 *respondent*, to a complaint, for part 12 (Complaints)—see  
9 section 184.

10 **Explanatory note**

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

12 **[3.452] Dictionary, definition of *utility service*,  
13 paragraph (e)**

14 *substitute*

15 (e) a service prescribed to be a utility service under section 15  
16 (Prescribed utility services).

17 **Explanatory note**

18 This amendment corrects an incorrect reference to prescribed services in the existing  
19 definition.

20 **[3.453] Dictionary, definition of *withdrawal***

21 *substitute*

22 *withdrawal*, of a utility service, for part 12 (Complaints)—see  
23 section 184.

24 **Explanatory note**

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

- 1    **[3.454]      Further amendments, mentions of *persons***
- 2            *omit*
- 3            persons
- 4            *substitute*
- 5            people
- 6            *in*
- 7            • section 33 (5), definition of *group*, paragraph (b)
- 8            • section 60 (1) (a) (iii)
- 9            • section 64 (1) (b) and (2)
- 10          • section 105 (4)
- 11          • section 109 (5) (b)
- 12          • section 110 (8) (b)
- 13          • section 111 (6) (b)
- 14          • section 115 (1)
- 15          • section 116 (1) (a)
- 16          • section 125 (9), definition of *urgent circumstances*,
- 17            paragraph (b)
- 18          • section 159 (1) (d)
- 19          • section 170 (c)
- 20          • section 221 (2)
- 21          • dictionary, definition of *owner*

22    **Explanatory note**

23    These amendments update language.

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## 1 **Part 3.21** **Victims of Crime Act 1994**

### 2 **[3.455] Section 1**

3 *substitute*

#### 4 **1 Name of Act**

5 This Act is the *Victims of Crime Act 1994*.

#### 6 **Explanatory note**

7 This amendment revises the section providing for the Act's name to bring it into line with  
8 current drafting practice.

### 9 **[3.456] Section 3 (1), definition of *coordinator***

10 *substitute*

11 *coordinator* means the Victims of Crime Coordinator.

#### 12 **Explanatory note**

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

### 14 **[3.457] Section 3 (1), definition of *offence***

15 *omit*

16 Territory

17 *substitute*

18 ACT

#### 19 **Explanatory note**

20 This amendment is in line with current drafting practice. When 'the Territory' is used in  
21 the geographical sense, current drafting practice is to use 'ACT' instead. *ACT* is defined  
22 in the Legislation Act, dictionary, part 1.

1    **[3.458]      Section 3 (1), definitions (as amended)**

2                    *relocate to dictionary*

3    **Explanatory note**

4    This amendment relocates the definitions to a new dictionary inserted by another  
5    amendment.

6    **[3.459]      Section 3, remainder**

7                    *substitute*

8    **2      Dictionary**

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

10                  *Note 1*    The dictionary at the end of this Act defines certain words and  
11                  expressions used in this Act.

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

16    **3      Notes**

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

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

19    **Explanatory note**

20    This amendment inserts standard dictionary and notes provisions in line with current  
21    drafting practice.

22    **[3.460]      Section 4**

23                    *omit*

24                    shall

25                    *substitute*

26                    are to

27    **Explanatory note**

28    This amendment updates language.

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1 **[3.461] Section 4 (a)**

2 *omit*

3 manner

4 *substitute*

5 way

6 **Explanatory note**

7 This amendment updates language.

8 **[3.462] Section 4 (a)**

9 *omit*

10 due

11 *substitute*

12 appropriate

13 **Explanatory note**

14 This amendment updates language.

15 **[3.463] Section 4 (b)**

16 *substitute*

17 (b) a victim should be told at reasonable intervals (generally not  
18 more than 1 month) of the progress of police investigations  
19 about the relevant offence, except if the disclosure might  
20 jeopardise the investigation, and, in that case, the victim should  
21 be told accordingly;

