

2003

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Statute Law Amendment Bill 2003 (No 2)

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Statute Law Amendment Bill 2003 (No 2)

A Bill for

An Act to amend or repeal certain Acts and regulations for the purpose of statute law revision

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 (No 2)*.

3 **2 Commencement**

4 This Act commences on the 14th 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 **3 Purpose**

8 The purpose of this Act is to improve the quality of the statute law
9 of the Territory by amending or repealing Acts and regulations for
10 the purpose of statute law revision.

11 **4 Notes**

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

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

14 **5 Legislation amended—schs 1—3**

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

16 **6 Legislation repealed—sch 4**

17 (1) This Act repeals the legislation mentioned in schedule 4.

18 (2) The *Institute for the Study of Man and Society Incorporation*
19 *Act 1968* and the instruments mentioned in part 4.4 are declared to
20 be laws to which the Legislation Act, section 88 (Repeal does not
21 end effect of transitional laws etc) applies.

1 **Schedule 1** **Minor amendments**

2 (see s 5)

3 **Part 1.1** **Building and Construction**
4 **Industry Training Levy Act**
5 **1999**

6 **[1.1] New part 8**

7 *insert*

8 **Part 8** **Validation**

9 **38 Validation of appointment of members of board**

10 (1) The people appointed by the Minister as members of the board
11 (whether on an acting basis or otherwise) during the period
12 beginning on 1 November 2002 and ending on 18 July 2003 are
13 taken to be, and always to have been, members of the board for the
14 period appointed as if the appointments had been properly—

15 (a) made; and

16 (b) notified under the Legislation Act, section 61; and

17 (c) presented to the Legislative Assembly under the Legislation
18 Act, section 64 (1).

19 (2) Without limiting subsection (1), and to remove any doubt, anything
20 done, or purporting to have been done, by the board during the
21 period mentioned in that subsection in exercise of the functions of
22 the board is taken to be, and always to have been, as valid as if the
23 appointments had been properly—

24 (a) made; and

- 1 (b) notified under the Legislation Act, section 61; and
2 (c) presented to the Legislative Assembly in accordance with the
3 Legislation Act, section 64 (1).

4 **40 Expiry of pt 8**

5 This part expires the same day it commences.

6 *Note* If a law validates something that is or may otherwise be invalid, the
7 validating effect of the law does not end merely because of the repeal of
8 the law (see Legislation Act, s 88 (1) (b)).

9 **Explanatory note**

10 This amendment inserts provisions to ensure the validity of the appointments of members
11 and actions of the Building and Construction Training Fund Board during the period
12 1 November 2002 to 18 July 2003. It would seem that not all of the requirements of the
13 Legislation Act about the making, notification and presentation of appointments were
14 satisfied for appointments made to the board during that period. In particular, when the
15 appointments of members ended on 31 October 2002, some of the members were
16 reappointed for 2 consecutive periods of less than 6 months. The second of these
17 reappointments was not tabled.

18 To remove any ongoing doubts about the validity of appointments of members of the
19 board, the members were reappointed by an instrument of appointment with effect from 19
20 July 2003 (see DI2003—190). The Legislative Standing Committee on Education was
21 consulted about the reappointments and the instrument of appointment was presented to
22 the Legislative Assembly on 19 August 2003.

1 **Schedule 2** **Structural amendments**

2 (see s 5)

3 **Part 2.1** **Legislation Act 2001**

4 **[2.1] Section 2, notes**

5 *substitute*

6 *Note 1* The dictionary at the end of an Act usually defines certain terms used in
7 the Act, and includes references (*signpost definitions*) to other terms
8 defined elsewhere in the Act. However, in this Act the dictionary is
9 divided into 2 parts.

10 *Note 2* Part 1 defines terms commonly used in Acts (including this Act) and
11 statutory instruments. For example, because of the definition ‘*month*
12 means calendar month.’, the term ‘month’ has the defined meaning
13 wherever the term is used in an Act or statutory instrument unless the
14 Act or instrument provides otherwise or the contrary intention otherwise
15 appears (see s 144 and s 155).

16 *Note 3* Part 2 defines certain terms used in this Act. For example, the signpost
17 definition ‘*administrator*, for part 19.5 (Service of documents)—see
18 section 246.’ means that the term ‘administrator’ is defined in s 246 for
19 this Act, pt 19.5. A definition in pt 2 applies to all of this Act unless the
20 definition, or another provision of this Act, provides otherwise or the
21 contrary intention otherwise appears (see s 155 and s 156 (1)).

22 **Explanatory note**

23 This amendment brings the notes into line with current drafting practice by using ‘terms’
24 instead of ‘words and expressions’.

25 **[2.2] Section 43 (2), new example and notes**

26 *insert*

27 **Example 3**

28 The *Wombat Protection Act 2003* (hypothetical) provides that the Minister may
29 appoint a Wombat Advocate. The instrument making the appointment states that
30 the appointment is for 5 years, but the maximum term of appointment authorised
31 under the Act is 4 years.

1 The instrument is read restrictively ('read down') as if it referred to 4 years. In
2 other words, the instrument is effective but the appointment is only valid for 4
3 years.

4 *Note to example 3* The kind of interpretation indicated in example 3 is known as
5 a distributive interpretation of the instrument.

6 *Note* 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
8 (see s 126 and s 132).

9 **Explanatory note**

10 This amendment inserts another example to further illustrate the operation of the
11 subsection. The amendment also inserts a standard note about examples.

12 **[2.3] Section 43 (3), note**

13 *omit*

14 **Explanatory note**

15 This amendment omits the note about examples, as it is now placed in section 43 (2).

16 **[2.4] Section 47 (4)**

17 *substitute*

18 (4) If the relevant instrument makes provision about the matter by
19 applying a law of another jurisdiction or an instrument, the
20 following provisions apply:

21 (a) if subsection (3) is displaced by, or under authority given by,
22 an Act or the authorising law—the law of the other jurisdiction
23 or instrument is applied as in force from time to time;

24 *Note* For the displacement of s (3), see s 6, examples 1 and 2.

25 (b) if subsection (3) is not so displaced and the relevant instrument
26 does not provide that the law of the other jurisdiction or
27 instrument is applied as in force at a particular time—the law
28 or instrument is taken to be applied as in force when the
29 relevant instrument is made.

1 **Examples for s (4) (b)**

2 1 The *Locust Damage Compensation Determination 2003* (a hypothetical
3 disallowable instrument) provides for the making of claims against a
4 compensation fund. Clause 43 states that disputes about claims must be
5 decided in accordance with the *Commercial Arbitration Act 1984* (NSW)
6 (the *NSW Act*) as in force from time to time. The determination is made on
7 1 August 2003. The Act under which the determination is made does not
8 displace subsection (3). Therefore, even though clause 43 purports to apply
9 the NSW Act as in force from time to time, the NSW Act as in force on 1
10 August 2003 is applied by the determination.

11 2 The *Locust Damage Compensation Determination 2003* (mentioned in
12 example 1), clause 43 states that disputes about claims must be decided in
13 accordance with the *Commercial Arbitration Act 1984* (NSW) (the *NSW*
14 *Act*), but does not state that the NSW Act is to be applied as in force from
15 time to time or at a particular time. The determination is made on
16 1 August 2003. The Act under which the determination is made does not
17 displace subsection (3). Therefore, the NSW Act as in force on 1 August
18 2003 is applied by the determination.

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

22 **Explanatory note**

23 The amendment clarifies the effect of the displacement of section 47 (3) and the
24 relationship between that subsection and this subsection.

25 More importantly, this amendment makes it clear that a statutory instrument may make
26 provision about a matter by applying a law of another jurisdiction, or an instrument, as in
27 force from time to time only if subsection (3) is displaced by (or under authority given by)
28 an Act or, if the authorising law is a subordinate law or disallowable instrument, the
29 authorising law itself. In other words, only an Act, or authorising law that is a subordinate
30 law or disallowable instrument, can authorise a statutory instrument to apply a law of
31 another jurisdiction, or an instrument, as in force from time to time.

32 The amendment ensures that displacement of subsection (3) remains subject to the
33 Legislative Assembly's scrutiny and control.

1 **[2.5] New section 65 (4A)**

2 *insert*

3 (4A) A disallowance under this section has effect for all purposes as if it
4 were a repeal made by an Act.

5 **Explanatory note**

6 This amendment inserts a provision similar to section 68 (6) into section 65. Section 65
7 provides that, if the Legislative Assembly passes a resolution to disallow a subordinate law
8 or disallowable instrument, the law or instrument is taken under section 65 to be repealed.
9 This amendment means that a deemed repeal, once effective, will be repealed
10 automatically under the Legislation Act, section 89. Its effect is, however, saved under the
11 Legislation Act, section 84.

12 **[2.6] Section 65**

13 *renumber subsections when Act next republished under Legislation*
14 *Act*

15 **Explanatory note**

16 This amendment provides for the consequential renumbering of subsections.

17 **[2.7] Section 73 (1) (b)**

18 *after*

19 the Act

20 *insert*

21 or another Act

22 **Explanatory note**

23 This amendment makes it clear that the commencement of an Act may be provided for in
24 another Act.

1 **[2.8] Section 73 (2) and (3)**

2 *omit*

3 subordinate law, disallowable instrument or notifiable instrument

4 *substitute*

5 registrable instrument

6 **Explanatory note**

7 This amendment applies the general commencement rules of the Legislation Act,
8 section 73 to commencement notices. The rules presently apply to all other registrable
9 instruments.

10 The rules for the commencement of laws by commencement notice are dealt with in the
11 Legislation Act, section 77. The amendment does not affect the operation of those rules.

12 However, the amendment will facilitate the operation of the ACT legislation register.
13 When a registrable instrument is included on the register, the date the instrument becomes
14 effective (or commences) is indicated to assist users of the register. The amendment
15 confirms that the general commencement rules that apply to other registrable instruments
16 apply also to commencement notices **as instruments**, that is, the default commencement
17 for a commencement notice itself is the day after the day the notice is notified. (This
18 default commencement date may or may not be the same date as the date fixed by the
19 commencement notice for the commencement of the law that it commences).

20 The proposed default commencement for commencement notices is the same default
21 commencement that already applies to the commencement of a law made by a
22 commencement notice (see Legislation Act, s 77). The amendment does not change the
23 law, but rather confirms the way that commencement notices have been shown on the
24 legislation register since its establishment.

1 **[2.9] Section 73 (4) (a)**

2 *after*

3 the day

4 *insert*

5 after the day

6 **Explanatory note**

7 This amendment brings the default commencement for non-registrable instruments (that is,
8 instruments not required to be notified on the ACT legislation register) into line with the
9 default commencement for registrable instruments. Under the amendment the default
10 commencement for a non-registrable instrument will be the day after the instrument is
11 made (or, if it is required to be approved by an entity after making, the day after the
12 approval day).

13 The law does not generally recognise parts of days. In theory, it is therefore presently
14 possible for a non-registrable instrument to operate retrospectively by default from the
15 time of making (or approval) back to the first moment of the day it is made (or approved).
16 The amendment will prevent this result.

17 However, under other amendments made by this schedule, a non-prejudicial provision of a
18 non-registrable instrument may commence on or before the day it is made (or approved) if
19 the instrument clearly indicates that it is to commence retrospectively (see proposed new
20 s 75B and existing s 76 (1)). By contrast, a prejudicial provision of a non-registrable
21 instrument may commence on or before the day it is made (or approved) only if the
22 Legislation Act, section 76 (2) (inserted by another amendment) is displaced by, or under
23 authority given by, an Act.

24 **[2.10] Section 75 (2)**

25 *omit*

26 is taken to have commenced

27 *substitute*

28 commences

29 **Explanatory note**

30 This amendment removes unnecessary words.

1 **[2.11] Section 75 (2) (b)**

2 *omit*

3 are taken to have commenced

4 *substitute*

5 commence

6 **Explanatory note**

7 This amendment removes unnecessary words.

8 **[2.12] New sections 75A and 75B**

9 *insert*

10 **75A Meaning of commences *retrospectively***

- 11 (1) An Act or registrable instrument commences *retrospectively* if it
12 commences on a day or at a time earlier than the day after its
13 notification day.

14 *Note* A reference to an Act or registrable instrument includes a reference to a
15 provision of an Act or registrable instrument (see s 7 (3) and s 12 (2)).

- 16 (2) A statutory instrument that is not a registrable instrument
17 commences *retrospectively* if it commences on a day or at a time
18 earlier than the day after the day it is made or, if it is required under
19 an Act or statutory instrument to be approved (however described)
20 by the Executive, a Minister or any other entity, the day after the
21 day it is approved.

22 **75B Retrospective commencement requires clear indication**

- 23 (1) In this section:

24 *law* includes any statutory instrument.

- 25 (2) A law must not be taken to provide for the law (or another law) to
26 commence retrospectively unless the law clearly indicates that it is
27 to commence retrospectively.

1 **Example**

2 The *XYZ Act 2003* was notified on 1 July 2003. It contains the following
3 provision:

4 **2 Commencement**

5 This Act is taken to have commenced on 17 October 2001.

6 Section 2 clearly indicates that the Act is to commence retrospectively.

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

10 (3) 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 New section 75A makes it clear what retrospective commencement means. The language
15 of the section follows the language of the provisions of the Legislation Act about the
16 notification of Acts and registrable instruments and the making and commencement of
17 instruments (see esp s 73 (2) and (4)).

