

2018

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Statute Law Amendment Bill 2018

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(Attorney-General)

Statute Law Amendment Bill 2018

A Bill for

An Act to amend legislation for the purpose of statute law revision, and for other purposes

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 2018*.
- 3 **2 Commencement**
- 4 (1) This Act (other than the following provisions) commences on the
- 5 14th day after its notification day:
- 6 • section 5
- 7 • schedule 3, part 3.18
- 8 • schedule 3, part 3.20.
- 9 (2) Section 5 and schedule 3, part 3.18 (Heavy Vehicle National
- 10 Law (ACT) Act 2013) are taken to have commenced on 1 July 2018.
- 11 (3) Schedule 3, part 3.20 (Lakes Act 1976) commences on the
- 12 commencement of the *Lakes Amendment Act 2018*, section 32.
- 13 **3 Notes**
- 14 A note included in this Act is explanatory and is not part of this Act.
- 15 *Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.
- 16 **4 Purpose of Act**
- 17 The purpose of this Act is to improve the quality of the statute law of
- 18 the Territory by amending legislation for the purpose of statute law
- 19 revision.
- 20 **5 Legislation amended—schs 1-3**
- 21 This Act amends the legislation mentioned in schedules 1 to 3.
- 22 **6 Legislation repealed—sch 4**
- 23 This Act repeals the legislation mentioned in schedule 4.

Schedule 1 Minor amendments

(see s 5)

Part 1.1 Freedom of Information Act 2016

[1.1] Section 64 (2)

substitute

- (2) The ombudsman may delegate the ombudsman's functions under this Act to a person mentioned in the *Ombudsman Act 1989*, section 32.

Note Under the *Ombudsman Act 1989*, s 32, the ombudsman may delegate the ombudsman's functions to any person, including the deputy ombudsman, a member of the ombudsman's staff, a public servant, a contractor or consultant, or an authorised person. However, the ombudsman must not delegate a function to a person who is not a public employee without first being satisfied that the function needs to be exercised by a person who is not a public employee (see that *Act*, s 32 (2)).

Explanatory note

This amendment updates the delegation power of the ombudsman as a consequence of amendments to the *Ombudsman Act 1989*, section 32 (see explanatory note for amendment 1.7 for additional information).

Part 1.2 Health Act 1993

[1.2] Section 195

omit

Explanatory note

Section 195 authorises the making of regulations in relation to nurse practitioner positions and the scopes of practice for nurse practitioner positions.

This amendment omits section 195 because it is no longer needed. The *Health Practitioner Regulation National Law (ACT)* regulates nurse practitioners and has done so since 2010.

Part 1.3 Mental Health Act 2015

[1.3] Section 201 (2)

omit

authorised nurse practitioner

substitute

nurse practitioner

Explanatory note

In 2004, the [Nurse Practitioners Legislation Amendment Act 2004](#) amended the [Mental Health \(Treatment and Care\) Act 1994](#) to include references to ‘authorised nurse practitioner’ and the definitions of **authorised nurse practitioner**, **nurse practitioner position** and **scope of practice**. The latter 2 definitions are signpost definitions that refer to the definitions of those terms in the [Health Act 1993](#), section 195 (2) and were included because the terms were mentioned in the definition of **authorised nurse practitioner**.

The [Mental Health Act 2015](#) replaced the [Mental Health \(Treatment and Care\) Act 1994](#) but the reference to **authorised nurse practitioner** was not updated to reflect the regulation of nurse practitioners by the [Health Practitioner Regulation National Law \(ACT\)](#).

This amendment updates section 201 to reflect the changed regulatory scheme.

Nurse practitioner is defined in the [Legislation Act](#), dictionary, part 1 and the [Mental Health Act 2015](#), dictionary, note 2 (which lists examples of terms used in the Act that are defined in the [Legislation Act](#), dictionary, part 1) includes a reference to the term.

1 **[1.4] Section 201 (3), definitions of *authorised nurse***
2 ***practitioner, nurse practitioner position and scope of***
3 ***practice***

4 *omit*

5 **Explanatory note**

6 This amendment omits redundant definitions.

7 *Authorised nurse practitioner* is defined by reference to an occupant of a nurse practitioner
8 position acting within the scope of practice for the position. *Nurse practitioner position* and
9 *scope of practice* are defined by reference to the [Health Act 1993](#), section 195. The [Health](#)
10 [Act 1993](#), section 195 is omitted by another amendment because it has been made redundant by
11 the new regulatory scheme (see explanatory notes for amendments 1.2 and 1.3 for additional
12 information).

13 **Part 1.4 Ombudsman Act 1989**

14 **[1.5] Section 10 (6)**

15 *substitute*

- 16 (6) Subsection (1) does not empower the ombudsman to make an
17 arrangement for the exercise by the Commonwealth ombudsman or
18 the ombudsman of a State of a power of the ombudsman except in
19 accordance with an instrument of delegation mentioned in section 32.

20 **Explanatory note**

21 This amendment updates the provision to omit a redundant reference and correct a
22 cross-reference. Section 10 (6) (a) and (b) refer to section 32 (3) and (1) respectively. Section 32
23 was amended in 2014 by the [Officers of the Assembly Legislation Amendment Act 2013](#). Previous
24 section 32 (1) became section 32, and previous section 32 (3) was omitted entirely. The
25 cross-references to section 32 (1) and (3) were not updated at the time. This amendment corrects
26 that by omitting the reference to section 32 (3) in section 10 (6) (a) and updating the reference to
27 section 32 (1) in section 10 (6) (b).

[1.6] New sections 30AA and 30AB

after section 30, insert

30AA Arrangements for staff and facilities

The ombudsman may arrange with the head of service to use the services of a public servant or Territory facilities.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see [Public Sector Management Act 1994](#), s 18).

30AB Contractors and consultants

(1) The ombudsman may engage contractors and consultants.

(2) However, the ombudsman must not enter into a contract of employment under this section.

Explanatory note

Under the [A.C.T. Self-Government \(Consequential Provisions\) Act 1988](#) (Cwlth), section 28, the person holding office as the Commonwealth ombudsman is taken to be the ACT ombudsman until an appointment is made under the [Ombudsman Act 1989](#), section 22. As no such appointment has been made, the Commonwealth ombudsman continues to exercise the functions of the ACT ombudsman.

The Territory has a services agreement in place with the Commonwealth ombudsman to provide a range of services to the ACT. The functions of the ombudsman under territory law have increased as a consequence of amendments of the [Ombudsman Act 1989](#) to introduce the reportable conduct scheme, and the enactment of the [Freedom of Information Act 2016](#). The ombudsman has been allocated additional funding from the ACT government to assist with the implementation of these new functions, but the ombudsman's ability to engage more APS employees is limited by APS employment policies, such as the APS staffing cap. This amendment gives the ombudsman the authority to make arrangements with the head of service to use the services of ACT public servants or Territory facilities, and to engage contractors and consultants. This amendment is necessary to allow the ombudsman to exercise the ombudsman's increased functions under territory law.

1 **[1.7] Section 32**

2 *substitute*

3 **32 Delegation by ombudsman**

4 (1) The ombudsman may delegate the ombudsman's functions under this
5 Act or another territory law to—

6 (a) if the Commonwealth ombudsman is the ombudsman—a deputy
7 ombudsman under the *Ombudsman Act 1976* (Cwlth); or

8 (b) a person who is a member of the staff mentioned in section 30;
9 or

10 (c) a public servant mentioned in section 30AA; or

11 (d) a contractor or consultant mentioned in section 30AB; or

12 (e) an authorised person; or

13 (f) any other person.

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

16 (2) However, the ombudsman must not delegate a function to a person
17 who is not a public employee without first being satisfied that the
18 function needs to be exercised by a person who is not a public
19 employee.

20 (3) In this section:

21 *public employee* includes—

22 (a) a person appointed or employed under the *Public Service*
23 *Act 1999* (Cwlth); and

1 (b) a deputy ombudsman under the *Ombudsman Act 1976* (Cwlth).

2 *Note* **Public employee** means a public servant, a person employed by a territory
3 instrumentality, or a statutory office-holder or a person employed by a
4 statutory office-holder (see the *Legislation Act*, dictionary, part 1.

5 **Explanatory note**

6 This amendment gives the ombudsman the power to delegate a function to the deputy
7 ombudsman, the ombudsman's staff, an authorised person or any other person. This amendment
8 is necessary to allow the ombudsman to exercise the ombudsman's increased functions under
9 territory law (see explanatory note for amendment 1.6 for additional information).

10 This amendment also expands the meaning of the ombudsman's staff. This amendment is
11 consequential on the amendments to give the ombudsman the authority to make arrangements
12 with the head of service to use the services of ACT public servants and engage contractors and
13 consultants.

14 **[1.8] Section 33 (1)**

15 *substitute*

16 (1) In this section:

17 **information holder** means—

18 (a) the ombudsman; or

19 (b) if the Commonwealth ombudsman is the ombudsman—a deputy
20 ombudsman under the *Ombudsman Act 1976* (Cwlth); or

21 (c) a person who is a member of the staff mentioned in section 30;
22 or

23 (d) a public servant mentioned in section 30AA; or

24 (e) a contractor or consultant mentioned in section 30AB; or

25 (f) an authorised person; or

26 (g) a person who is delegated a function under section 32; or

- 1 (h) any other person exercising a function in connection with
2 this Act.