22 **Explanatory note**

23 This amendment updates language.

1    **[3.464]      Section 4 (c), (d) and (e)**

2            *omit*

3            informed of

4            *substitute*

5            told about

6    **Explanatory note**

7    This amendment updates language.

8    **[3.465]      Section 4 (f)**

9            *substitute*

10           (f) if any victim's property is held by the Territory for the  
11           purposes of investigation or evidence—inconvenience to the  
12           victim should be minimised and the property returned  
13           promptly;

14    **Explanatory note**

15    This amendment updates language.

16    **[3.466]      Section 4 (g)**

17            *omit*

18            informed

19            *substitute*

20            told

21    **Explanatory note**

22    This amendment updates language.



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1 **[3.467] Section 4 (j)**

2 *substitute*

- 3 (j) a victim should not have to appear at preliminary hearings or  
4 committal proceedings unless the court directs the victim to  
5 appear;

6 **Explanatory note**

7 This amendment updates language.

8 **[3.468] Section 4 (l)**

9 *omit*

10 informed of

11 *substitute*

12 told about

13 **Explanatory note**

14 This amendment updates language.

15 **[3.469] Sections 5 and 6**

16 *substitute*

17 **5 Compliance with principles**

18 A person who exercises a function in the administration of justice  
19 must have regard to the governing principles mentioned in section 4,  
20 as well as other relevant matters.

21 **6 Giving information to coordinator—legal immunity**

22 (1) This section applies—

23 (a) to a person who exercises, or has exercised, a function in the  
24 administration of justice; and

25 (b) if the person—

1 (i) gives information to the coordinator that the person  
2 believes on reasonable grounds is required by the  
3 coordinator for this Act; and

4 (ii) the information is given honestly.

5 (2) A civil proceeding in relation to the information does not lie against  
6 the person.

7 (3) Subsection (2) does not affect any liability that the Territory would  
8 have in relation to the giving of information apart from that  
9 subsection.

10 **Explanatory note**

11 This amendment brings the provisions into line with current drafting practice. 'Perform' a  
12 function is replaced with 'exercise, because *exercise* a function is defined in the  
13 Legislation Act, dictionary, part 1 to include perform the function, and 'exercise' is the  
14 drafting term used now. The amendment also updates language.

15 **[3.470] Section 7 (a)**

16 *omit*

17 referred to

18 *substitute*

19 mentioned

20 **Explanatory note**

21 This amendment updates language.

22 **[3.471] Section 7 (i)**

23 *omit*

24 law of the Territory

25 *substitute*

26 Territory law

27 **Explanatory note**

28 This amendment brings the phrase into line with current drafting practice.

1 **[3.472] Section 7, new note**

2 *insert*

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

6 **Explanatory note**

7 This amendment inserts a new note, consequent on the omission of section 10 by a later  
8 amendment. Section 10 stated that the coordinator has the powers necessary and  
9 convenient to exercise the coordinator's function.

10 **[3.473] Section 9 (1)**

11 *omit*

12 referred to

13 *substitute*

14 mentioned

15 **Explanatory note**

16 This amendment updates language.

17 **[3.474] Section 9 (2)**

18 *substitute*

19 (2) A person who exercises, or has exercised, a function in the  
20 administration of justice must, as far as practicable, give the  
21 coordinator the information asked for by the coordinator for an  
22 investigation.

23 **Explanatory note**

24 This amendment brings the provisions into line with current drafting practice. 'Perform' a  
25 function is replaced with 'exercise, because *exercise* a function is defined in the  
26 Legislation Act, dictionary, part 1 to include perform the function, and 'exercise' is the  
27 drafting term used now. The amendment also updates language.

1    **[3.475]      Section 9 (3)**

2            *omit*

3            shall

4            *substitute*

5            must

6    **Explanatory note**

7    This amendment updates language.

8    **[3.476]      Section 10**

9            *omit*

10   **Explanatory note**

11   This amendment omits an unnecessary provision. The Legislation Act, section 196  
12   provides that a provision of a law that gives a function to an entity (including a person)  
13   also gives the entity powers necessary and convenient to exercise the function.

14   **[3.477]      Section 12 (1)**

15            *omit*

16            performance of a function under or in relation to this Act or another  
17            law.