18 New section 75B states that retrospective commencement requires a clear indication, and
19 provides an example of a clear indication. The rule in section 75B is a statutory expression
20 of the common law presumption against retrospectivity (see Pearce, D and Geddes, R S
21 (2001), *Statutory Interpretation in Australia*, 5th ed, Butterworths, Sydney, ch 10). The
22 rule presently appears in section 76 (2) and is limited in its application to section 76
23 (s 78 (4) presently provides a similar rule for the operation of commencement notices).
24 The rule restated in section 75B will apply to all the provisions of the Legislation Act
25 (eg s 73 (2) (c) and (d)) and will apply whether or not the relevant law or instrument
26 operates prejudicially.

27 The amendment will facilitate the operation of the ACT legislation register. To inform
28 users of the register about what the law is at any time, the register provides information
29 about when a law or instrument, or a particular version of a law or instrument, became
30 effective or ceased to be effective. In the absence of a general rule about retrospective
31 commencements like the rule presently in the Legislation Act, section 76 (2), it can be
32 difficult to work out whether a retrospective commencement of a registrable instrument is
33 intended or a registrable instrument is simply notified later than the time that was
34 envisaged. If it is simply notified late, the Legislation Act, section 73 (3) will apply and
35 the instrument will commence on the day after its notification day.

1 By requiring a clear indication if a retrospective commencement is intended, the
2 amendment will enable questions of that kind to be decided more easily and with greater
3 certainty. It will also assist in ensuring greater transparency in the operation of laws and
4 instruments. Under the amendment a retrospective commencement with non-prejudicial
5 operation will need to be clearly indicated in the same way as a retrospective
6 commencement with prejudicial operation.

7 **[2.13] Section 76 (2)**

8 *substitute*

9 (2) Unless this subsection is displaced by, or under authority given by,
10 an Act, a statutory instrument may not provide that a prejudicial
11 provision of the instrument commences retrospectively.

12 **Example**

13 The *Locust Damage Compensation Determination 2003* (a hypothetical
14 disallowable instrument) sets out (among other things) the people who are eligible
15 for compensation under a compensation fund. Previously, there was no restriction
16 on who was eligible. The determination provides that it is taken to have
17 commenced on 1 July 2003, but it is not notified until 15 August 2003. There is
18 nothing in the Act under which the determination is made (or any other Act) that
19 authorises the retrospective commencement.

20 The provision of the determination that limits who can apply for compensation is
21 a prejudicial provision (ie it adversely affects some people's right to receive
22 compensation) and cannot commence retrospectively. Instead, it would
23 commence on the day after the determination's notification day (see s 73 (3)).

24 **Explanatory note**

25 This amendment makes it clear that a statutory instrument may not provide for the
26 retrospective commencement of a prejudicial provision (defined by another amendment) of
27 the instrument unless under the authority of an Act. The amendment also adds a new
28 example to further illustrate the operation of the section.

1 **[2.14] Section 76 (4)**

2 *substitute*

3 (4) In this section:

4 ***non-prejudicial provision*** means a provision that is not a prejudicial
5 provision.

6 ***prejudicial provision*** means a provision that operates to the
7 disadvantage of a person (other than the Territory or a Territory
8 authority or instrumentality) by—

9 (a) adversely affecting the person's rights; or

10 (b) imposing liabilities on the person.

11 **Explanatory note**

12 This amendment includes a new definition of ***prejudicial provision***. The new definition is
13 the converse of the existing definition of ***non-prejudicial provision***, which is as follows:

14 '***non-prejudicial provision*** means a provision that does not operate to the disadvantage of
15 a person (other than the Territory or a Territory authority or instrumentality) by—

16 (a) adversely affecting the person's rights; or

17 (b) imposing liabilities on the person.'

18 This amendment also substitutes a new definition of ***non-prejudicial provision***.

19 **[2.15] New section 79 (1A)**

20 *insert*

21 (1A) This section applies to a law unless it is displaced by, or under
22 authority given by, an Act or, if the postponed law is a subordinate
23 law or disallowable instrument, the postponed law.

24 **Explanatory note**

25 This amendment makes it clear that section 79 (which deals with the automatic
26 commencement of postponed laws) can only be displaced under the authority of an Act or,
27 if the postponed law is a subordinate law or disallowable instrument, the postponed law
28 itself. In other words, section 79 cannot be displaced by a commencement notice, which
29 would not be subject to the Legislative Assembly's scrutiny and control.

1 **[2.16] Section 79 (3), definition of *postponed law***

2 *omit*

3 or provision of a law

4 **Explanatory note**

5 This amendment omits unnecessary words. *Law* is defined for chapter 8 (in s 72) to
6 include a provision of a law.

7 **[2.17] Section 79**

8 *renumber subsections when Act next republished under Legislation*
9 *Act*

10 **Explanatory note**

11 This amendment provides for the consequential renumbering of subsections.

12 **[2.18] Section 88 (1), example for paragraph (a)**

13 *substitute*

14 **Examples for par (a)**

15 1 a provision stating that an existing licence under a repealed Act is taken to be
16 a licence of a particular kind under another Act and authorising the
17 imposition of conditions under the other Act

18 2 a provision stating that a provision applies to certain applications made
19 before the commencement of an amendment or only to applications made
20 after the commencement of an amendment

21 **Explanatory note**

22 This amendment includes an additional example of a common transitional provision,
23 namely, a provision dealing with the application of amendments.

1 **[2.19] Section 89 (6)**

2 *substitute*

3 (6) If an instrument making, or evidencing, an appointment (including
4 an acting appointment) is a registrable instrument, the instrument is
5 automatically repealed—

6 (a) on the day the appointment ends; or

7 (b) if the instrument makes 2 or more appointments that end on
8 different days—on the day the last-ending appointment ends.

9 **Explanatory note**

10 This amendment makes it clear that, if an instrument makes 2 or more appointments that
11 end on different days, the instrument is repealed when the last-ending appointment ends.

12 **[2.20] New section 89 (7A)**

13 *insert*

14 (7A) If apart from this subsection a law or instrument would be
15 automatically repealed on a day that is earlier than its notification
16 day, the law or instrument is instead automatically repealed on the
17 day after its notification day.

18 **Explanatory note**

19 This amendment applies to the rare case where all of the provisions of a law or instrument
20 to which this section applies commence retrospectively. Without this amendment, the
21 automatic repeal would happen before notification day, which is potentially confusing.
22 This amendment means that the earliest that an automatic repeal can happen is the day
23 after the relevant notification day.

24 **[2.21] Section 89 (10), definition of *amending law*, new example**

25 *insert*

26 **Example for par (e)**

27 an objects provision

28 **Explanatory note**

29 This amendment includes a new example to make it clear that a provision about the
30 purposes of a law or provision includes an objects provision.

1 **[2.22] Section 89 (10), definition of *amending provision***

2 *substitute*

3 *amending provision*, of a law, means a provision of the law that
4 only amends or repeals a law or statutory instrument, and includes—

- 5 (a) any other provision (for example, a schedule) of the law that
6 only identifies the law or instrument amended or repealed; and
7 (b) any other provision (for example, a part heading) of the law
8 that only identifies (or groups) provisions that are amended or
9 repealed.

10 **Explanatory note**

11 This amendment extends the provisions that are automatically repealed to include
12 provisions that identify or group provisions that are amended or repealed. The following
13 amendment provides an example.

14 **[2.23] Section 89, new example**

15 *insert*

16 **Example 3 for s 89—see s (10), def *amending provision***

17 The *Plant Diseases Act 2003* (hypothetical), part 6 is as follows:

18 **Part 6 Repeals and consequential amendment**

19 **42 Repeal of Plant Diseases Act 1934**

20 The *Plant Diseases Act 1934* No 21 A1934-21 is repealed.

21 **43 Repeal of Plant Diseases Regulations 1938**

22 The *Plant Diseases Regulations 1938* (made on 11 February 1938) are repealed.

23 **44 Administrative Decisions (Judicial Review) Act 1989, schedule 1, new clause 6**

24 *insert*

- 25 6 This Act does not apply to decisions of the Minister under the *Plant Diseases Act 2003*,
26 part 3 (Measures for the control of diseases and pests).

27
28 Under the definition of *amending provision*, the heading to part 6, as well as the
29 contents of part 6, are automatically repealed under section 89.

30 **Explanatory note**

31 This amendment inserts a new example for section 89. It illustrates the operation of the
32 new definition of *amending provision*. The definition was amended by the previous
33 amendment.

1 **[2.24] Section 89**

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

4 **Explanatory note**

5 This amendment provides for the consequential renumbering of subsections.

6 **[2.25] Section 99 (1) (b)**

7 *substitute*

8 (b) the year when it was enacted and its number, together with a
9 reference (if necessary) to indicate that it is an Act.

10 **Example of reference to indicate Act**

11 an Act may be referred to using the word Act or the letter 'A' eg 'A1993-1' is a
12 reference to Act No 1 of 1993

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 clarifies the way in which an Act may be referred to. The example
18 follows the practice used on the ACT legislation register to refer to Acts.

19 **[2.26] Section 100 (1), new examples**

20 *insert*

21 **Examples of references to kind of instrument for par (b)**

22 1 a subordinate law may be referred to using the letters 'SL' (eg 'SL2000-11'
23 is a reference to subordinate law No 11 of 2000)

24 2 a disallowable instrument may be referred to using the letters 'DI'
25 (eg 'DI1997-101' is a reference to disallowable instrument No 101 of 1997)

26 3 a notifiable instrument that is not an approved form may be referred to using
27 the letters 'NI' (eg 'NI2002-226' is a reference to notifiable instrument
28 No 226 of 2002)

29 4 an approved form may be referred to using the letters 'AF' (eg 'AF2003-1' is
30 a reference to approved form No 1 of 2003)

1 5 a commencement notice may be referred to using the letters ‘CN’
2 (eg ‘CN2002-3’ is a reference to commencement notice No 3 of 2002)

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 adds examples to section 100 (1) to illustrate how statutory instruments
8 may be referred to. The examples follow the practice used on the ACT legislation register
9 to refer to registrable instruments.

10 **[2.27] New section 102 (2A)**

11 *insert*

12 (2A) This section is subject to section 47 (Statutory instrument may make
13 provision by applying law or instrument).

14 **Explanatory note**

15 This amendment makes it clear that section 102 is subject to section 47.

16 **[2.28] Section 102**

17 *renumber subsections when Act next republished under Legislation*
18 *Act*

19 **Explanatory note**

20 This amendment provides for the consequential renumbering of subsections.

21 **[2.29] Section 116 (1) (l)**

22 *substitute*

23 (l) omits, inserts or changes a referential term; or

24 **Explanatory note**

25 This amendment brings the paragraph into line with current drafting practice by using
26 ‘term’ instead of ‘expression’.

1 **[2.30] New section 126 (2A)**

2 *insert*

3 (2A) A preamble or other recital to an Act or statutory instrument is part
4 of the Act or instrument.

5 **Explanatory note**

6 This amendment provides that a preamble or other recital is part of an Act or statutory
7 instrument. This is the current position in Australia (see Pearce, D and Geddes, R S
8 (2001), *Statutory Interpretation in Australia*, 5th ed, Butterworths, Sydney, par 1.27 and
9 par 4.39).

10 **[2.31] Section 126**

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

13 **Explanatory note**

14 This amendment provides for the consequential renumbering of subsections.

15 **[2.32] Section 130 (a) and (b)**

16 *substitute*

17 (a) gives a meaning to a term; or

18 (b) limits or extends the meaning of a term.

19 **Explanatory note**

20 This amendment brings the section into line with current drafting practice by using ‘term’
21 instead of ‘word or expression’.

22 **[2.33] Section 130, example 8**

23 *substitute*

24 8 *excluded*—a claim is *excluded* if the claim is not brought within 1 year after
25 the day the claimant becomes aware of the failure to account to which the
26 claim relates.

27 **Explanatory note**

28 This amendment brings the example into line with current drafting practice by adding ‘the
29 day’ after ‘after’.

1 **[2.34] Section 130, example 9 and note 1**

2 *substitute*

3 9 A term used in the *XYZ Act 2003* has the same meaning in this Act.

4 10 A term defined in the *XYZ Act 2003* has the same meaning in this Act.

5 *Note 1* Examples 5 and 6 illustrate signpost definitions, that is, definitions that
6 do not themselves directly define a term but point the reader to the place
7 where the term is defined (see s 131).

8 **Explanatory note**

9 This amendment brings the example and note into line with current drafting practice,
10 including using ‘term’ instead of ‘word’ and ‘expression’. The amendment also inserts
11 new example 10, a variation of example 9.

12 **[2.35] Section 131 (1)**

13 *substitute*

14 (1) In an Act or statutory instrument, a definition of a term that includes
15 the word ‘see’ followed by a reference to a law or instrument means
16 the term has the same meaning as the term (or, if the reference
17 includes a reference to the definition of another term, that term) has
18 in the law or instrument, as in force from time to time.

19 **Explanatory note**

20 This amendment brings the subsection into line with current drafting practice by using
21 ‘term’ instead of ‘word or expression’.