3 **Explanatory note**

4 This amendment is consequential on the amendments to give the ombudsman the authority to
5 make arrangements with the head of service to use the services of ACT public servants and
6 engage contractors and consultants, and to increase the ombudsman's delegation powers
7 (see explanatory notes for amendments 1.6 and 1.7 for additional information).

8 This amendment also omits a redundant definition and updates language in line with current
9 legislative drafting practice.

10 **[1.9] Section 33 (2)**

11 *omit*

12 officer

13 *substitute*

14 information holder

15 **Explanatory note**

16 This amendment updates language as a result of another amendment.

17 **[1.10] Section 33 (2)**

18 *omit*

19 delegated to the ombudsman as provided by section 32 (3)

20 **Explanatory note**

21 This amendment omits a redundant cross-reference (see explanatory note for amendment 1.5 for
22 additional information).

1 **[1.11] Section 33 (3)**

2 *omit*
3 officer
4 *substitute*
5 information holder

6 **Explanatory note**

7 This amendment updates language as a result of another amendment.

8 **[1.12] Section 33 (3) (a)**

9 *omit*
10 officer's duties
11 *substitute*
12 information holder's functions

13 **Explanatory note**

14 This amendment updates language as a result of another amendment.

15 **[1.13] Section 33 (5)**

16 *omit*
17 Subject to subsection (6), where
18 *substitute*
19 Where

20 **Explanatory note**

21 This amendment is consequential on the omission of section 33 (6) by another amendment.

1 **[1.14] Section 33 (6)**

2 *omit*

3 **Explanatory note**

4 This amendment omits a subsection that refers to section 32 (3). Section 32 (3) was omitted in
5 2014, making the reference redundant (see explanatory note for amendment 1.5 for additional
6 information).

7 **[1.15] Sections 33 (7) and 36 (b)**

8 *omit*

9 officer

10 *substitute*

11 information holder

12 **Explanatory note**

13 This amendment updates language as a result of another amendment.

14 **Part 1.5 Public Health Act 1997**

15 **[1.16] Section 6A, note 1, 2nd dot point**

16 *substitute*

- 17 • s 102A (Doctors and nurse practitioners—failure to notify)

18 **Explanatory note**

19 This amendment updates the dot point as a consequence of a change to the heading for
20 section 102A by another amendment.

- 1 **[1.17] Section 102 heading**
- 2 *substitute*
- 3 **102 Notification by doctors and nurse practitioners**
- 4 **Explanatory note**
- 5 In 2004, the *Nurse Practitioners Legislation Amendment Act 2004* amended the *Public Health*
- 6 *Act 1997* to include references to ‘authorised nurse practitioner’ and the definitions of *authorised*
- 7 *nurse practitioner*, *nurse practitioner position* and *scope of practice*. The latter 2 definitions are
- 8 signpost definitions that refer to the definitions of those terms in the *Health Act 1993*,
- 9 section 195 (2) and were included because the terms were mentioned in the definition of
- 10 *authorised nurse practitioner*.
- 11 The regulation of nurse practitioners was taken over by the *Health Practitioner Regulation*
- 12 *National Law (ACT)* in 2010. This amendment updates the heading for section 102 to reflect the
- 13 changed regulatory scheme.
- 14 *Nurse practitioner* is defined in the *Legislation Act*, dictionary, part 1 and the *Public Health*
- 15 *Act 1997*, dictionary, note 2 (which lists examples of terms used in the Act that are defined in the
- 16 *Legislation Act*, dictionary, part 1) is amended elsewhere to include a reference to the term.
- 17 **[1.18] Section 102 (1) (d)**
- 18 *omit*
- 19 authorised nurse practitioners
- 20 *substitute*
- 21 nurse practitioners
- 22 **Explanatory note**
- 23 This amendment updates the reference to ‘authorised nurse practitioners’ to reflect the changed
- 24 regulatory scheme for nurse practitioners under the *Health Practitioner Regulation National*
- 25 *Law (ACT)* (see explanatory note for amendment 1.17 for additional information).

1 **[1.19] Section 102A heading**

2 *substitute*

3 **102A Doctors and nurse practitioners—failure to notify**

4 **Explanatory note**

5 This amendment updates the reference to ‘authorised nurse practitioners’ to reflect the changed
6 regulatory scheme for nurse practitioners under the *Health Practitioner Regulation National*
7 *Law (ACT)* (see explanatory note for amendment 1.17 for additional information).

8 **[1.20] Dictionary, note 2**

9 *insert*

- 10 • nurse practitioner

11 **Explanatory note**

12 Dictionary, note 2 lists examples of terms used in the *Public Health Act 1997* that are defined in
13 the *Legislation Act*, dictionary, part 1. This amendment inserts a new term as a consequence of
14 the replacement of ‘authorised nurse practitioner’ with ‘nurse practitioner’ by other amendments
15 (see explanatory note for amendment 1.17 for additional information).

16 **[1.21] Dictionary, definitions of *authorised nurse practitioner***
17 **and *nurse practitioner position***

18 *omit*

19 **Explanatory note**

20 This amendment omits redundant definitions.

21 *Authorised nurse practitioner* is defined by reference to an occupant of a nurse practitioner
22 position acting within the scope of practice for the position. *Nurse practitioner position* is defined
23 by reference to the *Health Act 1993*, section 195. The *Health Act 1993*, section 195 is omitted by
24 another amendment because it has been made redundant by the new regulatory scheme (see
25 explanatory notes for amendments 1.2 and 1.17 for additional information).

1 **[1.22] Dictionary, definition of *responsible person*,**
2 **paragraph (b)**

3 *substitute*

4 (b) a nurse practitioner; or

5 **Explanatory note**

6 This amendment updates the reference to ‘authorised nurse practitioner’ to reflect the changed
7 regulatory scheme for nurse practitioners under the *Health Practitioner Regulation National*
8 *Law (ACT)* (see explanatory note for amendment 1.17 for additional information).

9 **[1.23] Dictionary, definition of *scope of practice***

10 *omit*

11 **Explanatory note**

12 This amendment omits a redundant definition.

13 *Scope of practice* is defined by reference to the *Health Act 1993*, section 195. The *Health*
14 *Act 1993*, section 195 is omitted by another amendment because it has been made redundant by
15 the new regulatory scheme (see explanatory notes for amendments 1.2 and 1.17 for additional
16 information).

17 **[1.24] Further amendments, mentions of *authorised nurse***
18 ***practitioner***

19 *omit*

20 authorised nurse practitioner

21 *substitute*

22 nurse practitioner

23 *in*

- 24 • section 102
25 • section 102A
26 • section 108 (4) (a)

- 1 • section 111 (3), definition of *person who made the notification*
2 • section 114

3 **Explanatory note**

4 These amendments update references to ‘authorised nurse practitioner’ to reflect the changed
5 regulatory scheme for nurse practitioners under the *Health Practitioner Regulation National*
6 *Law (ACT)* (see explanatory note for amendment 1.17 for additional information).

7 **Part 1.6 Public Sector Management**
8 **Act 1994**

9 **[1.25] Section 152 (2) (a)**

10 *after*
11 head of service
12 *insert*
13 or a director-general

14 **Explanatory note**

15 Section 152 gives certain statutory office-holders management powers of the head of service in
16 relation to public employees on the office-holder’s staff. Those management powers are set out
17 in the definition of *management provision* in subsection (4). This amendment is consequential
18 on another amendment which allows management standards made under the *Public Sector*
19 *Management Act 1994*, section 251 to be prescribed as a *management provision*. A number of
20 the management standards that are likely to be prescribed as a *management provision* are
21 provisions in which the relevant power to be given to the office-holder is exercisable by a
22 director-general. This is a technical amendment that allows a management provision to apply to
23 the office-holder as if a reference to a director-general in the provision were a reference to the
24 office-holder.

1 **[1.26] Section 152 (3) (c) (iii)**

2 *substitute*

3 (iii) an SES member.

4 **Explanatory note**

5 Under section 152 (3) (c), the public sector employer may delegate a function given to the public
6 sector employer under this section to a staff member, an officer or employee, or the head of
7 service. As currently drafted, the section does not allow the public sector employer to delegate a
8 function to directors-general or executives. This amendment replaces ‘the head of service’ with
9 ‘an SES member’. An *SES member* is defined in the dictionary to mean ‘a member of the service
10 in the senior executive service’ and *senior executive service* is defined in section 12 (3) (a) to be
11 the head of service, directors-general and executives.

12 **[1.27] New section 152 (3A) and (3B)**

13 *insert*

14 (3A) The public sector employer may—

15 (a) delegate to a public employee or another person a function given
16 to the public sector employer under this Act or another territory
17 law; or

18 (b) subdelegate to a public employee or another person a function
19 delegated to the public sector employer under this Act or another
20 territory law.