18            *substitute*

19            exercise of a function under this Act or another law in force in the  
20            ACT.

21   **Explanatory note**

22   *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
23   the function, and is the drafting term used now. This amendment also omits the  
24   unnecessary reference to 'in relation to' and makes it clear that the reference to another  
25   law means a law in force in the ACT.

1 **[3.478] Section 12 (2)**

2 *omit everything before paragraph (a), substitute*

- 3 (2) In a disclosure mentioned in subsection (1), the coordinator must  
4 not—

5 **Explanatory note**

6 This amendment updates language.

7 **[3.479] Section 13**

8 *substitute*

9 **13 Protection of coordinators etc**

- 10 (1) This section applies to a person who is, or has been—

11 (a) the coordinator; or

12 (b) a person acting under the direction or authority of the  
13 coordinator.

- 14 (2) A civil proceeding does not lie against the person in relation to loss,  
15 damage or injury of any kind to someone else because of an act  
16 done, or omitted to be done, honestly in the exercise (or purported  
17 exercise) of a function under this Act or another law.

- 18 (3) Subsection (2) does not affect any liability that the Territory would  
19 have in relation to the giving of information apart from that  
20 subsection.

21 **Explanatory note**

22 This amendment brings the provisions into line with current drafting practice.  
23 ‘Performance’ of a function is replaced with ‘exercise, because *exercise* a function is  
24 defined in the Legislation Act, dictionary, part 1 to include perform the function, and  
25 ‘exercise’ is the drafting term used now. The amendment also updates language.

1    **[3.480]      Division 3.2**

2                    *substitute*

3    **Division 3.2                    The coordinator**

4    **14      The Victims of Crime Coordinator**

5                    There is to be a Victims of Crime Coordinator.

6    **15      Appointment of coordinator**

7                    The coordinator is appointed by the Minister.

8                    *Note 1*    For the making of appointments (including acting appointments), see  
9                    Legislation Act, div 19.3.

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

12    **16      Term of appointment of coordinator**

13                    The coordinator must be appointed for a term of not longer than  
14                    3 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, def  
17                    *appoint*).

18    **17      Conditions of appointment of coordinator**

19                    The coordinator holds the position on the conditions (if any) not  
20                    provided for by this Act that are stated in the instrument of  
21                    appointment.

22    **18      Ending of appointment of coordinator**

23                    The Minister may end the coordinator's appointment—

24                    (a) for misbehaviour or physical or mental incapacity; or

1 (b) under the instrument of appointment.

2 *Note* A person's appointment also ends if the person resigns (see Legislation  
3 Act, s 210).

4 **Explanatory note**

5 New section 14: This section restates existing section 14 (1).

6 New section 15: This section restates existing section 14 (2). The new section omits the  
7 reference to the appointment being made in writing. The Legislation Act, section 206  
8 provides that an appointment must be made, or evidenced, in writing. The amendment  
9 also inserts standard notes about appointments.

10 New section 16: This section restates existing section 15 (a). The new section removes a  
11 provision that requires the instrument of appointment to state the period of appointment.  
12 The Legislation Act, section 206 (2) provides that, if a law provides for a maximum period  
13 of appointment, the period of appointment must be stated in the instrument of appointment.  
14 It also removes a reference to reappointment and a note about this is inserted. The  
15 Legislation Act, section 208 provides that a person may be reappointed to a position if the  
16 person is eligible to be appointed to the position.

17 Existing section 16: This section is unnecessary, because the Legislation Act, section 210  
18 provides that a person's appointment also ends if the person resigns. A note to this effect  
19 is inserted in new section 18.

20 New section 17: This section restates existing section 15 (b) and brings it into line with  
21 current drafting practice.

22 New section 18: This section restates existing section 17 and brings the provision into  
23 line with current drafting practice. It also inserts a standard note about the ending of an  
24 appointment by resignation.

25 Existing section 18: This provision deals with acting coordinators. It is no longer  
26 necessary, for the following reasons:

- 27
- 28 • the Legislation Act, section 209 provides that a power to make an  
29 appointment includes the power to make an acting appointment during  
vacancies and when the holder of the position is not available; and
  - 30 • the bar on acting for longer than 1 year is contained in the Legislation Act,  
31 section 221 (1); and
  - 32 • the Legislation Act, section 225 states that an acting appointment is not  
33 affected by a defect etc.