22 **[2.36] New section 131 (1A)**

23 *insert*

24 (1A) This section is subject to section 47 (Statutory instrument may make
25 provision by applying law or instrument).

26 **Explanatory note**

27 This amendment makes it clear that section 131 is subject to section 47.

1 **[2.37] Section 131**

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

4 **Explanatory note**

5 This amendment provides for the consequential renumbering of subsections.

6 **[2.38] Section 144 heading**

7 *substitute*

8 **144 Meaning of commonly-used terms**

9 **Explanatory note**

10 This amendment brings the heading into line with current drafting practice by using
11 ‘terms’ instead of ‘words and expressions’.

12 **[2.39] Section 146 (1) and (2)**

13 *omit*

14 word or expression

15 *substitute*

16 term

17 **Explanatory note**

18 This amendment brings the subsections into line with current drafting practice by using
19 ‘term’ instead of ‘word or expression’.

20 **[2.40] Section 148**

21 *omit*

22 Words and expressions

23 *substitute*

24 Terms

1 **Explanatory note**

2 This amendment brings the section into line with current drafting practice by using ‘terms’
3 instead of ‘words and expressions’.

4 **[2.41] Section 151 (1)**

5 *substitute*

6 (1) This section applies if a period of 1 day or longer is provided or
7 allowed for a purpose by an Act or statutory instrument.

8 **Explanatory note**

9 This amendment makes it clear that section 151 only applies to periods of 1 day or longer,
10 not to periods of, for example, a few hours.

11 **[2.42] Section 156 (1), note**

12 *substitute*

13 *Note 1* See s 144 (Meaning of commonly-used terms) for the application of the
14 definitions in this Act, dict, pt 1.

15 *Note 2* Section 148 (Terms used in instruments have same meanings as in
16 authorising laws) provides that terms used in a statutory instrument
17 have the same meaning as they have in the Act or statutory instrument
18 under which the statutory instrument is made.

19 **Explanatory note**

20 This amendment of the note (now note 1) is consequential on the amendment of the
21 heading to section 144 by an earlier amendment.

22 New note 2 refers readers to section 148.

23 **[2.43] Section 157**

24 *omit*

25 word or expression

26 *substitute*

27 term

1 **Explanatory note**

2 This amendment brings the section into line with current drafting practice by using ‘term’
3 instead of ‘word or expression’.

4 **[2.44] Section 164**

5 *substitute*

6 **164 References to Australian Standards etc**

7 (1) In an Act or statutory instrument, a reference consisting of the
8 words ‘Australian Standard’ or ‘AS’ followed by a number is a
9 reference to the standard so numbered published by or on behalf of
10 Standards Australia.

11 (2) In an Act or statutory instrument, a reference consisting of the
12 words ‘Australian/New Zealand Standard’ or ‘AS/NZS’ followed by
13 a number is a reference to the standard so numbered published
14 jointly by or on behalf of Standards Australia and Standards New
15 Zealand.

16 **Examples for s 164**

- 17 1 AS 4608-1999
18 2 AS/NZS 4906: 1994

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

22 **Explanatory note**

23 This amendment updates this section to deal with the abbreviation ‘AS’ and joint
24 Australian/New Zealand Standards (or ‘AS/NZS’).

25 **[2.45] Section 179 (1)**

26 *omit*

27 expression

28 *substitute*

29 term

1 **Explanatory note**

2 This amendment brings the subsection into line with current drafting practice by using
3 ‘term’ instead of ‘expression’.

4 **[2.46] Section 182**

5 *substitute*

6 **182 Meaning of *law* in ch 17**

7 In this chapter:

8 *law* means an Act or statutory instrument, and includes a provision
9 of a law.

10 **Explanatory note**

11 This amendment includes all statutory instruments in the definition of *law* for chapter 17
12 (Entities and positions). This means that the provisions of the chapter will apply to entities
13 and positions established by statutory instruments that are not subordinate laws or
14 disallowable instruments. For example, the chapter will apply to entities and positions
15 established by notifiable instruments, eg notifiable instruments under the *Public Sector*
16 *Management Act 1994*, section 13 (Constitution of administrative units).

17 **[2.47] Section 183 (3)**

18 *omit*

19 or instrument

20 **Explanatory note**

21 This amendment is consequential on the revised definition of *law* in section 182.

22 **[2.48] Section 185**

23 *omit*

24 an Act or statutory instrument

25 *substitute*

26 a law

1 **Explanatory note**

2 This amendment is consequential on the revised definition of *law* in section 182.

3 **[2.49] Section 186 (3)**

4 *omit*

5 or instrument

6 **Explanatory note**

7 This amendment is consequential on the revised definition of *law* in section 182.

8 **[2.50] New section 190 (1A)**

9 *insert*

10 (1A) An *indictable offence* includes an indictable offence that is or may
11 be dealt with summarily.

12 **Explanatory note**

13 This amendment clarifies the scope of the meaning of *indictable offence* by expressly
14 providing that an indictable offence includes an indictable offence that is or may be dealt
15 with summarily.

16 **[2.51] Section 190**

17 *renumber subsections when Act next republished under Legislation*
18 *Act*

19 **Explanatory note**

20 This amendment provides for the consequential renumbering of subsections.

21 **[2.52] Division 19.3.1 heading**

22 *substitute*

23 **Division 19.3.1 Appointments—general**

24 **Explanatory note**

25 This amendment changes the division heading to better reflect the division's contents.

1 **[2.53] Section 231 (2) and note**

2 *substitute*

- 3 (2) However, if the appointer delegates a function to a delegate, the
4 delegate may not subdelegate the function.

5 **Explanatory note**

6 This amendment recasts subsection (2) to make it clearer, and removes the note which is
7 turned into examples by the next amendment.

8 **[2.54] Section 231 (3)**

9 *substitute*

- 10 (3) Subsection (2) is a determinative provision.

11 **Examples**

12 1 The *ABC Act 2003* provides that an appointer (X) may delegate X's
13 functions to Y. The Act is silent on the subdelegation of the functions. Y
14 may not subdelegate X's functions to Z.

15 2 The *ABC Act 2003* provides that an appointer (X) may delegate X's
16 functions to Y, with authority for Y to subdelegate those functions. Because
17 the Act authorises subdelegation, it expressly displaces this Act,
18 section 231 (2) (see s 6). Y can therefore subdelegate X's functions to Z
19 (compare s 236, which deals with the subdelegation of a power to delegate).

20 *Note 1* See s 5 for the meaning of determinative provisions, and s 6 for their
21 displacement.

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

25 **Explanatory note**

26 This amendment inserts examples to illustrate the operation of the section.

1 **[2.55] Section 236**

2 *substitute*

3 **236 Power to delegate may not be delegated**

4 (1) The appointer may not delegate the appointer's power to delegate.

5 (2) Subsection (1) is a determinative provision.

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

8 **Examples**

9 1 The *ABC Act 2003* provides that an appointer (X) may delegate X's
10 functions to Y. The Act is silent on X's power to delegate the power to
11 delegate. X may not delegate X's power to delegate to Y.

12 2 The *ABC Act 2003* provides that an appointer (X) may delegate X's
13 functions to Y, with authority for X to delegate X's power to delegate.
14 Because the Act authorises the delegation of the power to delegate, it
15 expressly displaces this Act, section 236 (1) (see s 6). X can therefore
16 delegate X's power to delegate to Y (compare s 231, which deals with the
17 subdelegation of a delegated function).

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 removes existing subsection (2), which overlapped with existing
23 subsection (1), and turns the note into examples to better illustrate the operation of the
24 section.

25 **[2.56] Section 239 (4)**

26 *omit*

27 by

28 *substitute*

29 by or in relation to

1 **Explanatory note**

2 This amendment adds 'or in relation to' to make it clear that things done in relation to the
3 delegate (eg the service of notice on the delegate) are taken to have been done in relation
4 to the appointer (ie the notice is taken to have been served on the appointer).

5 **[2.57] New section 310A**

6 *insert*

7 **310A Application of s 89 to registrable instrument**

8 (1) Section 89 (Automatic repeal of certain laws and provisions) applies
9 to a registrable instrument, whenever it was made.

10 (2) This section expires on 12 September 2004.

11 **Explanatory note**

12 This amendment makes it clear that the automatic repeal provisions of section 89 apply to
13 registrable instruments whenever they were made. The amendment will ensure that, as
14 registrable instruments are backcaptured on the ACT legislation register, clearly spent
15 instruments will be included with the repealed instruments and will not clutter up the
16 instruments currently in force.

17 **[2.58] New section 316**

18 *insert*

19 **316 Delegations under Administration Act 1989**

20 (1) To remove any doubt, if a delegation was in force under the
21 *Administration Act 1989* immediately before its repeal, the
22 delegation is taken to have had effect after the repeal as if it were a
23 delegation under this Act, section 254A (Delegation by Minister).

24 (2) This section is in addition to the *Legislation Amendment Act 2002*,
25 section 31 (2).

26 (3) This section expires on 12 September 2004.

27 **Explanatory note**

28 The *Administration Act 1989* was repealed by the *Legislation Amendment Act 2002*,
29 section 31 (1). Section 31 (2) provided that the *Administration Act 1989* was a law to

Schedule 2 Structural amendments
Part 2.1 Legislation Act 2001

Amendment [2.59]

1 which the Legislation Act, section 88 (Repeal does not end transitional or validating effect
2 etc) applies.

3 Section 31 (2) preserved the effect of the delegations made under the *Administration Act*
4 1989, section 5. However, to remove any doubt, this amendment confirms that the
5 delegations have effect as if they had been made under section 254A. The amendment
6 also makes the relevant transitional provision easier to find, in line with current drafting
7 practice. Section 31 (2) was in an amending Act, which is not as easy to find as a
8 provision in a principal Act. Current drafting practice is to put savings and transitional
9 provisions into principal Acts.

10 **[2.59] Schedule 1, part 1.1, item about Innkeepers Liability**
11 **Act 1902**

12 *omit*

13 **Explanatory note**

14 This amendment omits an Act that has been repealed from the list of former NSW and UK
15 Acts still in force in the ACT.

16 **[2.60] Schedule 1, part 1.1**

17 *renumber items when Act next republished under Legislation Act*

18 **Explanatory note**

19 This amendment provides for the consequential renumbering of items.

20 **[2.61] Dictionary, part 1, heading and note**

21 *substitute*

22 **Part 1** **Meaning of commonly-used**
23 **terms**

24 (see s 144)

25 *Note* Terms that are defined only for this Act are set out in pt 2.

26 **Explanatory note**

27 This amendment brings the heading and note into line with current drafting practice by
28 using use ‘terms’ instead of ‘words and expressions’.

1 **[2.62] Dictionary, part 1, definition of *building society***

2 *substitute*

3 *building society* means an authorised deposit-taking institution that
4 is permitted under the *Banking Act 1959* (Cwlth) to assume or use—

5 (a) the term ‘building society’; or

6 (b) any other term (whether or not in English) similar in meaning.

7 **Explanatory note**

8 This amendment brings the definition into line with current drafting practice by using
9 ‘term’ instead of ‘expression’ and simplifies its language.

10 **[2.63] Dictionary, part 1, definition of *credit union***

11 *substitute*

12 *credit union* means an authorised deposit-taking institution that is
13 permitted under the *Banking Act 1959* (Cwlth) to assume or use—

14 (a) the term ‘credit union’; or

15 (b) any other term (whether or not in English) similar in meaning.

16 **Explanatory note**

17 This amendment brings the definition into line with current drafting practice by using
18 ‘term’ instead of ‘expression’ and simplifies its language.

19 **[2.64] Dictionary, part 1, definition of *document***

20 *omit*

21 includes

22 *substitute*

23 means any record of information, and includes

24 **Explanatory note**

25 This amendment brings the definition of *document* more closely into line with the
26 definition of *document* in the *Evidence Act 1995* (Cwlth), dictionary, part 1.

1 **[2.65] Dictionary, part 1, definition of *indictable offence***

2 *substitute*

3 *indictable offence*—see section 190.

4 **Explanatory note**

5 This amendment is consequential on the amendment of section 190 by an earlier
6 amendment.

7 **[2.66] Dictionary, part 1, new definition of *insolvent under***
8 ***administration***

9 *insert*

10 *insolvent under administration* means—

- 11 (a) a person who is an undischarged bankrupt under the
12 *Bankruptcy Act 1966* (Cwlth) or the corresponding provisions
13 of the law of an external Territory or foreign country; or
- 14 (b) a person for whom a debt agreement has been made under the
15 *Bankruptcy Act 1966* (Cwlth), part 9 (Debt agreements), or the
16 corresponding provisions of the law of an external Territory or
17 foreign country, if the debt agreement has not ended or been
18 terminated; or
- 19 (c) a person who has signed a deed of arrangement or assignment
20 under the *Bankruptcy Act 1966* (Cwlth), part 10 (Arrangements
21 with creditors without sequestration), or the corresponding
22 provisions of the law of an external Territory or foreign
23 country, if the terms of the deed have not been fully complied
24 with; or
- 25 (d) a person whose creditors have accepted a composition under
26 the *Bankruptcy Act 1966* (Cwlth), part 10, or the corresponding
27 provisions of the law of an external Territory or foreign
28 country, if a final payment has not been made under the
29 composition.