21 (3B) However, the public sector employer must not delegate or
22 subdelegate a function to a person who is not a public employee
23 without first being satisfied that the function needs to be exercised by
24 a person who is not a public employee.

25 *Note 1* For the making of delegations and the exercise of a delegated function,
26 see the [Legislation Act](#), pt 19.4.

Note 2 **Public employee** means a public servant, a public sector member or a person employed by a territory instrumentality (see [Legislation Act](#), dict, pt 1).

Explanatory note

This amendment gives a public sector employer the power to delegate a function to a public employee or another person. A public sector employer may only delegate a function to a non-public employee if the function does not need to be exercised by a public employee. This amendment will give public sector employers greater flexibility in carrying out their functions under the [Public Sector Management Act 1994](#) and other territory laws.

[1.28] Section 152 (4), definition of *management provision*, paragraph (f)

substitute

- (f) part 10 (Miscellaneous) other than section 251 (Management standards);
- (g) a management standard made under a provision mentioned in paragraphs (a) to (f);
- (h) a management standard prescribed to be a management provision.

Explanatory note

Section 152 gives certain statutory office-holders management powers of the head of service in relation to public employees on the office-holder's staff. Those management powers are set out in the definition of ***management provision*** in subsection (4). This amendment expressly excludes section 251 from the definition of ***management provision***, as the head of service's power to make management standards should not be delegated to public sector employers. This amendment also clarifies that a ***management provision*** includes management standards made under a provision in the [Public Sector Management Act 1994](#) mentioned in paragraphs (a) to (f). Finally, it allows other management standards to be prescribed by the head of service under the [Act](#), section 251 to be included as a ***management provision***.

1 **[1.29] New section 152 (5) and (6)**

2 *insert*

3 (5) In this section:

4 **commencement day** means the day the *Public Sector Management*
5 *Amendment Act 2016*, section 3 commenced.

6 **pre-amendment Act** means the *Public Sector Management Act 1994*,
7 as in force immediately before the commencement day.

8 **pre-amendment executive** means a person who is engaged under a
9 contract made under 1 of the following provisions of the
10 pre-amendment Act:

11 (a) section 23C (Head of service—engagement);

12 (b) section 28 (Directors-general—engagement);

13 (c) section 72 (Executives—engagement).

14 **SES member** includes a pre-amendment executive.

15 (6) This subsection and subsection (5) expire on the day
16 part 18 (Transitional) expires.

17 **Explanatory note**

18 Under the *Public Sector Management Act 1994*, section 152 (3) (c), the public sector employer
19 may delegate a function given to the public sector employer under this section to a staff member,
20 an officer or employee, or the head of service. The current section does not allow the public sector
21 employer to delegate a function to directors-general or executives. Another amendment replaces
22 ‘the head of service’ in section 152 (3) (c) (iii) with ‘an SES member’. However, the definition
23 of **SES member** does not include the head of service, directors-general or executives currently
24 engaged under a contract made under the pre-amendment Act. This amendment defines **SES**
25 **member** to include a **pre-amendment executive** for section 152 (3) (c) (iii).

[1.30] Section 157 (2) (a)

after

head of service

insert

or a director-general

Explanatory note

Section 157 gives an employer of a public hospital employee the management powers of the head of service in relation to the public hospital employee. Those management powers are set out in the definition of *management provision* in subsection (5) (which cross-references to the definition of *management provision* in section 152 (4)). This amendment is consequential on another amendment which allows management standards made under the *Public Sector Management Act 1994*, section 251 to be prescribed as a *management provision*. A number of the management standards that are likely to be prescribed as a *management provision* are provisions in which the relevant power to be given to the employer of a public hospital employee is exercisable by a director-general. This is a technical amendment that allows a management provision to apply to the employer of a public hospital employee as if a reference to a director-general in the provision were a reference to the employer of a public hospital employee.

Part 1.7 Remuneration Tribunal Act 1995

[1.31] Schedule 1, part 1.2, 2nd dot point

omit

Explanatory note

This amendment omits ‘a member of the University of Canberra council appointed under the *University of Canberra Act 1989*, section 11 (1) (d)’ from the list of position holders for which the Remuneration Tribunal can determine the remuneration, allowances and other entitlements (see *Remuneration Tribunal Act 1995*, section 10 (1) (a)). This amendment is consequential on another amendment (see explanatory note for amendment 1.36 for additional information).

1 **Part 1.8** **Road Transport (Alcohol and**
2 **Drugs) Act 1977**

3 **[1.32] Dictionary, definition of *authorised nurse practitioner***

4 *omit*

5 **Explanatory note**

6 This amendment omits a redundant definition.

7 *Authorised nurse practitioner* is defined by reference to an occupant of a nurse practitioner
8 position acting within the scope of practice for the position. *Nurse practitioner* is defined in the
9 [Legislation Act](#), dictionary, part 1 and the [Road Transport \(Alcohol and Drugs\) Act 1977](#),
10 dictionary, note 2 (which lists examples of terms used in the Act that are defined in the
11 [Legislation Act](#), dictionary, part 1) includes a reference to the term.

12 **[1.33] Dictionary, definition of *medical examination***

13 *omit*

14 authorised nurse practitioner

15 *substitute*

16 nurse practitioner

17 **Explanatory note**

18 This amendment updates the reference to ‘authorised nurse practitioner’ to reflect the changed
19 regulatory scheme for nurse practitioners under the [Health Practitioner Regulation National](#)
20 [Law \(ACT\)](#) (see explanatory note for amendment 1.17 for additional information).

[1.34] Dictionary, definitions of *nurse practitioner position and scope of practice*

omit

Explanatory note

This amendment omits redundant definitions.

Nurse practitioner position and *scope of practice* are defined by reference to the [Health Act 1993](#), section 195. The [Health Act 1993](#), section 195 is omitted by another amendment because it has been made redundant by the new regulatory scheme (see explanatory notes for amendments 1.2 and 1.17 for additional information).

[1.35] Further amendments, mentions of *authorised nurse practitioner*

omit

authorised nurse practitioner

substitute

nurse practitioner

in

- section 14
- section 16
- section 23 (3) (b)
- section 41 (1) (e)
- section 41AA (4)
- section 47 (1)

Explanatory note

These amendments update references to ‘authorised nurse practitioner’ to reflect the changed regulatory scheme for nurse practitioners under the [Health Practitioner Regulation National Law \(ACT\)](#) (see explanatory note for amendment 1.17 for additional information).

Part 1.9 University of Canberra Act 1989

[1.36] Section 11 (3) and (4)

substitute

- (3) The conditions of appointment of a member mentioned in subsection (1) (d) are the conditions agreed between the Executive and the member, subject to any resolution passed by the council under section 10 (4) (a *council resolution*) for the member.

Explanatory note

This amendment omits current section 11 (3) (b) and (4) by substituting with the language of current section 11 (3) (a). Section 11 (3) and (4) provide for the conditions of appointment of a member of the University of Canberra council, appointed by the Chief Minister under the *University of Canberra Act 1989*, section 11 (1) (d) (a *relevant member*). The conditions of appointment of a relevant member are agreed between the Executive and the member, subject to a resolution of the council or, if no resolution has been passed, a determination of the Remuneration Tribunal (see *Act*, section 11 (3)). If there is both a resolution and a determination, and the 2 are inconsistent, the resolution prevails to the extent of the inconsistency (see *Act*, section 11 (4) (a)). However, if a relevant member would receive a smaller entitlement or less remuneration under the resolution than the determination, the determination prevails (see *Act*, section 11 (4) (b)).

[1.37] Section 11 (5)

omit

Subsections (3) and (4) apply

substitute

Subsection (3) applies

Explanatory note

This amendment is consequential on the omission of section 11 (4) by another amendment.

Part 1.10 Workers Compensation Act 1951

[1.38] New section 39 (3) (d)

insert

- (d) if the worker was, on the initial incapacity date for the injury, pension age or older—for any period more than 2 years after the initial incapacity date.

Explanatory note

This amendment reinstates an entitlement to compensation that was inadvertently removed by a previous amendment. Sections 39 and 40 provide that a worker who is incapacitated because of a compensable injury is entitled to receive weekly compensation following the initial incapacity date. Previously under sections 39 and 40, a worker who was at least 63 years old on the initial incapacity date was entitled to weekly compensation for up to 2 years after the initial incapacity date. This was based on the pension age being 65 years old. However, under the *Social Security Act 1991* (Cwlth), section 23 (5A), (5B), (5C) and (5D), *pension age* is now variable and can be any age from 60 to 67 years old, depending on the date a person was born. The *Workers Compensation Amendment Act 2017* amended sections 39 and 40 so that a worker ‘younger than the pension age by 2 years or less’ was entitled to weekly compensation for up to 2 years after the initial incapacity date. However, the amendments failed to mention workers of pension age or older, or for how long these workers were entitled to receive weekly compensation.

[1.39] New section 40 (4) (c)

insert

- (c) if the worker was, on the initial incapacity date for the injury, pension age or older—for any period more than 2 years after the initial incapacity date.

Explanatory note

This amendment reinstates an entitlement to compensation that was inadvertently removed by a previous amendment (see explanatory note for amendment 1.38 for additional information).