1    **[3.481]      Section 19 (1)**

2            *omit*

3            shall

4            *substitute*

5            must

6    **Explanatory note**

7    This amendment updates language.

8    **[3.482]      Section 19 (2)**

9            *omit*

10          the purposes of

11    **Explanatory note**

12    This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines  
13    *for*, in relation to an Act, to include for the purposes of the Act.

14    **[3.483]      Section 19 (2) (e)**

15          *omit*

16          performance

17          *substitute*

18          exercise

19    **Explanatory note**

20    *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform  
21    the function, and is the drafting term used now.

22    **[3.484]      Section 20**

23          *omit*

24          the purposes of

25    **Explanatory note**

26    This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines  
27    *for*, in relation to an Act, to include for the purposes of the Act.



1 **[3.485] Section 21 (a)**

2 *substitute*

3 (a) the annual reporting authority nominated in accordance with  
4 the regulations were a public authority under that Act; and

5 **Explanatory note**

6 This amendment updates language.

7 **[3.486] Sections 21 (c) and 22 (a)**

8 *omit*

9 the purposes of

10 **Explanatory note**

11 This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines  
12 *for*, in relation to an Act, to include for the purposes of the Act.

13 **[3.487] Section 22 (b)**

14 *omit*

15 within the meaning of

16 *substitute*

17 under

18 **Explanatory note**

19 This amendment updates language.

20 **[3.488] New dictionary**

21 *insert*

22 **Dictionary**

23 (see s 2)

24 *Note 1* The Legislation Act contains definitions and other provisions relevant to  
25 this Act.

26 *Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

**Schedule 3**      Technical amendments  
**Part 3.22**      Victims of Crime Regulations 2000

Amendment [3.489]

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- 1                            • ACT  
2                            • law, of the Territory  
3                            • Minister  
4                            • penalty unit (see s 133)  
5                            • police officer  
6                            • the Territory.

7      **Explanatory note**

8      This amendment inserts a dictionary and standard dictionary notes.

9      **Part 3.22**                            **Victims of Crime Regulations**  
10    **2000**

11      **[3.489]      Regulation 7 (2), new notes**

12                    *insert*

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

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

17      **Explanatory note**

18      This amendment inserts standard notes about appointments.

19      **[3.490]      Regulation 8 (3)**

20                    *omit*

21                    Territory

22                    *substitute*

23                    ACT

24      **Explanatory note**

25      This amendment is in line with current drafting practice. When ‘the Territory’ is used in  
26      the geographical sense, current drafting practice is to use ‘ACT’ instead. *ACT* is defined  
27      in the Legislation Act, dictionary, part 1.

1 **[3.491] Regulation 8 (4), notes**

2 *substitute*

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

6 **Explanatory note**

7 This amendment omits note 2, which provided that a power to appoint a person to a  
8 position includes power to appoint a person to act in the position. The note about acting  
9 appointments is incorporated in the standard note about appointments (see the amendment  
10 of reg 7 (2), new note 1).

11 **[3.492] Regulation 11 (1)**

12 *substitute*

13 (1) An appointed member must not be appointed for longer than  
14 2 years.

15 **Explanatory note**

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

17 **[3.493] Regulation 12**

18 *omit*

19 **Explanatory note**

20 This amendment removes an unnecessary reference to the instrument of appointment  
21 stating the term for which an appointed member is appointed. The Legislation Act, section  
22 206 (2) provides that if a law provides for a maximum period of appointment (which these  
23 regulations do, see reg 11 (1)), the instrument of appointment must state the period for  
24 which the appointment is made.

25 **[3.494] Regulation 24 (5), definition of *found guilty***

26 *omit*

27 **Explanatory note**

28 This amendment omits an unnecessary definition. *Found guilty* is defined in the  
29 Legislation Act, dictionary, part 1.