1 **Explanatory note**

2 This amendment inserts a new definition of *insolvent under administration* based
3 substantially on the definition in the *Corporations Act 2001* (Cwlth).

4 **[2.67] Dictionary, part 1, definition of *summary offence***

5 *substitute*

6 *summary offence*—see section 190.

7 **Explanatory note**

8 This amendment is consequential on the amendment of section 190 by an earlier
9 amendment.

10 **[2.68] Dictionary, part 1, definition of *working day***

11 *substitute*

12 *working day* means a day that is not—

13 (a) a Saturday or Sunday; or

14 (b) a public holiday in the ACT under the *Holidays Act 1958*.

15 **Explanatory note**

16 This amendment brings the definition of *working day* more closely into line with the
17 definition of *business day*, a related term.

18 **[2.69] Dictionary, part 2, heading and note**

19 *substitute*

20 **Part 2** **Terms for Legislation Act 2001**
21 **only**

22 *Note* Terms that apply to all Acts and statutory instruments are set out in pt 1.

23 **Explanatory note**

24 This amendment brings the heading and note into line with current drafting practice by
25 using ‘terms’ instead of ‘words and expressions’.

1 **[2.70] Dictionary, part 2, definition of *appointee*, paragraph (a)**

2 *substitute*

3 (a) for division 19.3.1 (Appointments—general)—see
4 section 207 (2); and

5 **Explanatory note**

6 This amendment is consequential on another amendment that changes the heading to
7 division 19.3.1.

8 **[2.71] Dictionary, part 2, definition of *appointer*, paragraph (a)**

9 *substitute*

10 (a) for division 19.3.1 (Appointments—general)—see section 205;
11 and

12 **Explanatory note**

13 This amendment is consequential on another amendment that changes the heading to
14 division 19.3.1.

15 **[2.72] Dictionary, part 2, definition of *referential words***

16 *substitute*

17 *referential term* means a term that identifies a provision as a
18 provision, or part of a provision, of the Act, statutory instrument or
19 provision in which it appears.

20 **Examples**

- 21 1 of this Act
22 2 of this section
23 3 hereof
24 4 said

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

28 **Explanatory note**

29 This amendment brings the definition into line with current drafting practice by using
30 ‘term’ instead of ‘words’.

1 **[2.73] Dictionary, part 2, new definition of *retrospectively***

2 *insert*

3 *retrospectively*, for the commencement of legislation—see
4 section 75A (Meaning of commences *retrospectively*).

5 **Explanatory note**

6 This amendment is consequential on another amendment that inserts new section 75A.

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

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

5 **[3.1] Section 7**

6 *omit*
7 in addition to, and not in derogation of,
8 *substitute*
9 additional to, and do not limit,

10 **Explanatory note**

11 This amendment updates language.

12 **[3.2] Section 13 (1) (a)**

13 *after*
14 are vested in
15 *insert*
16 a

17 **Explanatory note**

18 This amendment inserts a missing word.

1 **[3.3] Section 14 (2)**

2 *omit*

3 in addition to, and not in derogation of,

4 *substitute*

5 additional to, and does not limit,

6 **Explanatory note**

7 This amendment updates language.

8 **[3.4] Section 16 (1)**

9 *substitute*

- 10 (1) The Minister, or a person appointed by the Minister, may certify in
11 writing that an asset, right or liability mentioned in the certificate
12 has vested under section 11 or section 13 in a person mentioned in
13 the certificate.

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

16 **Explanatory note**

17 This amendment brings the subsection into line with current drafting practice. The
18 reference to the appointment being made ‘in writing’ is omitted because the Legislation
19 Act, section 206 provides that an appointment must be made, or evidenced, in writing.
20 This amendment also inserts a standard note about appointments.

21 **[3.5] Section 18 (3)**

22 *omit*

23 in addition to, and not in derogation of,

24 *substitute*

25 additional to, and does not limit,

26 **Explanatory note**

27 This amendment updates language.

1 **[3.6] Section 36**

2 *substitute*

3 **36 Regulation of prices, access and other matters**

4 (1) In this section:

5 *commencement* means 6 April 2000.

6 *ICRC Act* means the *Independent Competition and Regulatory*
7 *Commission Act 1997*.

8 (2) A price direction under the ICRC Act, section 20 in effect on the
9 commencement applies to the joint venture entities as if a reference
10 to ACTEW or AGL in the price direction were a reference to
11 ACTEW, AGL and the joint venture entity that provides the service
12 to which the price direction relates.

13 (3) An access agreement registered under the ICRC Act, part 5 in effect
14 on the commencement applies to the joint venture entities as if a
15 reference to ACTEW or AGL in the agreement were a reference to
16 ACTEW, AGL and the joint venture entity that owns, controls or
17 operates the infrastructure facility to which the access agreement
18 relates.

19 (4) A determination under the ICRC Act, section 35 in effect on the
20 commencement applies to the joint venture entities as if a reference
21 to ACTEW or AGL in the determination were a reference to
22 ACTEW, AGL and the joint venture entity that provides the service
23 the access for which is the subject of the determination.

24 **Explanatory note**

25 This amendment brings the language and structure of the section more closely into line
26 with current drafting practice.

1 **[3.7] Dictionary, new notes**

2 *insert*

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

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

- 6 • asset
- 7 • corporation
- 8 • entity
- 9 • exercise
- 10 • function
- 11 • law, of the Territory
- 12 • notifiable instrument (see s 10)
- 13 • property
- 14 • State
- 15 • the Territory.

16 **Explanatory note**

17 This amendment inserts standard dictionary notes.

18 **Part 3.2 Administration (Interstate**
19 **Agreements) Act 1997**

20 **[3.8] Section 1**

21 *substitute*

22 **1 Name of Act**

23 This Act is the *Administration (Interstate Agreements) Act 1997*.

24 **Explanatory note**

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

1 **[3.9] Section 4, definitions**

2 *relocate to the dictionary*

3 **Explanatory note**

4 This amendment relocates the definitions to a new dictionary that is inserted by another
5 amendment.

6 **[3.10] Section 4, remainder**

7 *substitute*

8 **4 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 terms used in this
11 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 **4A 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 a standard dictionary provision and a standard provision
21 explaining the status of notes.

1 **[3.11] New dictionary**

2 *insert*

3 **Dictionary**

4 (see s 4)

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

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

- 8 • ACT
9 • Legislative Assembly
10 • Minister (see s 162)
11 • the Territory.

12 **Explanatory note**

13 This amendment inserts a dictionary and standard dictionary notes.

14 **Part 3.3 Artificial Conception Act 1985**

15 **[3.12] Section 1**

16 *substitute*

17 **1 Name of Act**

18 This Act is the *Artificial Conception Act 1985*.

19 **Explanatory note**

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

21 **[3.13] Section 2, definition of adoptive parent**

22 *substitute*

23 *adoptive parent*—see the *Adoption Act 1993*, including especially
24 section 4 (3).

1 **Explanatory note**

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

3 **[3.14] Section 2, definitions (as amended)**

4 *relocate to the dictionary*

5 **Explanatory note**

6 This amendment relocates the definitions to a new dictionary that is inserted by another
7 amendment

8 **[3.15] Section 2, remainder**

9 *substitute*

10 **2 Dictionary**

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

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

15 For example, the signpost definition ‘*adoptive parent*—see the
16 *Adoption Act 1993*, including especially section 4 (3).’ means that the
17 term ‘adoptive parent’ is defined in that Act and the definition applies to
18 this Act.

19 *Note 3* A definition in the dictionary (including a signpost definition) applies to
20 the entire Act unless the definition, or another provision of the Act,
21 provides otherwise or the contrary intention otherwise appears (see
22 Legislation Act, s 155 and s 156 (1)).

23 **2A Notes**

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

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

26 **Explanatory note**

27 This amendment inserts a standard dictionary provision and a standard provision
28 explaining the status of notes.

1 **[3.16] Section 3 (2)**

2 *omit*

3 and includes

4 **Explanatory note**

5 This amendment corrects a minor drafting error.

6 **[3.17] New dictionary**

7 *insert*

8 **Dictionary**

9 (see s 2)

10 *Note 1* The Legislation Act contains definitions and other provisions relevant to
11 this Act.

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

- 13 • ACT
14 • disallowable instrument (see s 9)
15 • Minister (see s 162)
16 • notifiable instrument (see s 10)
17 • Supreme Court
18 • the Territory.

19 *associated person*, in relation to a parentage order, for division 3.4
20 (Access to information)—see section 19.

21 *birth parent*, of a prescribed child, for division 3.4 (Access to
22 information)—see section 19.

23 *husband*—see section 3.

24 *identifying information*, in relation to a parentage order for
25 division 3.4 (Access to information)—see section 19.

26 *married woman*—see section 3.

27 *wife*—see section 3.

1 **Explanatory note**

2 This amendment inserts a dictionary, signpost definitions (in line with current drafting
3 practice) and standard dictionary notes.

4 **Part 3.4 Charitable Collections Act**
5 **2003**

6 **[3.18] Section 20 (1)**

7 *omit*

8 *(a primary offence)*

9 **Explanatory note**

10 This amendment omits unnecessary words.

11 **Part 3.5 Children and Young People**
12 **Act 1999**

13 **[3.19] Section 1**

14 *substitute*

15 **1 Name of Act**

16 This Act is the *Children and Young People Act 1999*.

17 **Explanatory note**

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

1 **[3.20] Section 3**

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 terms used in this
6 Act, and includes references (*signpost definitions*) to other terms
7 defined elsewhere.

8 For example, the signpost definition ‘*drug of dependence*—see the
9 *Drugs of Dependence Act 1989*, section 3 (1).’ means that the term
10 ‘drug of dependence’ is defined in that subsection and the definition
11 applies to this Act.

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

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 brings the dictionary provision into line with current drafting practice and
21 includes a standard provision explaining the status of notes.

22 **[3.21] Section 9**

23 *omit*

24 and powers

25 **Explanatory note**

26 This amendment omits unnecessary words. The Legislation Act, dictionary, pt 1 defines
27 *function* to include power and defines *exercise* a function to include perform the function.

1 **[3.22] Section 17 (1), definition of *parental responsibility***

2 *substitute*

3 *parental responsibility*, for a child or young person, means all the
4 duties, powers and responsibilities parents ordinarily have by law in
5 relation to their children.

6 *Note* *Power* includes authority (see Legislation Act, dict, pt 1).

7 **Explanatory note**

8 This amendment omits an unnecessary word. The Legislation Act, dictionary, pt 1 defines
9 *power* to include authority.

10 **[3.23] Section 23 (3)**

11 *omit*

12 appoint

13 *substitute*

14 give leave for

15 **Explanatory note**

16 This amendment brings the subsection into line with subsection (2), which provides that a
17 person may only be a litigation representative for a child or young person with leave of the
18 court.

19 **[3.24] Section 26**

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

21 **26 Chief executive's functions**

22 The chief executive has the following functions:

23 **Explanatory note**

24 This amendment updates a section heading consequential on the omission of subsection (2)
25 by another amendment.

1 **[3.25] Section 26 (2)**

2 *substitute*

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 omits a provision that is unnecessary because of the Legislation Act,
8 section 196 (1). That section provides that a provision of a law that gives a function to an
9 entity also gives the entity the powers necessary and convenient to exercise the function.
10 The amendment also inserts a standard note about the power to exercise functions.

11 **[3.26] Section 34**

12 *substitute*

13 **34 Delegation by chief executive**

14 The chief executive may delegate the chief executive's functions
15 under this Act or an interstate law to a public servant.

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

18 **Explanatory note**

19 This amendment updates the delegation provision by removing the words 'in writing'
20 because the Legislation Act, section 232 provides that a delegation must be made, or
21 evidenced, in writing.

22 'Function' is used instead of 'power' because *function* is defined in the Legislation Act,
23 dictionary, part 1 to include authority, duty and power and is the drafting term used now.

24 A standard note about delegations is also added.

1 **[3.27] Section 36 (1), new notes**

2 *insert*

3 *Note 1* For the making of appointments (including acting appointments), see
4 Legislation Act, pt 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 Legislation Act, 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 **[3.28] Section 39 heading**

12 *substitute*

13 **39 Ending of appointments**

14 **Explanatory note**

15 This amendment updates the heading, in line with current drafting practice.

16 **[3.29] Section 39, new note**

17 *insert*

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

20 **Explanatory note**

21 This amendment inserts a standard note about resignation of an appointment.

1 **[3.30] Section 41 (2), new notes**

2 *insert*

3 *Note 1* For the making of appointments (including acting appointments), see
4 Legislation Act, pt 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 Legislation Act, 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 **[3.31] Section 41 (4)**

12 *omit*

13 **Explanatory note**

14 This amendment omits an unnecessary subsection that dealt with resignation. The
15 Legislation Act, section 210 provides that a person's appointment also ends if the person
16 resigns.

17 **[3.32] Section 41 (5), new note**

18 *insert*

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

21 **Explanatory note**

22 This amendment inserts a note because of the omission of section 41 (4) by another
23 amendment.

24 **[3.33] Section 41**

25 *renumber subsections when Act next republished under Legislation*
26 *Act*

27 **Explanatory note**

28 This amendment provides for the consequential renumbering of subsections.

1 **[3.34] Section 48**

2 *substitute*

3 **48 Appointment of officers**

4 (1) The chief executive may appoint a public servant as an officer for
5 this Act.