Schedule 2 Legislation Act 2001

2 (see s 5)

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

Schedule 3 Technical amendments

(see s 5)

Part 3.1 ACTEW/AGL Partnership Facilitation Act 2000

[3.1] Dictionary, note 2

insert

- Corporations Act

Explanatory note

Dictionary, note 2 lists examples of terms used in the *ACTEW/AGL Partnership Facilitation Act 2000* that are defined in the [Legislation Act](#), dictionary, part 1. This amendment inserts a new term used in the Act and defined in the [Legislation Act](#), dictionary, part 1.

[3.2] Dictionary, definition of *subsidiary*

after

[Corporations Act](#)

insert

, section 9

Explanatory note

This amendment corrects a cross-reference.

Part 3.2 Animal Diseases Act 2005

[3.3] New section 10 (4)

insert

(4) In this section:

required media means—

(a) a public notice; and

(b) all national or commercial broadcasting services within the meaning of the *Broadcasting Services Act 1992* (Cwlth) broadcasting in the ACT.

Explanatory note

This amendment relocates from the dictionary a definition of a term that is used only in section 10. The definition is omitted from the dictionary by another amendment.

[3.4] Section 28 (1)

omit

compensable endemic disease

substitute

compensable disease

Explanatory note

This amendment corrects an incorrect term. Under section 16, the Minister may declare an ‘endemic disease’ to be a ‘compensable disease’. The term ‘compensable endemic disease’ is incorrect and is not used anywhere else in the *Animal Diseases Act 2005*.

1 **[3.5] New section 28 (5)**

2 *insert*

3 (5) In this section:

4 ***compensable disease*** means an endemic disease declared to be a
5 compensable disease under section 16.

6 **Explanatory note**

7 This amendment relocates from the dictionary a definition of a term that is used only in
8 section 28. The definition is omitted from the dictionary by another amendment.

9 **[3.6] Section 62J (d)**

10 *omit*

11 *Corporations Act 2001* (Cwlth)

12 *substitute*

13 *Corporations Act*

14 **Explanatory note**

15 This amendment updates language in line with current legislative drafting practice.
16 ***Corporations Act*** is defined in the *Legislation Act*, dictionary, part 1 to mean the
17 *Corporations Act 2001* (Cwlth).

18 **[3.7] Section 72 (5), new definition of *travelling stock***

19 *insert*

20 ***travelling stock*** means stock that is being travelled other than on the
21 property where the stock is ordinarily kept.

22 **Explanatory note**

23 This amendment relocates from the dictionary a definition of a term that is used only in
24 section 72. The definition is omitted from the dictionary by another amendment.

1 **[3.8] Dictionary, note 2**

2 *insert*

- 3 • Corporations Act
4 • public notice

5 **Explanatory note**

6 Dictionary, note 2 lists examples of terms used in the *Animal Diseases Act 2005* that are defined
7 in the [Legislation Act](#), dictionary, part 1. This amendment inserts new terms used in the Act and
8 defined in the [Legislation Act](#), dictionary, part 1.

9 **[3.9] Dictionary, definition of *compensable disease***

10 *omit*

11 **Explanatory note**

12 This amendment is consequential on the relocation of the definition to section 28 by another
13 amendment.

14 **[3.10] Dictionary, definition of *required media***

15 *omit*

16 **Explanatory note**

17 This amendment is consequential on the relocation of the definition to section 10 by another
18 amendment.

19 **[3.11] Dictionary, definition of *travelling stock***

20 *omit*

21 **Explanatory note**

22 This amendment is consequential on the relocation of the definition to section 72 by another
23 amendment.

- 1 **[3.12] Further amendments, mentions of , *in writing*,**
- 2 *omit*
- 3 , in writing,
- 4 *in*
- 5 • section 12 (1)
- 6 • section 15 (1)
- 7 • section 16 (1) and (2)
- 8 • section 19 (1)
- 9 • section 20 (1)
- 10 • section 24A (1)
- 11 • section 38 (1)
- 12 • section 43 (1)
- 13 • section 88 (1)
- 14 • section 89 (1)
- 15 **Explanatory note**
- 16 This amendment omits words that are redundant because of the [Legislation Act](#), section 42 (2),
- 17 which requires statutory instruments to be in writing.

1 **Part 3.3** **Associations Incorporation**
2 **Act 1991**

3 **[3.13] Section 2, note 1**

4 *substitute*

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

8 For example, the signpost definition '*constitution*, for part 6 (Transfer of
9 incorporation)—see section 81.' means that the term 'constitution' is
10 defined in that section for part 6.

11 **Explanatory note**

12 This amendment is consequential on other amendments to the dictionary that omit the definition
13 of *memorandum* and insert a new definition of *constitution*.

14 **[3.14] Section 81, definition of *company limited by guarantee***

15 *after*

16 [Corporations Act](#)

17 *insert*

18 , section 9

19 **Explanatory note**

20 This amendment corrects a cross-reference.

[3.15] Section 81, new definition of *constitution*

insert

constitution—see the [Corporations Act](#), section 9.

Explanatory note

This amendment inserts a new definition of *constitution* to replace the definition of *memorandum*, which is omitted by another amendment. The [Company Law Review Act 1998](#) (Cwlth) amended the Corporations Law (as made under the [Corporations Act 1989](#) (Cwlth), s 82) to abolish the concept of a corporation's 'memorandum' and replace it with 'constitution'. A company's article and memorandum in existence when that Act commenced were taken, on its commencement, to be the company's constitution. The [Corporations Act 2001](#) (Cwlth) effectively re-enacted the Corporations Law as the [Corporations Act](#) and corresponding provisions about a corporation's constitution were included in that Act. This amendment brings the [Associations Incorporation Act 1991](#) into line with the [Corporations Act](#).

[3.16] Section 81, definition of *memorandum*

omit

Explanatory note

This amendment omits a definition that is made redundant as a result of another amendment (see explanatory note for amendment 3.15 for additional information).

[3.17] Section 84

omit

memorandum

substitute

constitution

Explanatory note

This amendment updates redundant language (see explanatory note for amendment 3.15 for additional information).

1 **[3.18] Dictionary, new definition of *constitution***

2 *insert*

3 *constitution*, for part 6 (Transfer of incorporation)—see section 81.

4 **Explanatory note**

5 This amendment inserts a new signpost definition as a result of another amendment (see
6 explanatory note for amendment 3.15 for additional information).

7 **[3.19] Dictionary, definition of *memorandum***

8 *omit*

9 **Explanatory note**

10 This amendment omits a definition that is made redundant as a result of another amendment (see
11 explanatory note for amendment 3.15 for additional information).

12 **Part 3.4 Auditor-General Act 1996**

13 **[3.20] Section 2, note 1**

14 *substitute*

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

18 For example, the signpost definition ‘*subsidiary*, of a territory-owned
19 corporation—see the *Territory-owned Corporations Act 1990*,
20 dictionary.’ means that the term ‘subsidiary’ is defined in that dictionary
21 and the definition applies to this Act.

22 **Explanatory note**

23 This amendment updates a cross-reference because of amendments made by another amendment.

1 **[3.21] Dictionary, definition of *subsidiary***

2 *omit*

3 section 3 (1)

4 *substitute*

5 dictionary

6 **Explanatory note**

7 This amendment corrects a cross-reference.

8 **Part 3.5 Charitable Collections Act 2003**

9 **[3.22] Section 23 (4) (b) (ii)**

10 *omit*

11 an externally-administered body corporate

12 *substitute*

13 a Chapter 5 body corporate

14 **Explanatory note**

15 This amendment updates language to reflect an amendment to the [Corporations](#)
16 [Act 2001](#) (Cwlth). The definition of *externally-administered body corporate* was repealed from
17 the [Corporations Act](#) by the [Insolvency Law Reform Act 2016](#) (Cwlth) with effect from
18 1 March 2017 and replaced by the definition of *Chapter 5 body corporate*.

19 **[3.23] Section 23 (6), new definition of *Chapter 5 body corporate***

20 *insert*

21 *Chapter 5 body corporate*—see the [Corporations Act](#), section 9.

22 **Explanatory note**

23 This amendment inserts a new definition that is consequential on another amendment
24 (see explanatory note for amendment 3.22 for additional information).

1 **[3.24] Section 23 (6), definition of *externally-administered body***
2 ***corporate***

3 *omit*

4 **Explanatory note**

5 This amendment omits a definition that is made redundant as a result of another amendment (see
6 explanatory note for amendment 3.22 for additional information).

7 **[3.25] Sections 63 and 64**

8 *omit*

9 , in writing,

10 **Explanatory note**

11 This amendment omits words that are redundant because of the [Legislation Act](#), section 42 (2),
12 which requires statutory instruments to be in writing.

13 **Part 3.6 Children and Young People**
14 **Act 2008**

15 **[3.26] Sections 394 (4), 478 (4) and 480 (4)**

16 *omit*

17 due and

18 **Explanatory note**

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

20 **[3.27] Section 480, new note**

21 *insert*

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

24 **Explanatory note**

25 This amendment inserts a note to assist users.

[3.28] Section 839, table 839.1A, item 7, column 2

substitute

524 (4) (a)

Explanatory note

This amendment corrects a cross-reference.