1 **[3.495] Regulation 37**

2 *omit*

3 Territory

4 *substitute*

5 ACT

6 **Explanatory note**

7 This amendment is in line with current drafting practice. When ‘the Territory’ is used in  
8 the geographical sense, current drafting practice is to use ‘ACT’ instead. *ACT* is defined  
9 in the Legislation Act, dictionary, part 1.

10 **[3.496] Regulation 51 (1), new note**

11 *insert*

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

13 **Explanatory note**

14 This amendment inserts a standard note about approved forms.

15 **[3.497] Dictionary, new notes**

16 *insert*

17 *Note 1* The Legislation Act contains definitions and other provisions relevant to  
18 this Act.

19 *Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

- 20 • administrative appeals tribunal  
21 • chief executive  
22 • chief police officer  
23 • commissioner for health complaints  
24 • dentist  
25 • disallowable instrument  
26 • doctor  
27 • DPP  
28 • entity  
29 • found guilty  
30 • lawyer

- 1                   • Magistrates Court  
2                   • Minister  
3                   • Supreme Court.

4           *Note 3*   Words and expressions used in these regulations have the same meaning  
5                   that they have in the *Victims of Crime Act 1994* (see Legislation Act,  
6                   s 148). In particular, the following terms are defined in the *Victims of*  
7                   *Crime Act 1994*, dict:

- 8                   • harm  
9                   • victim.

10   **Explanatory note**

11   This amendment inserts standard notes into the dictionary about terms defined in the  
12   Legislation Act and in the Act under which the regulations are made.

13   **[3.498]       Dictionary, definitions of *harm* and *victim***

14           *omit*

15   **Explanatory note**

16   This amendment omits signpost definitions of terms defined in the *Victims of Crime Act*  
17   *1994*, section 3 (1). It is not legally necessary to include the signpost definitions (see the  
18   Legislation Act, section 148), but they were included to help readers find the meaning of  
19   the terms. Instead of including signpost definitions, current drafting practice is to include  
20   a note that states that terms used in the regulations are defined in the Act, dictionary under  
21   which the regulation is made, and to list some of those terms (see the above amendment).

22   **Part 3.23                   Water and Sewerage Act 2000**

23   **[3.499]       Section 3**

24           *omit*

25           the Act

26           *substitute*

27           this Act

28   **Explanatory note**

29   This amendment brings the dictionary provision into line with the standard dictionary  
30   provision.

1    **[3.500]      Sections 3 and 4**

2                    *renumber as sections 2 and 3*

3    **Explanatory note**

4    This amendment renumbers the sections.

5    **[3.501]      New section 4**

6                    *insert*

7    **4      Notes**

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

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

10   **Explanatory note**

11   This amendment inserts a standard notes provision in line with current drafting practice.

12   **[3.502]      Section 5 (1)**

13                    *substitute*

14                    (1) The owner of premises on which it is proposed to do plumbing or  
15                    sanitary drainage work must appoint a certifier in relation to the  
16                    work.

17                    *Note*      For the making of appointments, see Legislation Act, div 19.3.

18   **Explanatory note**

19   This amendment omits the reference to the appointment being made in writing. The  
20   Legislation Act, section 206 provides that an appointment must be made, or evidenced, in  
21   writing. The amendment also inserts a standard note about appointments.

1 **[3.503] Section 5 (3) and (4)**

2 *substitute*

3 (3) A certifier's appointment ends if the certifier ceases to be entitled to  
4 be appointed as a certifier in relation to the relevant work.

5 *Note 1* A person's power to make an appointment includes the power to end the  
6 appointment (see Legislation Act, s 208).

7 *Note 2* A person's appointment also ends if the person resigns (see Legislation  
8 Act, s 210).

9 (4) The Legislation Act, section 209 (Power of appointment includes  
10 power to make acting appointment) does not apply to the  
11 appointment of a certifier under this section.

12 **Explanatory note**

13 Existing section 5 (3) (a) is omitted because the Legislation Act, section 208 provides that  
14 a person's power to make an appointment includes the power to end the appointment.