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

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

11 (2) If, immediately before the commencement of this section, the duties
12 of an office in the public service included exercising the functions of
13 an officer, then, until the chief executive makes an appointment
14 under subsection (1) in relation to the office or the duties of the
15 office cease to include exercising the functions of an officer, a
16 public servant for the time being exercising the duties of the office
17 is an officer.

18 (3) Subsection (2) is a law to which the Legislation Act, section 88
19 (Repeal does not end effect of transitional laws etc) applies.

20 (4) Subsections (2) and (3) and this subsection expire 1 year after the
21 day this section commences.

22 **Explanatory note**

23 This amendment removes the requirement that the chief executive must create and
24 maintain offices. The Legislation Act, section 207 provides that an appointment may be
25 made by naming the person appointed or by nominating the occupant of a position
26 (however described), at a particular time or from time to time.

27 The amendment includes transitional arrangements that operate until new appointments are
28 made.

29 Standard notes about appointments are also inserted.

1 **[3.35] Section 51 (1) (b) (ii)**

2 *substitute*

3 (ii) cannot exercise the functions of the Childrens Court
4 Magistrate for another reason.

5 **Explanatory note**

6 This amendment changes a reference to ‘duties’ to ‘functions’. *Function* is defined in the
7 Legislation Act, dictionary, part 1 to include authority, duty and power. *Exercise* a
8 function is also defined there to include perform the function.

9 **[3.36] Part 6.1 heading**

10 *substitute*

11 **Part 6.1 Interpretation for chapter 6**

12 **Explanatory note**

13 This amendment substitutes a more specific part heading.

14 **[3.37] Part 6.2 heading**

15 *substitute*

16 **Part 6.2 Dealing with young offenders**
17 **in ACT**

18 **Explanatory note**

19 This amendment substitutes a heading that better reflects the contents of the part.

20 **[3.38] Division 6.2.1 heading**

21 *substitute*

22 **Division 6.2.1 General provisions for part 6.2**

23 **Explanatory note**

24 This amendment substitutes a more specific division heading.

- 1 **[3.39] Section 79 (2) (a)**
- 2 *substitute*
- 3 (a) unless 1 of the following adults (who is not a police officer) is
- 4 present:
- 5 (i) a person with parental responsibility for the young
- 6 person;
- 7 (ii) a relative of the young person acceptable to the young
- 8 person;
- 9 (iii) a lawyer acting for the young person or some other
- 10 suitable person acceptable to the young person; or

11 **Explanatory note**

12 This amendment revises the paragraph to bring its structure into line with current drafting

13 practice.

14 **[3.40] Section 85 heading**

15 *substitute*

16 **85 Detention of young people generally**

17 **Explanatory note**

18 This amendment is consequential on another amendment that inserts a new section 85A.

19 **[3.41] Section 85 (5)**

20 *omit*

21 **Explanatory note**

22 This amendment is consequential on another amendment that inserts a new section 85A.

1 **[3.42] New section 85A**

2 *insert*

3 **85A Taking young person to and from court**

4 (1) This section applies if a young person is detained at a place and it is
5 necessary to take the young person—

6 (a) from the place to a court; or

7 (b) from a court to the place.

8 (2) The young person must not be taken with an adult under detention
9 unless it is impracticable to avoid doing so.

10 (3) The young person must not be taken to the court and placed in a
11 room in which an adult is placed unless it is impracticable to avoid
12 doing so.

13 **Explanatory note**

14 This amendment remakes section 85 (5) as section 85A to bring it structurally more
15 closely into line with current drafting practice.

16 **[3.43] Section 88 (2) and (3)**

17 *omit*

18 a court

19 *substitute*

20 the Childrens Court

21 **Explanatory note**

22 This amendment changes the references to ‘a court’ to bring the subsections into line with
23 section 88 (1). That subsection presently refers to ‘the court’ (defined in the dictionary to
24 mean the Childrens Court). Another amendment changes the reference to ‘court’ in
25 section 88 (1) to state the full name of the Childrens Court, in line with current drafting
26 practice of using a name for the court that allows the reader to easily identify which court
27 is being referred to.

1 **[3.44] Section 89 (1)**

2 *substitute*

3 (1) Subject to this section and section 91 (Young person may elect to be
4 committed for trial), the Childrens Court may hear and decide a
5 charge against a young person summarily if—

6 (a) the charge is an indictable offence; and

7 (b) the court is of the opinion that the case can properly be
8 disposed of summarily.

9 **Explanatory note**

10 This amendment changes the reference to court (defined in the dictionary to mean the
11 Childrens Court) to state the full name of the Childrens Court, in line with the current
12 drafting practice of using a name for the court that allows the reader to easily identify
13 which court is being referred to. The amendment also revises the structure of the provision
14 to bring it more closely into line with current drafting practice.

15 **[3.45] Section 90**

16 *substitute*

17 **90 Committal for trial in certain cases**

18 (1) This section applies if a young person is charged before the
19 Childrens Court with an indictable offence.

20 (2) The Childrens Court must deal with the charge in accordance with
21 the provisions of the *Magistrates Court Act 1930* relating to
22 indictable offences if—

23 (a) the court has no power to hear and decide the charge
24 summarily; or

25 (b) the court has the power, but decides not to hear and decide the
26 charge summarily.

27 **Explanatory note**

28 This amendment changes the reference to court (defined in the dictionary to mean the
29 Childrens Court) to state the full name of the Childrens Court, in line with the current

1 drafting practice of using a name for the court that allows the reader to easily identify
2 which court is being referred to. The amendment also revises the structure and language
3 of the provision to bring them more closely into line with current drafting practice.

4 **[3.46] Section 98**

5 *substitute*

6 **98 Disposition without proceeding to conviction**

7 (1) This section applies if the Childrens Court is satisfied that a charge
8 against a young person is proved but, having regard to the relevant
9 criteria, the court is of the opinion that it should not proceed to a
10 conviction.

11 (2) The Childrens Court must, as soon as practicable but in any event
12 within 6 months—

13 (a) dismiss the charge; or

14 (b) even though no conviction is entered, make 1 or more of the
15 orders mentioned in section 96 (1) (a), (b), (f), (g) or (h)
16 (which is about the disposition of young offenders).

17 (3) In this section:

18 *relevant criteria* means the following:

19 (a) the welfare of the young person;

20 (b) the facts of the case;

21 (c) the seriousness of the offence;

22 (d) the circumstances in which the offence was committed;

23 (e) the age of the young person;

24 (f) the apparent maturity of the young person;

25 (g) the apparent mental capacity of the young person;

26 (h) the health of the young person.

1 **Explanatory note**

2 This amendment changes the reference to court (defined in the dictionary to mean the
3 Childrens Court) to state the full name of the Childrens Court, in line with the current
4 drafting practice of using a name for the court that allows the reader to easily identify
5 which court is being referred to. The amendment also brings the structure of the section
6 more closely into line with current drafting practice.

7 **[3.47] Section 103**

8 *substitute*

9 **103 Breach of certain orders for reparation or compensation**

10 (1) This section applies if—

11 (a) an order for reparation or compensation is made under section
12 96 (1) (f) (Disposition of young offenders) in relation to a
13 young offender in favour of a person other than the Territory;
14 and

15 (b) the young person in relation to whom the order is made fails to
16 obey the order.

17 (2) The Childrens Court may, at any time, by order served on the young
18 person or on a person with parental responsibility for the young
19 person, direct that the young person appear before the court at the
20 time and place stated in the order.

21 (3) If the young person does not appear before the Childrens Court as
22 directed, the court may issue a warrant for the apprehension of the
23 young person.

24 **Explanatory note**

25 This amendment changes the reference to court (defined in the dictionary to mean the
26 Childrens Court) to state the full name of the Childrens Court, in line with the current
27 drafting practice of using a name for the court that allows the reader to easily identify
28 which court is being referred to. The amendment also revises the structure of the section
29 to bring it more closely into line with current drafting practice.

1 **[3.48] Section 104 (1)**

2 *omit*

3 a court

4 *substitute*

5 the Childrens Court

6 **Explanatory note**

7 This amendment changes a reference to ‘a court’ to bring the subsection into line with
8 section 104 (2) and (3). Those subsections presently refer to ‘the court’ (defined in the
9 dictionary to mean the Childrens Court). Another amendment changes the references to
10 ‘court’ in section 104 (2) and (3) to state the full name of the Childrens Court, in line with
11 the current drafting practice of using a name for the court that allows the reader to easily
12 identify which court is being referred to.

13 **[3.49] Section 105 (2) (b)**

14 *omit*

15 this section

16 *substitute*

17 section 105A

18 **Explanatory note**

19 This amendment is consequential on another amendment to insert a new section 105A.

20 **[3.50] Section 105 (3) and (4)**

21 *omit*

22 **Explanatory note**

23 This amendment is consequential on another amendment to insert a new section 105A.

1 **[3.51] New section 105A**

2 *insert*

3 **105A Issue of warrant to enter and inspect**

4 (1) This section applies if an information on oath is laid before a
5 magistrate—

6 (a) alleging that there are reasonable grounds for suspecting that—

7 (i) a young person who is the subject of a probation order is
8 living on premises other than with a person who has
9 parental responsibility for the young person; and

10 (ii) it is necessary in the interests of the young person for the
11 premises to be inspected and to meet and talk with the
12 person; and

13 (b) setting out those grounds.

14 (2) The magistrate may issue a search warrant authorising the
15 supervisor of a young person, with reasonable and necessary
16 assistance and force, to enter the premises—

17 (a) to inspect the premises; and

18 (b) to meet and talk with the young person on the premises.

19 (3) However, a magistrate must not issue a warrant under this section
20 unless—

21 (a) the informant or someone else has given to the magistrate,
22 either orally or by affidavit, any further information the
23 magistrate requires about the grounds on which the issue of the
24 warrant is being sought; and

25 (b) the magistrate is satisfied that there are reasonable grounds for
26 issuing the warrant.

1 **Explanatory note**

2 This amendment inserts a new section to remake section 105 (3) and (4) and bring their
3 structure more closely into line with current drafting practice.

4 **[3.52] Section 139 (2) (a)**

5 *substitute*

6 (a) a police officer; or

7 **Explanatory note**

8 This amendment changes the reference to a member of the police force to police officer,
9 which is defined in the Legislation Act, dictionary, part 1 to mean a member or special
10 member of the Australian Federal Police.

11 **[3.53] Section 146 (8) (b) (ii)**

12 *substitute*

13 (ii) a police officer of the sending State;

14 **Explanatory note**

15 This amendment changes a reference to a member of the police force to police officer, in
16 line with current drafting practice.

17 **[3.54] Section 159 (1) (b)**

18 *substitute*

19 (b) a dentist; or

20 **Explanatory note**

21 This amendment updates a reference to ‘dentist’ which is now defined in the Legislation
22 Act, dictionary, part 1.

1 **[3.55] Section 163 (3) (b)**

2 *omit*

3 a duty, function or power

4 *substitute*

5 a function

6 **Explanatory note**

7 *Function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and
8 power. *Exercise* a function is also defined there to include perform the function.

9 **[3.56] Section 166 (1)**

10 *omit*

11 , in writing,

12 **Explanatory note**

13 This amendment omits unnecessary words. The Legislation Act, section 206 provides that
14 an appointment must be made, or evidenced, in writing.

15 **[3.57] Section 166 (1), new notes**

16 *insert*

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

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

22 **Explanatory note**

23 This amendment inserts standard notes about appointments.

1 **[3.58] Section 174 (3)**

2 *substitute*

- 3 (3) This division does not prevent the chief executive from taking
4 action under another division of this part or under part 7.3 (Care and
5 protection orders and emergency action) in relation to a child or
6 young person.

7 **Explanatory note**

8 This amendment clarifies the application of section 174 (3) by changing the reference to
9 part 7.2 to other divisions of part 7.2. Section 174 is in division 7.2.1.

10 **[3.59] Section 175 (1)**

11 *substitute*

- 12 (1) This section applies if—
- 13 (a) a conference has resulted in a signed agreement in relation to a
14 child or young person; and
- 15 (b) the agreement proposes that parental responsibility for the
16 child or young person—
- 17 (i) be transferred from a person to someone else (other than
18 the chief executive); or
- 19 (ii) be shared with a person (other than the chief executive)
20 who would not otherwise have it.

21 *Note* If a form is approved under s 416A for an agreement, the form must be
22 used.

- 23 (1A) The chief executive may apply to the Childrens Court to register the
24 signed agreement.

25 **Explanatory note**

26 This amendment changes the reference to court (defined in the dictionary to mean the
27 Childrens Court) to state the full name of the Childrens Court, in line with the current
28 drafting practice of using a name for the court that allows the reader to easily identify
29 which court is being referred to. The amendment also revises the structure of
30 subsection (1) to bring it more closely into line with current drafting practice.