[3.29] Section 839A

after

table 839.1,

insert

839.1A,

Explanatory note

This amendment inserts a missing cross-reference.

Part 3.7 Civil Law (Wrongs) Act 2002

[3.30] Part 3.3 heading

substitute

Part 3.3 Exclusion of liability for terrorism-associated risks

Explanatory note

This amendment updates the heading to more accurately reflect the content of part 3.3. The heading for part 3.3 is currently ‘Temporary exclusion of liability for terrorism-associated risks’. The temporary exclusion was made permanent by the *Justice and Community Safety Legislation Amendment Act 2004 (No 2)*, sections 62 and 63. The heading for part 3.3 was not updated with those amendments.

1 **[3.31] Dictionary, definition of *act of terrorism***

2 *substitute*

3 ***act of terrorism***, for part 3.3 (Exclusion of liability for
4 terrorism-associated risks)—see section 37.

5 **Explanatory note**

6 This amendment updates a cross-reference to the heading of part 3.3 in the definition because of
7 another amendment.

8 **Part 3.8 Construction Occupations**
9 **(Licensing) Act 2004**

10 **[3.32] New section 189 (3)**

11 *after the note, insert*

12 (3) In this section:

13 ***code*** means the *Gas Safety (Appliance Worker Accreditation Code)*
14 *Approval 2007* (DI2007-33) (repealed).

15 ***commencement day*** means the day the *Gas Safety Legislation*
16 *Amendment Act 2014*, part 2 commenced.

17 **Explanatory note**

18 This amendment relocates from an expired section definitions of terms that are used in
19 section 189. The definitions of ***code*** and ***commencement day*** were previously defined in
20 section 182 for transitional part 21, however, sections 182 to 188 expired on 30 March 2018.
21 Section 189 was the only section in part 21 that did not expire, and the definitions from
22 section 182 were intended to continue to apply to section 189. The *Legislation Act*, section 88,
23 continues the effect of the definitions for section 189, however, inserting the definitions into
24 section 189 assists users by making it clear that these definitions apply to the section.

Part 3.9 **Crimes (Child Sex Offenders)**
Act 2005

[3.33] Section 11A (2) and (4)

omit

child sex offender register

substitute

child sex offenders register

Explanatory note

This amendment corrects references to the child sex offenders register established under the *Crimes (Child Sex Offenders) Act 2005*, section 117.

[3.34] Section 94 (2)

omit

longest recognised foreign reporting period

substitute

longest of the reporting periods of the foreign jurisdictions that apply to the offender

Explanatory note

The term ‘recognised foreign reporting period’ is defined in the dictionary but is used only in section 94 (2). This amendment revises section 94 (2) to avoid the need for a defined term. The definition of *recognised foreign reporting period* is omitted from the dictionary by another amendment.

1 **[3.35] Section 122C (8)**

2 *omit*

3 child sex offender register

4 *substitute*

5 child sex offenders register

6 **Explanatory note**

7 This amendment corrects a reference to the child sex offenders register established under the
8 [Crimes \(Child Sex Offenders\) Act 2005](#), section 117.

9 **[3.36] Dictionary, note 2**

10 *insert*

- 11 • adult

12 **Explanatory note**

13 Dictionary, note 2 lists examples of terms used in the [Crimes \(Child Sex Offenders\) Act 2005](#) that
14 are defined in the [Legislation Act](#), dictionary, part 1. This amendment inserts a new term used in
15 the Act and defined in the [Legislation Act](#), dictionary, part 1.

16 **[3.37] Dictionary, definition of *recognised foreign reporting***
17 ***period***

18 *omit*

19 **Explanatory note**

20 This amendment omits a definition of a term used only in section 94. The language of
21 section 94 (2) is revised by another amendment to omit the term.

22 **[3.38] Dictionary, new definition of *reviewable decision***

23 *insert*

24 ***reviewable decision***, for chapter 5B (Notification and review of
25 decisions)—see section 132ZV.

26 **Explanatory note**

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

1 **Part 3.10** **Crimes (Child Sex Offenders)**
2 **Regulation 2005**

3 **[3.39] Section 16A (1) (m)**

4 *substitute*

5 (m) the secretary of the Department of Home Affairs (Cwlth);

6 **Explanatory note**

7 This amendment updates the paragraph to reflect the change of name of the Commonwealth
8 Department of Immigration and Border Protection to the Department of Home Affairs.

9 **Part 3.11** **Criminal Code 2002**

10 **[3.40] Section 700, definition of *law enforcement officer*,**
11 **paragraph (c)**

12 *substitute*

13 (c) a person exercising a law enforcement function for the
14 Department of Home Affairs (Cwlth) or the Australian Crime
15 Commission;

16 **Explanatory note**

17 This amendment updates the paragraph to reflect the change of name of the Commonwealth
18 Department of Immigration and Border Protection to the Department of Home Affairs.

1 **Part 3.12 Dangerous Substances**
2 **(Explosives) Regulation 2004**

3 **[3.41] Section 16 (1)**

4 *omit*

5 incorporated document within the meaning of section 5 (Incorporated
6 documents),

7 *substitute*

8 instrument applied, adopted or incorporated under this regulation,

9 **Explanatory note**

10 This amendment omits a redundant cross-reference and updates language in line with current
11 legislative drafting practice.

12 **[3.42] Dictionary, note 2**

13 *insert*

- 14 • instrument (see s 14)

15 **Explanatory note**

16 Dictionary, note 2 lists examples of terms used in the *Dangerous Substances (Explosives)*
17 *Regulation 2004* that are defined in the [Legislation Act](#), dictionary, part 1. This amendment
18 inserts a term that is used in the regulation and defined in the [Legislation Act](#), dictionary, part 1.

Part 3.13 Family Violence Act 2016

[3.43] Section 115, definition of *general violence order*, paragraph (b) (i)

substitute

- (i) a family violence restraining order made under that [Act](#), section 10E; or

Explanatory note

This amendment updates language and corrects a cross-reference to legislation from another jurisdiction. Section 115, definition of *general violence order*, paragraph (b) (i), refers to ‘a violence restraining order’ made under the [Restraining Orders Act 1997](#) (WA), section 11B, which was correct when the [Family Violence Act 2016](#) commenced on 1 May 2017. However, the [Restraining Orders Act 1997](#) (WA) was amended by the [Restraining Orders and Related Legislation Amendment \(Family Violence\) Act 2016](#) (WA), with the relevant amendments commencing on 1 July 2017. The amending Act omitted previous section 11B and replaced it with section 10E and updated the term ‘violence restraining order’ to ‘family violence restraining order’.

[3.44] Section 116 (2)

substitute

- (2) For this part, a family violence restraining order under the *Restraining Orders Act 1997* (WA) addresses a ***family violence concern*** if the order is made because the respondent has committed, or because it is feared the respondent will commit, family violence (within the meaning of that *Act*, section 5A).

Explanatory note

This amendment updates language and corrects a cross-reference to legislation from another jurisdiction. Section 116 (2) refers to ‘a violence restraining order’ and ‘an act of family and domestic violence’ under the *Restraining Orders Act 1997* (WA), section 6, which was correct when the *Family Violence Act 2016* commenced on 1 May 2017. However, the *Restraining Orders Act 1997* (WA) was amended by the *Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016* (WA), with the relevant amendments commencing on 1 July 2017. The amending Act omitted the definition of ***act of family and domestic violence*** from section 6 and replaced it with new section 5A, which uses the definition of ***family violence***. The amending Act also updated the term ‘violence restraining order’ to ‘family violence restraining order’.

Part 3.14 Financial Management Act 1996

[3.45] Section 115 (5)

omit

subsection (3)

substitute

subsection (4)

Explanatory note

This amendment corrects a cross-reference.

Part 3.15 Firearms Act 1996

**[3.46] Section 18 (2), definition of *law enforcement agency*,
paragraph (c)**

substitute

(c) the Department of Home Affairs (Cwlth);

Explanatory note

This amendment updates the paragraph to reflect the change of name of the Commonwealth Department of Immigration and Border Protection to the Department of Home Affairs.

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

[3.47] Section 37 (d) (xii)

substitute

(xii) the Department of Home Affairs (Cwlth);

Explanatory note

This amendment updates the subparagraph to reflect the change of name of the Commonwealth Department of Immigration and Border Protection to the Department of Home Affairs.

Part 3.17 Health Act 1993

**[3.48] Section 20, definition of *special purpose QAC*,
except note**

substitute

special purpose QAC means a committee approved under section 27.

Explanatory note

This amendment revises the definition for clarity.

1 **[3.49] Section 50, new definition of *chief executive officer,***
2 ***Calvary***

3 *insert*

4 *chief executive officer, Calvary* means the person engaged to
5 exercise the functions of the position of chief executive officer
6 (however described) of Calvary Health Care ACT Limited (Public
7 Division) under the rules of Calvary Health Care ACT Limited.

8 **Explanatory note**

9 This amendment relocates from the dictionary a definition of a term that is used only in part 5.
10 A signpost definition is substituted for the dictionary definition by another amendment.