15 Existing section 5 (3) (b) is omitted because the Legislation Act, section 210 provides that  
16 a person's appointment also ends if the person resigns. A note to this effect is inserted by  
17 this amendment.

18 Existing section 5 (4) is remade as section 5 (3). This amendment brings the subsection  
19 into line with current drafting practice.

20 New section 5 (4) displaces the Legislation Act, section 209, because it is not appropriate  
21 to appoint an acting certifier under this section. If a certifier appointed under this section  
22 cannot continue to be the certifier, the owner of the premises would appoint a new  
23 certifier.

24 **[3.504] Section 10**

25 *omit*

26 by virtue of section 5 (3) or (4) (Appointment of certifiers)

27 **Explanatory note**

28 This amendment is consequential on the amendment of section 5 (3) and (4) by an earlier  
29 amendment.

1    **[3.505]      Section 16 (3)**

2            *omit*

3            AS1100

4            *substitute*

5            Australian Standard 1100

6    **Explanatory note**

7    This amendment makes it clear that the reference is to an Australian Standard.

8    **[3.506]      Section 18, new definitions**

9            *insert*

10          *connected*—a thing is *connected* with an offence if—

11            (a) the offence has been committed in relation to it; or

12            (b) it will provide evidence of the commission of the offence; or

13            (c) it was used, or is intended to be used, to commit the offence.

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

16    **Explanatory note**

17    This amendment brings the form of the definitions (previously contained in section 19)  
18    more closely into line with current drafting practice.

19    **[3.507]      Section 19**

20            *omit*

21    **Explanatory note**

22    The definitions contained in section 19, a thing *connected* with an offence and *offence*,  
23    have been relocated to section 18 by the previous amendment.



1 **[3.508] Section 20 (1)**

2 *insert*

3 *Note* For how documents may be served, see Legislation Act, pt 19.5.

4 **Explanatory note**

5 This amendment inserts a standard note about service of documents.

6 **[3.509] Section 23 (1)**

7 *substitute*

8 (1) The chief executive may appoint a person as an inspector for this  
9 Act.

10 *Note 1* For the making of appointments (including acting appointments), see  
11 Legislation Act, div 19.3.

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

15 **Explanatory note**

16 This amendment omits the reference to the appointment being made in writing and ‘for a  
17 provision of this Act’. The Legislation Act, section 206 provides that an appointment must  
18 be made, or evidenced, in writing, and section 7 (3) provides that a reference to an Act  
19 includes a reference to a provision of an Act. The amendment also inserts standard notes  
20 about appointments.

21 **[3.510] Section 26**

22 *substitute*

23 **26 Delegation—chief executive**

24 The chief executive may delegate the chief executive’s functions  
25 under this part (other than section 23 (Appointment of inspectors))  
26 to an inspector or public servant.

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

1    **Explanatory note**

2    This amendment updates the delegation provision by omitting the words ‘all or any’ (of  
3    the chief executive’s functions). This is because the Legislation Act, section 234 provides  
4    that the delegation instrument may provide that the delegation has effect in stated  
5    circumstances or subject to stated conditions, limitations or directions or that all of the  
6    function, or a stated part of the delegated functions, is delegated.

7    The reference to the chief executive’s ‘powers’ is replaced with ‘functions’, because  
8    *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and  
9    power, and is the drafting term used now.

10   This amendment also inserts a standard note about delegations.

11   **[3.511]      Section 48 (1), new note**

12        *insert*

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

14   **Explanatory note**

15   This amendment inserts a standard note about approved forms.

16   **[3.512]      Dictionary**

17        *omit*

18        (see s 3)

19        *substitute*

20        (see s 2)

21   **Explanatory note**

22   This amendment is consequential on the renumbering of section 3 by an earlier  
23   amendment.

24   **[3.513]      Dictionary, new notes**

25        *insert*

26        *Note 1*      The Legislation Act contains definitions and other provisions relevant to  
27        this Act.