1 **[3.60] Section 175**

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

4 **Explanatory note**

5 This amendment provides for the consequential renumbering of subsections.

6 **[3.61] Section 192 (1) and (2)**

7 *omit*
8 commissioner of police
9 *substitute*
10 chief police officer

11 **Explanatory note**

12 This amendment changes ‘commissioner of police’ to ‘chief police officer’ in accordance
13 with current drafting practice. The Legislation Act, dictionary, part 1 defines *chief police*
14 *officer* to be the police officer responsible to the commissioner of police for the day-to-day
15 administration and control of police services in the ACT.

16 **[3.62] Section 196 (3)**

17 *omit*
18 court’s
19 *substitute*
20 Childrens Court’s

21 **Explanatory note**

22 This amendment changes the reference to court (defined in the dictionary to mean the
23 Childrens Court) to state the full name of the Childrens Court, in line with the current
24 drafting practice of using a name for the court that allows the reader to easily identify
25 which court is being referred to.

1 **[3.63] Section 204**

2 *omit 1st mention of*

3 the court

4 *substitute*

5 the Childrens Court

6 **Explanatory note**

7 This amendment changes the reference to the first mention of the court (defined in the
8 dictionary to mean the Childrens Court) to state the full name of the Childrens Court, in
9 line with the current drafting practice of using a name for the court that allows the reader
10 to easily identify which court is being referred to.

11 **[3.64] Section 205 heading**

12 *substitute*

13 **205 When Childrens Court may make interim protection order**

14 **Explanatory note**

15 This amendment updates the section heading and is consequential on the changes to
16 references to the court to state the full name of the Childrens Court, in line with the current
17 drafting practice of using a name for the court that allows the reader to easily identify
18 which court is being referred to.

19 **[3.65] Section 205A heading**

20 *substitute*

21 **205A When Childrens Court may make final protection order**

22 **Explanatory note**

23 This amendment updates the section heading and is consequential on the changes to
24 references to the court to state the full name of the Childrens Court, in line with the current
25 drafting practice of using a name for the court that allows the reader to easily identify
26 which court is being referred to.

1 **[3.66] Section 214 (4)**

2 *substitute*

3 (4) However, the Childrens Court may extend or vary an order only if—

4 (a) the effect of the extension or variation does not make the total
5 period of the order extended or varied (including any
6 extension, whether under subsection (3) (d) or otherwise)
7 longer than the relevant period; or

8 (b) the court is satisfied that there are exceptional circumstances
9 that justify the extension or variation.

10 (5) In subsection (4):

11 *relevant period* means—

12 (a) in relation to an assessment order or therapeutic protection
13 order—8 weeks; or

14 (b) in any other case—18 weeks.

15 **Explanatory note**

16 This amendment changes the reference to court (defined in the dictionary to mean the
17 Childrens Court) to state the full name of the Childrens Court, in line with the current
18 drafting practice of using a name for the court that allows the reader to easily identify
19 which court is being referred to. The amendment also revises the structure of
20 section 214 (4), in line with current drafting practice.

21 **[3.67] Section 221**

22 *omit*

23 The court

24 *substitute*

25 The Childrens Court

26 **Explanatory note**

27 This amendment changes the reference to the court (defined in the dictionary to mean the
28 Childrens Court) to state the full name of the Childrens Court, in line with the current

1 drafting practice of using a name for the court that allows the reader to easily identify
2 which court is being referred to.

3 **[3.68] Section 248 (2) (c) (i)**

4 *substitute*

5 (i) the chief police officer; and

6 **Explanatory note**

7 This amendment changes ‘commissioner of police’ to ‘chief police officer’ in accordance
8 with current drafting practice. The Legislation Act, dictionary, part 1 defines *chief police*
9 *officer* to be the police officer responsible to the commissioner of police for the day-to-day
10 administration and control of police services in the ACT.

11 **[3.69] Section 248 (5)**

12 *substitute*

13 (5) If the Childrens Court gives a direction for service by a police
14 officer, the chief police officer must, when requested to do so by the
15 registrar, arrange for the document to be served by a police officer.

16 **Explanatory note**

17 This amendment changes the reference to court (defined in the dictionary to mean the
18 Childrens Court) to state the full name of the Childrens Court, in line with the current
19 drafting practice of using a name for the court that allows the reader to easily identify
20 which court is being referred to.

21 This amendment also changes ‘commissioner of police’ to ‘chief police officer’ in
22 accordance with current drafting practice. The Legislation Act, dictionary, part 1 defines
23 *chief police officer* to be the police officer responsible to the commissioner of police for
24 the day-to-day administration and control of police services in the ACT.

25 **[3.70] Section 260 (2) (b)**

26 *substitute*

27 (b) an order giving parental responsibility for the day-to-day and
28 long-term care, welfare and development of the child or young
29 person to the proposed carer while the order is in force.

1 **Explanatory note**

2 This amendment revises the language of the paragraph to bring it more closely into line
3 with current drafting practice.

4 **[3.71] Section 267 (1)**

5 *substitute*

6 (1) This section applies if, under a final care and protection order in
7 force for a period longer than 6 months in relation to a child or
8 young person—

9 (a) the chief executive has parental responsibility for the child or
10 young person; or

11 (b) the child or young person is subject to the supervision of the
12 chief executive.

13 (1A) The chief executive must give a report under this section to each of
14 the following people:

15 (a) the child or young person;

16 (b) each person with parental responsibility for the child or young
17 person;

18 (c) a carer caring for the child or young person;

19 (d) the community advocate;

20 (e) the Childrens Court.

21 **Explanatory note**

22 This amendment changes the reference to court (defined in the dictionary to mean the
23 Childrens Court) to state the full name of the Childrens Court, in line with the current
24 drafting practice of using a name for the court that allows the reader to easily identify
25 which court is being referred to. The amendment also revises the structure of the section
26 to bring it more closely into line with current drafting practice.

1 **[3.72] Section 267 (5)**

2 *omit*

3 subsection (1) (c), (d) or (e)

4 *substitute*

5 subsection (1A) (a), (b) or (c)

6 **Explanatory note**

7 This amendment is consequential on the previous amendment.

8 **[3.73] Section 267**

9 *renumber subsections when Act next republished under Legislation*
10 *Act*

11 **Explanatory note**

12 This amendment provides for the consequential renumbering of subsections.

13 **[3.74] Section 268 (1)**

14 *substitute*

15 (1) The chief executive may apply to the Childrens Court for an order
16 waiving the need to comply with section 267 (1A) in relation to
17 someone mentioned in section 267 (1A) (a), (b) or (c) if—

18 (a) the chief executive considers that to give the report to the
19 person would not be in the best interests of the child or young
20 person; or

21 (b) the person cannot be found after reasonable inquiries.

22 **Explanatory note**

23 This amendment changes the reference to court (defined in the dictionary to mean the
24 Childrens Court) to state the full name of the Childrens Court, in line with the current
25 drafting practice of using a name for the court that allows the reader to easily identify
26 which court is being referred to. The amendment also revises the structure of the
27 subsection to bring it more closely into line with current drafting practice, and updates
28 cross-references consequentially on amendments of section 267.

1 **[3.75] Section 268 (6)**

2 *substitute*

- 3 (6) An application under subsection (1) may be heard in the absence of
4 a party.

5 **Explanatory note**

6 This amendment brings the language of the subsection more closely into line with current
7 drafting practice by substituting a plain English expression for the Latin *ex parte*.

8 **[3.76] Section 269 (1)**

9 *substitute*

- 10 (1) The community advocate may apply to the Childrens Court for an
11 order requiring the chief executive to give a report to a person to
12 whom a report is required to be given under section 267 if the chief
13 executive has not—

- 14 (a) given the report in accordance with the section; and
15 (b) obtained an order waiving the requirement to give the report to
16 the person.

17 **Explanatory note**

18 This amendment changes the reference to court (defined in the dictionary to mean the
19 Childrens Court) to state the full name of the Childrens Court, in line with the current
20 drafting practice of using a name for the court that allows the reader to easily identify
21 which court is being referred to. The amendment also revises the structure of the
22 subsection to bring it more closely into line with current drafting practice.

23 **[3.77] Section 269 (4)**

24 *substitute*

- 25 (4) The Childrens Court may extend the period of a final care and
26 protection order so that it ends not more than 1 month after the day
27 the order is made if—

- 28 (a) the court orders the chief executive to give a report in relation
29 to the final care and protection order; and

- 1 (b) the final care and protection order ends within a month after
2 the day the order is made.

3 **Explanatory note**

4 This amendment changes the reference to court (defined in the dictionary to mean the
5 Childrens Court) to state the full name of the Childrens Court, in line with the current
6 drafting practice of using a name for the court that allows the reader to easily identify
7 which court is being referred to. The amendment also revises the structure of the
8 subsection, in line with current drafting practice, and brings the language of the subsection
9 more closely into line with section 269 (3).

10 **[3.78] Section 271 heading**

11 *substitute*

12 **271 Childrens Court's power in relation to child or young**
13 **person taken into safe custody**

14 **Explanatory note**

15 This amendment changes the reference to court (defined in the dictionary to mean the
16 Childrens Court) to state the full name of the Childrens Court, in line with the current
17 drafting practice of using a name for the court that allows the reader to easily identify
18 which court is being referred to.

19 **[3.79] Section 271**

20 *omit*

21 the court

22 *substitute*

23 the Childrens Court

24 **Explanatory note**

25 This amendment changes the reference to court (defined in the dictionary to mean the
26 Childrens Court) to state the full name of the Childrens Court, in line with the current
27 drafting practice of using a name for the court that allows the reader to easily identify
28 which court is being referred to.

1 **[3.80] Section 273 heading**

2 *substitute*

3 **273 Childrens Court may inform itself of child's or young**
4 **person's wishes**

5 **Explanatory note**

6 This amendment changes the reference to court (defined in the dictionary to mean the
7 Childrens Court) to state the full name of the Childrens Court, in line with the current
8 drafting practice of using a name for the court that allows the reader to easily identify
9 which court is being referred to.

10 **[3.81] Section 273**

11 *omit*

12 The court

13 *substitute*

14 The Childrens Court

15 **Explanatory note**

16 This amendment changes the reference to the court (defined in the dictionary to mean the
17 Childrens Court) to state the full name of the Childrens Court, in line with the current
18 drafting practice of using a name for the court that allows the reader to easily identify
19 which court is being referred to.

20 **[3.82] Section 279**

21 *substitute*

22 **279 Hearing of applications in party's absence**

23 If someone makes an application under this part, the person may, at
24 the same time, seek the leave of the Childrens Court to have the
25 application heard in the absence of any other party.

26 **Explanatory note**

27 This amendment changes the reference to court (defined in the dictionary to mean the
28 Childrens Court) to state the full name of the Childrens Court, in line with the current

1 drafting practice of using a name for the court that allows the reader to easily identify
2 which court is being referred to.

3 This amendment also brings the language of the subsection more closely into line with
4 current drafting practice by substituting a plain English expression for the Latin *ex parte*.

5 **[3.83] Section 282**

6 *substitute*

7 **282 Joining parties—court initiated**

8 (1) If, in a proceeding on an application under this part, the Childrens
9 Court is satisfied that it should make an order binding on or
10 affecting someone who is not a party to the proceeding, the court
11 may join that person as a party to the proceeding.

12 (2) However, the court must allow the person a reasonable opportunity
13 to make representations to the court about why the order should not
14 be made—

15 (a) before making the order; or

16 (b) if, because of the urgency of the case it is not possible to do so
17 before making the order—within a reasonable time after
18 making the order.

19 **Explanatory note**

20 This amendment changes the reference to court (defined in the dictionary to mean the
21 Childrens Court) to state the full name of the Childrens Court, in line with the current
22 drafting practice of using a name for the court that allows the reader to easily identify
23 which court is being referred to. The amendment also revises the structure of the section
24 to bring it more closely into line with current drafting practice.

1 **[3.84] Section 284 (1)**

2 *omit*

3 (1) If the court makes

4 *substitute*

5 If the Childrens Court makes

6 **Explanatory note**

7 This amendment changes the reference to court (defined in the dictionary to mean the
8 Childrens Court) to state the full name of the Childrens Court, in line with the current
9 drafting practice of using a name for the court that allows the reader to easily identify
10 which court is being referred to. The amendment also revises the subsection to omit an
11 unnecessary subsection number.

12 **[3.85] Section 285 (1)**

13 *substitute*

14 (1) This section applies if, on application by a party to a proceeding or
15 on its own initiative, the Childrens Court is satisfied that a party to a
16 proceeding—

17 (a) has been improperly or unnecessarily joined; or

18 (b) has ceased to be a proper or necessary party.

19 (1A) The Childrens Court may—

20 (a) order that the party cease to be a party; and

21 (b) make any other orders or directions for the conduct of the
22 proceeding that the court considers appropriate.

23 **Explanatory note**

24 This amendment changes the reference to court (defined in the dictionary to mean the
25 Childrens Court) to state the full name of the Childrens Court, in line with the current
26 drafting practice of using a name for the court that allows the reader to easily identify
27 which court is being referred to. The amendment also revises the structure of the section
28 to bring it more closely into line with current drafting practice.

1 **[3.86] Section 285**

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

4 **Explanatory note**

5 This amendment provides for the consequential renumbering of subsections.

6 **[3.87] Section 299 (1), definition of *Childrens Court***

7 *omit*

8 **Explanatory note**

9 This amendment omits the definition of Childrens Court because of the amendments made
10 by this schedule. The term ‘Childrens Court’ will be used consistently throughout the Act
11 to refer to the ACT Childrens Court. The definition is reinserted in another amendment as
12 a definition of State Childrens Court.