11 **[3.50] Section 126 heading**

12 *substitute*

13 **126 Information may be given to Chief Executive Medicare**

14 **Explanatory note**

15 This amendment updates the heading as a consequence of amendments made by the *Human*
16 *Services Legislation Amendment Act 2011* (Cwlth) (the *2011 Amendment Act*). The 2011
17 Amendment Act renamed the *Medicare Australia Act 1973* as the *Human Services (Medicare)*
18 *Act 1973* (the *principal Act*), and repealed part II of the principal Act (which established Medicare
19 Australia) and, in part IIA of the principal Act, established the statutory office of the Chief
20 Executive Medicare.

21 **[3.51] Section 126 (1) (a)**

22 *substitute*

23 (a) Chief Executive Medicare; or

24 **Explanatory note**

25 This amendment is consequential on amendments made by the *Human Services Legislation*
26 *Amendment Act 2011* (Cwlth) (see explanatory note for amendment 3.50 for additional
27 information).

1 **[3.52] Section 126 (3), new definition of *Chief Executive***
2 ***Medicare***

3 *insert*

4 *Chief Executive Medicare*—see the *Human Services (Medicare)*
5 *Act 1973* (Cwlth), section 3.

6 **Explanatory note**

7 This amendment is consequential on amendments made by the *Human Services Legislation*
8 *Amendment Act 2011* (Cwlth) (see explanatory note for amendment 3.50 for additional
9 information).

10 **[3.53] Section 126 (3), definition of *Medicare Australia***

11 *omit*

12 **Explanatory note**

13 This amendment is consequential on amendments made by the *Human Services Legislation*
14 *Amendment Act 2011* (Cwlth) (see explanatory note for amendment 3.50 for additional
15 information).

16 **[3.54] Dictionary, definition of *chief executive officer, Calvary***

17 *substitute*

18 *chief executive officer, Calvary*, for part 5 (Reviewing scope of
19 clinical practice)—see section 50.

20 **Explanatory note**

21 This amendment is consequential on the relocation of the definition to section 50 by another
22 amendment.

23 **[3.55] Dictionary, definition of *eligible midwife***

24 *substitute*

25 *eligible midwife*, for a health facility, for part 5 (Reviewing scope of
26 clinical practice)—see section 52.

27 **Explanatory note**

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

1 **[3.56] Dictionary, definition of *special purpose QAC***

2 *omit*

3 , for a purpose stated in the approval

4 **Explanatory note**

5 This amendment omits unnecessary words.

6 **Part 3.18 Heavy Vehicle National Law**
7 **(ACT) Act 2013**

8 **[3.57] Section 7 (2)**

9 *omit*

10 **Explanatory note**

11 This amendment is consequential on the omission of division 5.1 by another amendment.

12 **[3.58] Division 5.1**

13 *omit*

14 **Explanatory note**

15 This amendment omits a redundant division. Division 5.1 disapplies chapter 2 (Registration) of
16 the *Heavy Vehicle National Law (ACT)*. However, the *Heavy Vehicle National Law and Other*
17 *Legislation Amendment Act 2018* (Qld) omitted the uncommenced chapter 2 of the Heavy Vehicle
18 National Law, with effect from 1 July 2018, and made other amendments consequential on
19 omitting that chapter.

20 **[3.59] Section 43 (a)**

21 *omit*

22 **Explanatory note**

23 This amendment is consequential on the omission of division 5.1 by another amendment.

[3.60] Schedule 1, part 1.1 heading and part 1.2 heading

omit

Explanatory note

This amendment is consequential on the omission of chapter 2 of the Heavy Vehicle National Law by the *Heavy Vehicle National Law Amendment Act 2018* (Qld).

[3.61] Schedule 1, modifications 1.12 to 1.30

omit

Explanatory note

This amendment omits a number of modifications of the *Heavy Vehicle National Law (ACT)* which, because of amendments by the *Heavy Vehicle National Law and Other Legislation Amendment Act 2018* (Qld) (the *amendment Act*), are redundant. The following table identifies provisions of the amendment Act that have amended provisions of the Heavy Vehicle National Law (the *National Law*), and the modifications in the *Heavy Vehicle National Law (ACT) Act 2013* (the *ACT modifications*) that are consequently redundant.

Amendment Act provision	National Law provision	Redundant ACT modification
s 14	s 5, definition ‘GCM’	1.15
s 14	s 5, definition ‘GVM’	1.16
s 14	s 5, definition ‘registration’	1.12, 1.13, 1.17, 1.29
s 14	s 5, definition ‘registration number’	1.18
s 14	s 5, definition ‘unregistered heavy vehicle permit’	1.19
s 14	s 5, definition ‘vehicle register’	1.20
s 14	s 5, definitions ‘wrecked’ and ‘written-off’	1.21
s 18	s 60	1.22
s 24	s 520	1.24
s 25	s 521	1.25
s 26	s 522	1.26
s 28	s 527	1.27

Amendment Act provision	National Law provision	Redundant ACT modification
s 31	s 598	1.28
s 35	s 653	1.30

1 This amendment also omits:

- 2 • ACT modification 1.14, which inserts a definition of ‘corresponding registration law’ that
3 is used only in modifications to be omitted; and
4 • ACT modification 1.23, which is redundant as a consequence of the amendment of the
5 Heavy Vehicle National Law, section 458 by the *Heavy Vehicle National Law Amendment*
6 *Act 2015* (Qld), section 45.

7 **Part 3.19** **Human Rights Commission**
8 **Act 2005**

9 **[3.62] Section 18 (5), definition of *health practitioner report***

10 *substitute*

11 *health practitioner report* means—

- 12 (a) a notification under the *Health Practitioner Regulation National*
13 *Law (ACT)*, section 150 (2); or
14 (b) a report under that Law, section 150 (5A).

15 **Explanatory note**

16 This amendment updates the definition to correct cross-references.

1 **[3.63] New section 85 (4)**

2 *after the note, insert*

3 (4) In this section:

4 *commission-initiated report*—see section 84 (1).

5 **Explanatory note**

6 This amendment inserts a signpost definition for a term defined in section 84 that is mentioned
7 only in that section and section 85.

8 **[3.64] Dictionary, note 2**

9 *insert*

- 10 • adult

11 **Explanatory note**

12 Dictionary, note 2 lists examples of terms used in the *Human Rights Commission Act 2005* that
13 are defined in the [Legislation Act](#), dictionary, part 1. This amendment inserts a new term used in
14 the Act and defined in the [Legislation Act](#), dictionary, part 1.

15 **[3.65] Dictionary, definition of *final report***

16 *substitute*

17 *final report*—see section 80 (1).

18 **Explanatory note**

19 This amendment omits unnecessary words and corrects a cross-reference.

1 **[3.66] Dictionary, new definitions of *prescribed service* and**
2 ***registered health practitioner***

3 *insert*

4 *prescribed service*—see section 6A.

5 *registered health practitioner*, in relation to a complaint, for
6 division 5.2 (Relationship between commission, health profession
7 boards and veterinary surgeons board)—see section 91.

8 **Explanatory note**

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

10 **[3.67] Dictionary, definition of *registered veterinary surgeon***

11 *substitute*

12 *registered veterinary surgeon*, in relation to a complaint, for
13 division 5.2 (Relationship between commission, health profession
14 boards and veterinary surgeons board)—see section 91.

15 **Explanatory note**

16 This amendment corrects a cross-reference.

17 **Part 3.20 Lakes Act 1976**

18 **[3.68] Section 58 (1), new penalty**

19 *insert*

20 Maximum penalty: 50 penalty units.

21 **Explanatory note**

22 This amendment inserts a penalty under section 58 (1). Once commenced, the *Lakes Amendment*
23 *Act 2018* will insert section 58 into the *Lakes Act 1976*. When the amending Act was made, the
24 penalty was incorrectly placed under section 58 (2). This amendment inserts the penalty in the
25 correct place under the offence provision in section 58 (1). The penalty is omitted from under
26 section 58 (2) by another amendment.

[3.69] Section 58 (2), penalty

omit

Explanatory note

This amendment omits the penalty under section 58 (2). Once commenced, the [Lakes Amendment Act 2018](#) will insert section 58 into the [Lakes Act 1976](#). When the amending Act was made, the penalty was incorrectly placed under section 58 (2). The penalty is inserted in the correct place under the offence provision in section 58 (1) by another amendment.

Part 3.21 Legal Aid Act 1977

[3.70] Section 16 (1), new notes

after paragraph (d), insert

Note 1 A person is not eligible for appointment as the president of the commission unless the person is or has been a judge, or the person is a legal practitioner and has been for at least 5 years (see s 50 (1)).

Note 2 A person is not eligible for appointment as a commissioner under s 16 (1) (c) (iv) if the person is a legal practitioner (see s 50 (2)).

Explanatory note

This amendment inserts notes to assist users.

Part 3.22 Legal Profession Act 2006

[3.71] Section 125 (1)

omit

an externally-administered body corporate

substitute

a Chapter 5 body corporate

Explanatory note

This amendment updates language to reflect an amendment to the [Corporations Act](#) (see explanatory note for amendment 3.22 for additional information).