28        *Note 2*      In particular, the Legislation Act, dict, pt 1, defines the following terms:

- 29                        • administrative appeals tribunal  
30                        • appoint

- 1                   • chief executive
- 2                   • disallowable instrument
- 3                   • document
- 4                   • function
- 5                   • magistrate
- 6                   • penalty unit (see s 133)
- 7                   • the Territory.

8   **Explanatory note**

9   This amendment inserts standard dictionary notes.

10 **[3.514]       Dictionary, new definition of *connected***

11       *insert*

12       *connected*, with an offence, for part 4 (Enforcement)—see  
13       section 18.

14 **Explanatory note**

15 This amendment inserts a signpost definition in line with current drafting practice.

16 **[3.515]       Dictionary, definition of *function***

17       *omit*

18 **Explanatory note**

19 This amendment omits an unnecessary definition. *Function* is defined in the Legislation  
20 Act, dictionary, pt 1 to include authority, duty and power.

21 **[3.516]       Dictionary, new definitions**

22       *insert*

23       *occupier*, of premises, for part 4 (Enforcement)—see section 18.

24       *offence*, for part 4 (Enforcement)—see section 18.

25       *reasonably believes*, for part 4 (Enforcement)—see section 18.

26 **Explanatory note**

27 This amendment inserts signpost definitions in line with current drafting practice.

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1 **[3.517] Dictionary, definition of *this Act***

2 *omit*

3 **Explanatory note**

4 This amendment omits an unnecessary definition. The Legislation Act, section 104  
5 provides that a reference to an Act includes a reference to the statutory instruments made  
6 or in force under the Act, including regulations.

7 **Part 3.24 Workers Compensation Act**  
8 **1951**

9 **[3.518] Section 20 (1), definition of *CPI***

10 *omit*

11 ABS

12 *substitute*

13 Australian Statistician

14 **Explanatory note**

15 This amendment replaces an incorrect reference to the ABS (the Australian Bureau of  
16 Statistics) with a reference to the 'Australian Statistician'.

17 **[3.519] Section 20 (1), note**

18 *substitute*

19 *Note* *AWE* is defined in the dict.

20 **Explanatory note**

21 This amendment removes the reference to the *ABS*, and is consequential on the previous  
22 amendment.

23 **[3.520] Dictionary, definition of *ABS***

24 *omit*

25 **Explanatory note**

26 This amendment omits an unnecessary definition. All of the references in the Act to the  
27 ABS are replaced with references to the Australian Statistician by amendments in this part.

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1 **[3.521] Dictionary, definition of *AWE***

2 *substitute*

3 *AWE* means—

- 4 (a) the average weekly earnings, States and Territories, seasonally  
5 adjusted for the ACT (all males total earnings) contained in  
6 *Average Weekly Earnings, Australia* issued by the Australian  
7 Statistician; or
- 8 (b) if the Australian Statistician issues a publication (however  
9 described) containing average weekly earnings in substitution  
10 for, or instead of, the average weekly earnings mentioned in  
11 paragraph (a)—the substituted average weekly earnings.

12 **Explanatory note**

13 This amendment replaces an incorrect reference to the ABS (the Australian Bureau of  
14 Statistics) with a reference to the ‘Australian Statistician’ and updates the reference to the  
15 publication issued by the Australian Statistician.

1 **Schedule 4** **Repeal of redundant Act**  
2 (see s 6)

3 **Part 4.1** **Companies (Commonwealth**  
4 **Brickworks (Canberra)**  
5 **Limited) Act 1979**

6 **Explanatory note**

7 This part repeals an Act that is no longer needed.

8 The *Companies (Commonwealth Brickworks (Canberra) Limited) Act 1979* authorised the  
9 Commonwealth Brickworks (Canberra) Limited to pass a resolution about altering the  
10 company's memorandum of association. The Act required the company to lodge the  
11 resolution with the registrar of companies for registration. The alteration of the  
12 memorandum of association would take effect on registration.

13 The operation of the Act is spent. The resolution was passed on 10 August 1979, and was  
14 registered soon after.

15 *Companies (Commonwealth Brickworks (Canberra) Limited) Act*  
16 *1979 No 22*

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**Endnote**

**Republications of amended laws**

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