13 **[3.88] Section 299 (1), new definition of *State Childrens Court***

14 *insert*

15 *State Childrens Court*, of a State, means the court with jurisdiction
16 to hear and decide a child care and protection proceeding in the
17 State at first instance.

18 **Explanatory note**

19 This amendment renames the Childrens Court for this chapter as the State Childrens Court.
20 The amendment is consequential on the use of Childrens Court consistently throughout the
21 Act to mean the ACT Childrens Court.

22 **[3.89] Section 310**

23 *substitute*

24 **310 When Childrens Court may make order under pt 8.3**

25 (1) The Childrens Court may make an order (the *transfer order*) under
26 this part transferring a child care and protection proceeding pending
27 in the court to the State Childrens Court of a participating State if—

28 (a) the chief executive applies for the making of the order; and

- 1 (b) the relevant interstate officer has consented to the transfer.
- 2 (2) The proceeding is discontinued in the Childrens Court when the
3 transfer order is registered in the State Childrens Court of the
4 participating State in accordance with the interstate law.

5 **Explanatory note**

6 This amendment is consequential on the renaming of Childrens Court in relation to a State
7 as the State Childrens Court and changes the reference to court (defined in the dictionary
8 to mean the Childrens Court) to state the full name of the Childrens Court, in line with the
9 current drafting practice of using a name for the court that allows the reader to easily
10 identify which court is being referred to.

11 **[3.90] Sections 311**

12 *omit*

13 Childrens Court in

14 *substitute*

15 State Childrens Court of

16 **Explanatory note**

17 This amendment is consequential on the renaming of Childrens Court in relation to a State
18 as the State Childrens Court.

19 **[3.91] Section 312 heading**

20 *substitute*

21 **312 Childrens Court to have regard to certain matters**

22 **Explanatory note**

23 This amendment updates the section heading and is consequential on the changes to
24 references to the court to state the full name of the Childrens Court, in line with the current
25 drafting practice of using a name for the court that allows the reader to easily identify
26 which court is being referred to.

1 **[3.92] Section 312**

2 *omit*

3 the court

4 *substitute*

5 the Childrens Court

6 **Explanatory note**

7 This amendment changes the reference to the court (defined in the dictionary to mean the
8 Childrens Court) to state the full name of the Childrens Court, in line with the current
9 drafting practice of using a name for the court that allows the reader to easily identify
10 which court is being referred to.

11 **[3.93] Sections 313 (4), 314 (1) and 316 (1)**

12 *omit*

13 Childrens Court in

14 *substitute*

15 State Childrens Court of

16 **Explanatory note**

17 These amendments are consequential on the renaming of Childrens Court in relation to a
18 State as the State Childrens Court.

19 **[3.94] Section 318 (1)**

20 *substitute*

21 (1) An application for revocation of the registration of a document filed
22 under section 315 (Filing and registration of interstate documents)
23 may be made to the Childrens Court by—

24 (a) the chief executive; or

25 (b) the child or young person concerned; or

26 (c) someone with parental responsibility for the child or young
27 person concerned; or

- 1 (d) a party to the proceeding in the State Childrens Court in the
2 sending State in which the decision to transfer the order or
3 proceeding was made.

4 **Explanatory note**

5 This amendment is consequential on the renaming of Childrens Court in relation to a State
6 as the State Childrens Court.

7 This amendment also changes the reference to the court (defined in the dictionary to mean
8 the Childrens Court) to state the full name of the Childrens Court, in line with the current
9 drafting practice of using a name for the court that allows the reader to easily identify
10 which court is being referred to.

11 **[3.95] Section 318 (3) and (4)**

12 *substitute*

13 (3) The Childrens Court may revoke the registration of a document filed
14 under section 315 only if satisfied that it was inappropriately
15 registered because, under the interstate law—

16 (a) the decision of the interstate officer or the order of the State
17 Childrens Court of the sending State to transfer the order or
18 proceeding was subject to appeal or review, or a stay, at the
19 time of registration; or

20 (b) the time for beginning an appeal or seeking a review had not
21 ended.

22 (4) The registrar of the Childrens Court must send each document filed
23 under section 315 to the State Childrens Court of the sending State
24 if the registration of the document is revoked.

25 **Explanatory note**

26 This amendment is consequential on the renaming of Childrens Court in relation to a State
27 as the State Childrens Court.

28 This amendment also changes the reference to court (defined in the dictionary to mean the
29 Childrens Court) to state the full name of the Childrens Court, in line with the current
30 drafting practice of using a name for the court that allows the reader to easily identify
31 which court is being referred to. The amendment also brings the language of the
32 subsections more closely into line with current drafting practice.

1 **[3.96] Section 320**

2 *substitute*

3 **320 Transfer of Childrens Court file**

4 The registrar of the Childrens Court must send all documents filed
5 in the court in relation to a child care and protection proceeding, and
6 an extract from any part of the register that relates to a child care
7 and protection proceeding, to the State Childrens Court of a
8 participating State if, under this chapter—

- 9 (a) the child care and protection order or proceeding is transferred
10 to the State Childrens Court; and
11 (b) the transfer decision or order is not subject to appeal or review
12 or a stay; and
13 (c) the time for beginning an appeal or seeking a review has
14 ended.

15 **Explanatory note**

16 This amendment changes the reference to court (defined in the dictionary to mean the
17 Childrens Court) to state the full name of the Childrens Court, in line with the current
18 drafting practice of using a name for the court that allows the reader to easily identify
19 which court is being referred to. The amendment also changes references to the Childrens
20 Court in a participating State to the State Childrens Court. In addition, the amendment
21 brings the language of the section more closely into line with current drafting practice.

22 **[3.97] Sections 322 and 323**

23 *substitute*

24 **322 Deciding transferred proceeding**

25 In deciding a child care and protection proceeding transferred to the
26 Childrens Court under an interstate law, the court—

- 27 (a) is not bound by a finding of fact made in the proceeding in the
28 State Childrens Court of the sending State before its transfer;
29 and

- 1 (b) may have regard to the transcript of, or evidence presented in,
2 the proceeding mentioned in paragraph (a).

3 **323 Disclosure of information**

- 4 (1) The chief executive may disclose to an interstate officer information
5 that has come to the chief executive's notice in the exercise of
6 functions under this Act if the chief executive considers it necessary
7 to disclose the information to allow the interstate officer to exercise
8 functions under a child welfare law or an interstate law.

9 *Note* **Function** includes authority, duty and power (see Legislation Act, dict,
10 pt 1).

- 11 (2) This section has effect despite any other provision of this Act.

12 **Explanatory note**

13 This amendment changes the reference in section 322 to court (defined in the dictionary to
14 mean the Childrens Court) to state the full name of the Childrens Court, in line with the
15 current drafting practice of using a name for the court that allows the reader to easily
16 identify which court is being referred to. The amendment also changes references to
17 Childrens Court to the State Childrens Court.

18 In addition, the amendment omits unnecessary words from section 323 and brings the
19 language of the section more closely into line with current drafting practice.

20 The Legislation Act, dictionary, part 1 defines *function* to include power and defines
21 *exercise* a function to include perform the function.

22 **[3.98] Section 330 (i) (ii)**

23 *substitute*

- 24 (ii) a private hospital; or

25 **Explanatory note**

26 This amendment omits a reference to regulations that have been repealed.

1 **[3.99] Section 353 (3)**

2 *substitute*

3 (3) In any proceeding in a court, evidence may be given about the
4 grounds contained in a report for the belief that this chapter or a
5 condition of a licence is being contravened.

6 (3A) However, the following evidence is admissible in a proceeding only
7 if the court in which the proceeding is brought gives leave for the
8 evidence to be given or if the person who made the report (the
9 *reporter*) consents in writing to the admission of the evidence:

10 (a) evidence that a particular matter is contained in a report;

11 (b) evidence that identifies the reporter or is likely to lead to the
12 identification of the reporter.

13 **Explanatory note**

14 This amendment brings the structure of the section more closely into line with current
15 drafting practice and clarifies the meaning of a reference to the court.

16 **[3.100] Section 353 (6) (b)**

17 *substitute*

18 (b) in relation to a charge or allegation made in a proceeding
19 against someone in the exercise of his or her functions under
20 this Act; or

21 **Explanatory note**

22 This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines
23 *function* to include authority, duty and power and defines *exercise* a function to include
24 perform the function.

25 **[3.101] Section 353**

26 *renumber subsections when Act next republished under Legislation*
27 *Act*

28 **Explanatory note**

29 This amendment provides for the consequential renumbering of subsections.

1 **[3.102] Sections 367, 370 (1), 371 (1) and 372**

2 *omit*

3 this part

4 *substitute*

5 this chapter

6 **Explanatory note**

7 These amendments correct incorrect provision references.

8 **[3.103] Section 378 heading**

9 *substitute*

10 **378 Ch 10 subject to certain provisions of Education Act 1937**

11 **Explanatory note**

12 This amendment corrects an incorrect provision reference.

13 **[3.104] Section 378**

14 *omit*

15 This part

16 *substitute*

17 This chapter

18 **Explanatory note**

19 This amendment corrects an incorrect provision reference.

20 **[3.105] Section 379**

21 *omit*

22 this part

23 *substitute*

24 this chapter

1 **Explanatory note**

2 This amendment corrects an incorrect provision reference.

3 **[3.106] Section 380 (1) (a)**

4 *omit*

5 part 6.2 (Within the Territory)

6 *substitute*

7 part 6.2 (Dealing with young offenders in ACT)

8 **Explanatory note**

9 This amendment is consequential on the amendment of the heading to part 6.2 by an
10 earlier amendment.

11 **[3.107] Sections 380 (5) and 382**

12 *omit*

13 this part

14 *substitute*

15 this chapter

16 **Explanatory note**

17 These amendments correct incorrect provision references.

18 **[3.108] Section 385 (2)**

19 *omit*

20 or a judge sitting in chambers

21 **Explanatory note**

22 This amendment omits an outdated reference to a judge sitting in chambers. The
23 distinction between court and chambers has been abolished in the ACT (see *Supreme*
24 *Court Act 1933*, s 21).

1 **[3.109] Section 386 (b)**

2 *omit*

3 court

4 *substitute*

5 court hearing the charge

6 **Explanatory note**

7 This amendment clarifies a reference to the court.

8 **[3.110] Section 405**

9 *omit*

10 duty or

11 **Explanatory note**

12 This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines
13 *function* to include duty and defines *exercise* a function to include perform the function.

14 **[3.111] Section 407 (2) (a)**

15 *substitute*

16 (a) an act done or omitted to be done honestly and without
17 negligence by the person in the exercise, or purported exercise,
18 of a function under or in relation to this Act; or

19 **Explanatory note**

20 This amendment updates language and omits unnecessary words. The Legislation Act,
21 dictionary, part 1 defines *function* to include duty and defines *exercise* a function to
22 include perform the function.

1 **[3.112] Section 412**

2 *omit*

3 The Minister

4 *substitute*

5 (1) The Minister

6 **Explanatory note**

7 This amendment is consequential on the insertion of new section 412 (2) by another
8 amendment.

9 **[3.113] New section 412 (2)**

10 *insert*

11 (2) A declaration is a notifiable instrument.

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

13 **Explanatory note**

14 This amendment makes the declaration that a place is an attendance centre, an institution
15 or a shelter an instrument that must be publicly notified under the Legislation Act.

16 **[3.114] Section 413 (2)**

17 *substitute*

18 (2) If the chief police officer, or a police officer authorised by the chief
19 police officer, believes on reasonable grounds that someone has
20 suffered loss because of an act or offence by the child or young
21 person, the officer may give the person the name, age and address of
22 the child or young person and particulars of the act or offence.

23 **Explanatory note**

24 This amendment changes references to the ‘commissioner of police’ to the ‘chief police
25 officer’ and updates language. The Legislation Act, dictionary, part 1 defines *chief police*
26 *officer* to be the police officer responsible to the commissioner of police for the day-to-day
27 administration and control of police services in the ACT.

1 **[3.115] Section 413 (3)**

2 *omit*

3 court

4 *substitute*

5 court that disposed of the charge

6 **Explanatory note**

7 This amendment clarifies a reference to the court.

8 **[3.116] Section 417 (2) (a) and (b)**

9 *omit*

10 for or with respect to

11 *substitute*

12 in relation to

13 **Explanatory note**

14 These amendments revise language in accordance with current drafting practice. The
15 Legislation Act, dictionary, part 1, defines *in relation to* to include 'for or with respect to'.

16 **[3.117] Section 418**

17 *omit*

18 The Minister

19 *substitute*

20 (1) The Minister

21 **Explanatory note**

22 This amendment is consequential on the next amendment.

1 **[3.118] New section 418 (2)**

2 *insert*

3 (2) This section expires on 10 May 2004.

4 **Explanatory note**

5 This amendment includes an expiry for a section with transitional effect, bringing it into
6 line with current drafting practice.