1 **[3.72] New section 125 (6)**

2 *after the note, insert*

3 (6) In this section:

4 *Chapter 5 body corporate*—see the [Corporations Act](#), section 9.

5 **Explanatory note**

6 This amendment inserts a new definition that is consequential on another amendment
7 (see explanatory note for amendment 3.22 for additional information).

8 **Part 3.23 Magistrates Court (Liquor**
9 **Infringement Notices)**
10 **Regulation 2010**

11 **[3.73] Schedule 1, items 25 and 26**

12 *omit*

13 **Explanatory note**

14 This amendment omits redundant table items. Schedule 1, items 25 and 26, set out infringement
15 notice penalty amounts for offences under section 109 (1) and (2) of the [Liquor Act 2010](#).
16 Section 109 of the [Liquor Act 2010](#) was omitted by the [Liquor Amendment Act 2017](#), making the
17 references to section 109 in the [Magistrates Court \(Liquor Infringement Notices\)](#)
18 [Regulation 2010](#) redundant.

Part 3.24 Medicines, Poisons and Therapeutic Goods Regulation 2008

[3.74] Schedule 1, part 1.6, item 4, column 3, paragraphs (d) and (e)

substitute

(d) prescribe medicines;

(e) supply medicines to patients during consultations if labelled in accordance
with s 161;

Explanatory note

This amendment is consequential on the repeal of the [Health Regulation 2004](#) by another
amendment (see explanatory note for schedule 4 for additional information).

[3.75] Dictionary, note 2

insert

- ACAT
- chief health officer
- contravene
- corporation
- dentist
- health practitioner
- midwife
- Minister (see s 162)
- pharmacist
- under

Explanatory note

Dictionary, note 2 lists examples of terms used in the [Medicines, Poisons and Therapeutic Goods
Regulation 2008](#) that are defined in the [Legislation Act](#), dictionary, part 1. This amendment
inserts new terms used in the regulation and defined in the [Legislation Act](#), dictionary, part 1.

1 **[3.76] Dictionary, note 3**

2 *insert*

- 3 • day hospital

4 **Explanatory note**

5 Dictionary, note 3 lists examples of terms used in the *Medicines, Poisons and Therapeutic Goods*
6 *Regulation 2008* that are defined in the *Medicines, Poisons and Therapeutic Goods Act 2008*,
7 dictionary. This amendment inserts a term used in the regulation and defined in that Act,
8 dictionary.

9 **[3.77] Dictionary, note 3**

10 *omit*

- 11 • health practitioner

12 **Explanatory note**

13 Dictionary, note 3 lists examples of terms used in the *Medicines, Poisons and Therapeutic Goods*
14 *Regulation 2008* that are defined in the *Medicines, Poisons and Therapeutic Goods Act 2008*,
15 dictionary. This amendment omits a term used in the regulation and defined in the *Legislation*
16 *Act*, dictionary, part 1. The term is inserted in the dictionary, note 2 by another amendment.

17 **[3.78] Dictionary, definition of *day hospital***

18 *omit*

19 **Explanatory note**

20 This amendment omits a definition that is defined in the *Medicines, Poisons and Therapeutic*
21 *Goods Act 2008*, dictionary. A reference to the defined term is included in the dictionary, note 3
22 by another amendment.

23 **[3.79] Dictionary, definition of *health profession***

24 *omit*

25 **Explanatory note**

26 The term ‘health profession’ is used only in the definition of *specialist area*, which is defined for
27 a health profession to mean a recognised specialty under the *Health Practitioner Regulation*
28 *National Law (ACT)*. Because that Law does not apply to veterinary surgeons, this amendment
29 omits the definition of *health profession* (which refers to veterinary surgeons) and another
30 amendment updates the definition of *specialist area* as a consequence.

1 **[3.80] Dictionary, definition of *specialist area***

2 *substitute*

3 *specialist area* means a recognised specialty in a health profession
4 under the *Health Practitioner Regulation National Law (ACT)*.

5 **Explanatory note**

6 This amendment updates the definition as a consequence of the omission of the definition of
7 *health profession* by another amendment.

8 **Part 3.25 Nature Conservation Act 2014**

9 **[3.81] Section 64A (4)**

10 *omit*

11 threatened species list

12 *substitute*

13 threatened native species list

14 **Explanatory note**

15 This amendment corrects a minor typographical error by inserting a missing word. The definition
16 of *threatened native species list* is defined in section 62.

1 **Part 3.26 Public Sector Management**
2 **Act 1994**

3 **[3.82] Section 2, note 1**

4 *substitute*

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

8 For example, the signpost definition ‘*appellable decision*, for
9 part 9 (Review and appeal)—see section 223.’ means that the term
10 ‘appellable decision’ is defined in that section for part 9.

11 **Explanatory note**

12 This amendment updates a cross-reference because of amendments made by another amendment.

13 **[3.83] Section 30, definition of *statutory employment terms*,**
14 **paragraph (b)**

15 *substitute*

16 (b) where the SES member is engaged; and

17 **Examples**

18 administrative unit, territory authority

19 **Explanatory note**

20 This amendment revises the definition to clarify that the defined term is intended to include an
21 SES member engaged in an administrative unit or territory authority.

[3.84] Sections 92 (4), 108 (4) and 109 (5)

after

appellable

insert

decision

Explanatory note

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

[3.85] Section 151 (2)

omit

a disclosure

substitute

a discloser

Explanatory note

This amendment corrects a minor error made when section 151 was inserted by the *Public Sector Management Amendment Act 2016*. The word ‘disclosure’ was inadvertently inserted instead of ‘discloser’ (which is defined in section 9 (4)), making the provision illogical.

[3.86] Dictionary, note 2

omit

- Office of the Legislative Assembly

Explanatory note

Dictionary, note 2 lists examples of terms used in the *Public Sector Management Act 1994* that are defined in the *Legislation Act*, dictionary, part 1. This amendment omits a term that is not used in the Act.

- 1 **[3.87] Dictionary, definition of *appellable decision***
- 2 *substitute*
- 3 ***appellable decision***, for part 9 (Review and appeal)—see section 223.
- 4 **Explanatory note**
- 5 This amendment updates the definition in line with current legislative drafting practice.
- 6 **[3.88] Dictionary, definition of *commissioner***
- 7 *substitute*
- 8 ***commissioner*** means the Public Sector Standards Commissioner
- 9 appointed under section 142 (1).
- 10 **Explanatory note**
- 11 This amendment updates the definition as a consequence of amendments to the Act by the *Public*
- 12 *Sector Management Amendment Act 2016* to establish the office of the Public Sector Standards
- 13 Commissioner.
- 14 **[3.89] Dictionary, definition of *employee*, paragraph (a)**
- 15 *omit*
- 16 division 5.7
- 17 *substitute*
- 18 division 5.8
- 19 **Explanatory note**
- 20 This amendment corrects a cross-reference.

- 1 **[3.90] Dictionary, definition of *reviewable decision***
2 *substitute*
3 *reviewable decision*, for part 9 (Review and appeal)—see
4 section 223.

5 **Explanatory note**

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

7 **[3.91] Dictionary, definition of *statutory employment terms***

- 8 *omit*
9 SES position
10 *substitute*
11 SES member

12 **Explanatory note**

13 This amendment corrects an incorrect term.

14 **[3.92] Dictionary, definition of *underperformance***

- 15 *omit*

16 **Explanatory note**

17 This amendment omits from the dictionary a term that is used only in 1 section and defined for
18 that section.

Part 3.27 Radiation Protection Act 2006

[3.93] Section 115 (1), new definition of *Chief Executive Medicare*

insert

Chief Executive Medicare—see the *Human Services (Medicare) Act 1973* (Cwlth), section 3.

Explanatory note

This amendment inserts a new definition to replace the definition of *health insurance commission*, which is omitted by another amendment (see explanatory note for amendment 3.94 for additional information).

[3.94] Section 115 (1), definition of *health insurance commission*

omit

Explanatory note

This amendment omits a redundant definition. The *Health Insurance Commission Act 1973* (Cwlth) (the *HIC Act*) was amended by the *Human Services Legislation Amendment Act 2005* (Cwlth) (the *2005 Amendment Act*), schedule 2, section 2 to change the name of the HIC Act to the *Medicare Australia Act 1973* (Cwlth). The 2005 Amendment Act also replaced the health insurance commission with Medicare Australia.

In 2011, the *Human Services Legislation Amendment Act 2011* (Cwlth) (the *2011 Amendment Act*), schedule 1, section 2 changed the name of the *Medicare Australia Act 1973* (Cwlth) to the *Human Services (Medicare) Act 1973* (Cwlth). The 2011 Amendment Act repealed part II of the Act (which established Medicare Australia) and replaced the Chief Executive Officer with the Chief Executive Medicare.

A new definition of *Chief Executive Medicare* is inserted in section 115 (1) by another amendment.

1 **[3.95] Section 115 (4) (d)**

2 *substitute*

3 (d) to the Chief Executive Medicare; or

4 **Explanatory note**

5 This amendment updates the paragraph as a consequence of the replacement of the Chief
6 Executive Officer of the health insurance commission with the Chief Executive Medicare
7 (see explanatory note for amendment 3.94 for additional information).

8 **Part 3.28 Retirement Villages Act 2012**

9 **[3.96] Section 89 (3) (b)**

10 *omit*

11 an externally-administered body corporate

12 *substitute*

13 a Chapter 5 body corporate

14 **Explanatory note**

15 This amendment updates language to reflect an amendment to the [Corporations](#)
16 [Act 2001](#) (Cwlth). The definition of *externally-administered body corporate* was repealed from
17 the [Corporations Act](#) by the [Insolvency Law Reform Act 2016](#) (Cwlth) with effect from
18 1 March 2017 and replaced by the definition of *Chapter 5 body corporate*.

19 **[3.97] Section 89 (5)**

20 *substitute*

21 (5) In this section:

22 *Chapter 5 body corporate*—see the [Corporations Act](#), section 9.

23 **Explanatory note**

24 This amendment inserts a new definition that is consequential on another amendment
25 (see explanatory note for amendment 3.96 for additional information).

1 **Part 3.29** **Road Transport (Offences)**
2 **Regulation 2005**

3 **[3.98] Schedule 1, part 1.14, items 13 to 18, column 3**

4 *omit*

5 /registration label

6 **Explanatory note**

7 This amendment is consequential on the omission of references to ‘registration label’ in the [Road](#)
8 [Transport \(Vehicle Registration\) Act 1999](#), section 22 by other amendments (see explanatory note
9 for amendment 3.106 for additional information).

10 **Part 3.30** **Road Transport (Third-Party**
11 **Insurance) Regulation 2008**

12 **[3.99] Schedule 1, section 1.1, definition of *historic vehicle***

13 *substitute*

14 *historic vehicle*—see the [Duties Act 1999](#), section 217 (3).

15 **Explanatory note**

16 This amendment updates the definition to correct a cross-reference. The term is now defined in
17 the [Duties Act 1999](#), section 217.

18 **[3.100] Schedule 1, section 1.1, definition of *primary producer’s***
19 ***tractor***

20 *omit*

21 his or her

22 *substitute*

23 the producer’s

24 **Explanatory note**

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

[3.101] Schedule 1, section 1.1, definitions of *veteran vehicle* and *vintage vehicle*

substitute

veteran vehicle—see the *Duties Act 1999*, section 217 (3).

vintage vehicle—see the *Duties Act 1999*, section 217 (3).

Explanatory note

This amendment updates the definitions to correct cross-references. The terms are now defined in the *Duties Act 1999*, section 217.

**Part 3.31 Road Transport (Vehicle
Registration) Act 1999**

[3.102] Section 14 (2) (g)

omit

and registration labels

Explanatory note

This amendment omits words that are redundant because registration labels are no longer required for any registrable vehicles registered in the ACT (see explanatory note for amendment 3.106 for additional information).

[3.103] Section 22 heading

substitute

22 Offences about numberplates etc

Explanatory note

This amendment revises the heading to omit words that are redundant because registration labels are no longer required for any registrable vehicles registered in the ACT (see explanatory note for amendment 3.106 for additional information).

1 **[3.104] Section 22 (1) (a)**

2 *omit*

3 or registration label

4 **Explanatory note**

5 This amendment omits words that are redundant because registration labels are no longer required
6 for any registrable vehicles registered in the ACT (see explanatory note for amendment 3.106 for
7 additional information).

8 **[3.105] Section 22 (1) (b) and (c)**

9 *omit*

10 , registration label

11 **Explanatory note**

12 This amendment omits words that are redundant because registration labels are no longer required
13 for any registrable vehicles registered in the ACT (see explanatory note for amendment 3.106 for
14 additional information).

15 **[3.106] Section 22 (3) (a)**

16 *omit*

17 , a registration label for a heavy vehicle

18 **Explanatory note**

19 This amendment omits words that are redundant because registration labels are no longer required
20 for heavy vehicles registered in the ACT. The [Road Transport Legislation Amendment](#)
21 [Regulation 2018 \(No 1\)](#) amended the [Road Transport \(Vehicle Registration\) Regulation 2000](#) to
22 remove the requirements for a heavy vehicle to have a registration label. The amendments were
23 the result of agreement by the Transport and Infrastructure Council at its meeting on 19 May 2017
24 to amend the Heavy Vehicle National Law. The amendments removed the requirement for road
25 transport authorities to issue or require registration labels to be displayed on heavy vehicles.
26 Registration labels ceased to be issued for heavy vehicles in the ACT from 1 July 2018, and
27 registration labels have not been issued for other registrable vehicles in the ACT since
28 1 July 2013.

1 **[3.107] Section 22 (3) (b)**

2 *omit*

3 , registration label

4 **Explanatory note**

5 This amendment omits words that are redundant because registration labels are no longer required
6 for any registrable vehicles registered in the ACT (see explanatory note for amendment 3.106 for
7 additional information).

8 **[3.108] Section 30 (1) (a)**

9 *omit*

10 or a registration label for a heavy vehicle

11 **Explanatory note**

12 This amendment omits words that are redundant because registration labels are no longer required
13 for heavy vehicles registered in the ACT (see explanatory note for amendment 3.106 for
14 additional information).

15 **Part 3.32 Road Transport (Vehicle**
16 **Registration) Regulation 2000**

17 **[3.109] Schedule 1, section 1.34 (3) (e)**

18 *substitute*

19 (e) a Department of Home Affairs (Cwlth) vehicle; or

20 **Explanatory note**

21 This amendment updates the paragraph to reflect the change of name of the Commonwealth
22 Department of Immigration and Border Protection to the Department of Home Affairs.

1 **[3.110] Schedule 1, section 1.120 (1) (e)**

2 *substitute*

3 (e) a Department of Home Affairs (Cwlth) vehicle; or

4 **Explanatory note**

5 This amendment updates the paragraph to reflect the change of name of the Commonwealth
6 Department of Immigration and Border Protection to the Department of Home Affairs.

7 **Part 3.33 Spent Convictions Act 2000**

8 **[3.111] Dictionary, definition of *law enforcement agency*,**
9 **paragraph (c)**

10 *substitute*

11 (c) the Department of Home Affairs (Cwlth);

12 **Explanatory note**

13 This amendment updates the paragraph to reflect the change of name of the Commonwealth
14 Department of Immigration and Border Protection to the Department of Home Affairs.

Part 3.34 Testamentary Guardianship Act 1984

[3.112] Section 11 (3) (c) and (d)

substitute

(c) no order relating to the child has been registered under the *Family Law Act 1975* (Cwlth), section 70G; and

(d) no order that would, under the *Family Law Act 1975* (Cwlth), section 60F have effect for that Act as if it were an order granting custody of the child is in force;

Explanatory note

This amendment updates redundant cross-references. Section 11 (3) (c) and (d) refer to section 60A and section 68 of the *Family Law Act 1975* (Cwlth). However, the *Family Law Reform Act 1995* (Cwlth) replaced section 60A (Certain children are children of marriage etc) with new section 60F (Certain children are children of marriage etc) and replaced section 68 (Overseas custody orders) with new sections 70G to 70L (part VII, division 13, subdivision C (Registration of overseas orders)).

Part 3.35 Unclaimed Money Act 1950

[3.113] Dictionary, definition of *company*, paragraph (b) (ii)

omit

or recognised company

Explanatory note

This amendment omits words that are redundant. The term ‘recognised company’ was used in the Corporations Law (as made under the *Corporations Act 1989* (Cwlth), s 82) and defined as being ‘a body corporate that, because of the definition of *company* in section 9 of the Corporations Law of another jurisdiction, is a company for the purposes of that section of that law’. A corresponding concept was not included when the *Corporations Act 2001* (Cwlth) re-enacted the Corporations Law because it was not needed as the *Corporations Act 2001* (Cwlth) applies as a Commonwealth Act operating throughout Australia and all ‘recognised companies’ were taken to be incorporated under that Act on its commencement.

1 **Part 3.36 Utilities (Technical Regulation)**
2 **Act 2014**

3 **[3.114] Section 72 (2)**

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

5 (2) The draft technical code for listed dams must include requirements in
6 relation to the following:

7 **Explanatory note**

8 This amendment revises the opening words of subsection (2) for clarity.

9 **[3.115] Section 72 (4)**

10 *omit*

11 subsection (2)

12 *substitute*

13 subsection (3)

14 **Explanatory note**

15 This amendment corrects a cross-reference.

1 **[3.116] Dictionary, note 2**

2 *insert*

- 3 • ACAT
- 4 • amend
- 5 • appoint
- 6 • change
- 7 • fail
- 8 • function
- 9 • Minister (see s 162)
- 10 • notifiable instrument (see s 10)
- 11 • penalty unit (see s 133)

12 **Explanatory note**

13 Dictionary, note 2 lists examples of terms used in the *Utilities (Technical Regulation) Act 2014*

14 that are defined in the [Legislation Act](#), dictionary, part 1. This amendment inserts new terms used

15 in the Act and defined in the [Legislation Act](#), dictionary, part 1.

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