7 **[3.119] Dictionary, heading**

8 *substitute*

9 **Dictionary**

10 (see s 2)

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

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

- 14 • ACT
- 15 • administrative appeals tribunal
- 16 • chief executive (see s 163)
- 17 • disallowable instrument (see s 9)
- 18 • Executive
- 19 • individual
- 20 • lawyer
- 21 • mental health tribunal
- 22 • Minister (see s 162)
- 23 • notifiable instrument (see s 10)
- 24 • penalty unit (see s 133)
- 25 • police officer
- 26 • State
- 27 • the Territory
- 28 • working day.

1 **Explanatory note**

2 This amendment updates the cross-reference to the dictionary section and inserts standard
3 dictionary notes.

4 **[3.120] Dictionary, definition of *body***

5 *substitute*

6 *body* includes an agency or organisation.

7 **Explanatory note**

8 This amendment brings the language of the definition more closely into line with current
9 drafting practice.

10 **[3.121] Dictionary, definition of *Childrens Court***

11 *substitute*

12 *Childrens Court*—see section 53.

13 **Explanatory note**

14 This amendment is consequential on an amendment to section 299 omitting the definition
15 of *Childrens Court*.

16 **[3.122] Dictionary, definition of *court***

17 *omit*

18 **Explanatory note**

19 This amendment omits the definition of *court* in line with the current drafting practice of
20 using a name for the court that allows the reader to easily identify which court is being
21 referred to.

22 **[3.123] Dictionary, definition of *mental health tribunal***

23 *omit*

24 **Explanatory note**

25 This amendment omits a definition of a term now defined in the Legislation Act,
26 dictionary, part 1.

1 **[3.124] Dictionary, new definition of *State Childrens Court***

2 *insert*

3 *State Childrens Court*, for chapter 8—see section 299.

4 **Explanatory note**

5 This amendment inserts a signpost definition for *State Childrens Court* in accordance with
6 current drafting practice.

7 **[3.125] Dictionary, definition of *working day***

8 *omit*

9 **Explanatory note**

10 This amendment omits a definition of a term now defined in the Legislation Act,
11 dictionary, part 1.

12 **[3.126] Further amendments, mentions of *court***

13 *omit*

14 court

15 *substitute*

16 Childrens Court

17 *in the following provisions:*

- 18 • section 23 (1) (b), (2) and (3)
19 • section 24 (1) (1st mention)
20 • sections 24 (2) (b) (i), (3) and (4) and 25 (1)
21 • section 25 (2) (1st mention)
22 • sections 54 (1) and 56 (2)
23 • section 57 (1st mention)
24 • section 59
25 • section 60 (1) (1st mention)
26 • section 60 (2) (b)
27 • section 60 (3) (1st mention)
28 • section 60 (4) (1st mention)

Schedule 3 Technical amendments
Part 3.5 Children and Young People Act 1999

Amendment [3.126]

- 1 • section 61 (1st mention)
- 2 • sections 62 and 69 (1)
- 3 • section 69 (2) (1st mention)
- 4 • section 69 (3) (1st mention)
- 5 • section 75 (1) (1st mention)
- 6 • section 75 (2) (1st mention)
- 7 • section 75 (3) (1st mention)
- 8 • section 75 (4)
- 9 • section 75 (6) (1st mention)
- 10 • section 75 (8) (1st mention)
- 11 • sections 83 (1) (c) and 87
- 12 • section 88 (1) (1st mention)
- 13 • section 89 (3) (1st mention)
- 14 • section 91
- 15 • section 95 (1) (1st mention)
- 16 • section 95 (2) and (3)
- 17 • section 95 (4) (1st mention)
- 18 • section 95 (6)
- 19 • section 96 (1) (1st mention)
- 20 • section 97
- 21 • section 99 (1) (1st mention)
- 22 • section 99 (2)
- 23 • section 100 (1st mention)
- 24 • section 101 (1) and (2)
- 25 • section 101 (3) (1st mention)
- 26 • sections 102 (1) and (2), 104 (2), (3) and (4), 106 (3) and (6)
- 27 and 107 (6)
- 28 • section 109 (1) (1st mention)
- 29 • section 109 (2) (1st mention)
- 30 • section 109 (3) and (4)
- 31 • section 109 (5) (1st mention)

- 1 • sections 109 (6), 110 (3) and (6), 111 (6) and 114
- 2 • section 116 (2) (1st mention)
- 3 • section 116 (3) (1st mention)
- 4 • section 116 (4) (1st mention)
- 5 • section 116 (5) (a)
- 6 • section 117 (1) (1st mention)
- 7 • section 117 (2) (d)
- 8 • section 117 (3) (1st mention)
- 9 • section 117 (4)
- 10 • section 117 (5) (1st mention)
- 11 • section 118 (1) (a) and (2)
- 12 • section 118 (3) (1st mention)
- 13 • sections 118 (4) and 124 (1)
- 14 • section 124 (2) (1st mention)
- 15 • sections 124 (3) and 125 (1) and (2)
- 16 • section 127 (1st mention)
- 17 • section 128 (3)
- 18 • section 128 (4) (1st mention)
- 19 • sections 135 (1) (d) and (4) (d), 148 (1), 153 (1), 154
- 20 • section 163 (3) (a) (1st and last mention)
- 21 • sections 176, 177, 178 (3), 187 (2) (b) and (3), 193, 196 (1) and
- 22 • (2) and 199 (1)
- 23 • section 199 (2) (1st mention)
- 24 • sections 199 (3), 201 (2), 202 and 203
- 25 • section 205 (1) (1st mention)
- 26 • section 205 (2) and example
- 27 • section 205A (1)
- 28 • section 205A (2) (1st mention)
- 29 • sections 206 (2) and (4) and 207 (2)
- 30 • section 207 (3) (1st mention)
- 31 • sections 211, 212, 214 (2) and 214 (3) (b)

Schedule 3 Technical amendments
Part 3.5 Children and Young People Act 1999

Amendment [3.126]

- 1 • section 215
- 2 • section 217 (2) (1st mention)
- 3 • section 218
- 4 • section 220 (b) (1st mention)
- 5 • section 225 (1) (b)
- 6 • section 225 (2) (1st mention)
- 7 • section 226 (1) (c)
- 8 • section 228 (1) (1st mention)
- 9 • sections 231 and 235 (1)
- 10 • section 235 (2) (1st mention)
- 11 • section 236 (1)
- 12 • section 236 (2) (1st mention)
- 13 • sections 236 (3) and 239
- 14 • section 240 (1) (1st mention)
- 15 • section 246 (1) and (3) (e) (ii) and (h)
- 16 • section 248 (2) (1st mention)
- 17 • section 248 (3) (1st mention)
- 18 • section 248 (4) (1st mention)
- 19 • sections 249 and 251
- 20 • section 252 (1) (1st mention)
- 21 • sections 252 (2), (3) and (4), 253, 254, 255, 258, 259 (3),
- 22 • 260 (1) and 261
- 23 • section 263 (1) (1st mention)
- 24 • section 263 (2)
- 25 • section 263 (3) (1st mention)
- 26 • section 263 (4) (a)
- 27 • section 264 (1) (1st mention)
- 28 • sections 264 (2), (3), (4) and (5) and 265 (1)
- 29 • section 265 (2) (1st mention)
- 30 • section 265 (3) (1st mention)
- 31 • sections 268 (3) and (5)

- 1 • section 269 (3) (1st mention)
- 2 • section 270 (4)
- 3 • section 270 (5) (1st mention)
- 4 • section 272 (1st mention)
- 5 • sections 274
- 6 • section 277 (1st mention)
- 7 • section 278
- 8 • section 280 (1) (d) (i)
- 9 • section 281 (1st mention)
- 10 • sections 283, 285 (2) and 286
- 11 • section 287 (1) (1st mention)
- 12 • section 287 (2), (3) and (4)
- 13 • section 288 (2) (1st mention)
- 14 • section 289 (1) (1st mention)
- 15 • sections 289 (2), 290 and 291 (1) and (2)
- 16 • section 292 (1) (1st mention)
- 17 • section 292 (2) (1st mention)
- 18 • section 292 (3) (1st mention)
- 19 • section 292 (5) (1st mention)
- 20 • section 293 (1)
- 21 • section 293 (2) (1st mention)
- 22 • section 294 (1st mention)
- 23 • sections 295 (1), 296 (1) and 304
- 24 • section 306 (1) (1st mention)
- 25 • sections 306 (2), (3), (4) and (5) (b), 307 and 308
- 26 • section 313 (1) (1st mention)
- 27 • section 315
- 28 • section 317 (1) (1st mention)
- 29 • section 317 (2) (1st mention)
- 30 • sections 317 (3), 319 (1), 321 and 380 (1)

1 **Part 3.7** **Criminal Code 2002**

2 **[3.128] Section 10**

3 *omit*

4 In this Act:

5 *substitute*

6 (1) In this Act:

7 **Explanatory note**

8 This amendment is consequential on the next amendment.

9 **[3.129] New section 10 (2)**

10 *insert*

11 (2) This section expires on the default application date.

12 **Explanatory note**

13 This amendment is in line with current drafting practice of providing for the expiry of
14 transitional provisions when they are spent.

15 **Part 3.8** **Drugs in Sport Act 1999**

16 **[3.130] Title**

17 *omit*

18 confer functions and powers on

19 *substitute*

20 give functions to

21 **Explanatory note**

22 This amendment brings the language of the long title more closely into line with current
23 drafting practice. **Function** is defined in the Legislation Act, dictionary, part 1 to include
24 authority, duty and power.

1 **[3.131] Section 3, definitions**

2 *relocate to the dictionary*

3 **Explanatory note**

4 This amendment relocates the definitions to a new dictionary that is inserted by another
5 amendment.

6 **[3.132] 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 terms used in this
11 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 **Explanatory note**

17 This amendment inserts a standard dictionary provision.

18 **[3.133] Section 6 heading**

19 *substitute*

20 **6 Giving of functions to ASDA**

21 **Explanatory note**

22 This amendment brings the language of the section's heading into line with current
23 drafting practice. *Function* is defined in the Legislation Act, dictionary, part 1 to include
24 authority, duty and power.

1 **[3.134] Section 6 (1)**

2 *omit*

3 and powers

4 **Explanatory note**

5 This amendment omits unnecessary words. *Function* is defined in the Legislation Act,
6 dictionary, part 1 to include authority, duty and power.

7 **[3.135] Section 6 (2)**

8 *omit*

9 , functions and powers

10 *substitute*

11 and functions

12 **Explanatory note**

13 This amendment omits unnecessary words. *Function* is defined in the Legislation Act,
14 dictionary, part 1 to include authority, duty and power.

15 **[3.136] Section 6 (4) (b)**

16 *substitute*

17 (b) section 8 (Agreement with ASDA about exercise of functions
18 under Act).

19 **Explanatory note**

20 This amendment is consequential on the amendment of the heading to section 8 by the next
21 amendment.

1 **[3.137] Section 8**

2 *substitute*

3 **8 Agreement with ASDA about exercise of functions under**
4 **Act**

5 (1) The Minister may enter into an agreement with ASDA about the
6 exercise of its functions under this Act.

7 (2) The agreement may provide that ASDA must exercise its functions
8 under this Act as provided under the agreement.

9 **Explanatory note**

10 This amendment brings the language of the section more closely into line with current
11 drafting practice. *Function* is defined in the Legislation Act, dictionary, part 1 to include
12 authority, duty and power.

13 **[3.138] New dictionary**

14 *insert*

15 **Dictionary**

16 (see s 2)

17 *Note 1* The Legislation Act contains definitions and other provisions relevant to
18 this Act.

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

- 20 • ACT
21 • Commonwealth
22 • Executive
23 • exercise
24 • Federal Court
25 • function.

26 **Explanatory note**

27 This amendment inserts a dictionary and standard dictionary notes.

1 **Part 3.9** **Financial Management Act**
2 **1996**

3 **[3.139] Section 67 (1)**

4 *after*

5 *may*

6 *insert*

7 *, in writing,*

8 **Explanatory note**

9 The Legislation Act defines an instrument as any writing or other document. The insertion
10 of ‘in writing’ ensures that financial management guidelines fall within that definition (see
11 Legislation Act, s 14 (1)) and will be disallowable instruments as envisaged by the
12 *Financial Management Act 1996*, section 67 (2).

13 **Part 3.10** **First Home Owner Grant Act**
14 **2000**

15 **[3.140] Section 3, note 1**

16 *omit*

17 For example, the signpost definition ‘*identity card*—see the *Taxation*
18 *Administration Act 1999*, section 3 (1)’ means that the term ‘identity
19 card’ is defined in section 3 (1) of that Act and the definition applies to
20 this Act.

21 *substitute*

22 For example, the signpost definition ‘*identity card*—see the *Taxation*
23 *Administration Act 1999*, dictionary.’ means that the term ‘identity card’
24 is defined in that dictionary and the definition applies to this Act.

25 **Explanatory note**

26 This amendment updates a reference consequential on another amendment to insert a
27 dictionary in the *Taxation Administration Act 1999*.

1 For example, the signpost definition ‘*bar-room*—see the *Liquor Act*
2 *1975*, dictionary.’ means that the term ‘bar-room’ is defined in that
3 dictionary and the definition applies to this Act.

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

8 **4 Notes**

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

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

11 **Explanatory note**

12 This amendment inserts a standard dictionary provision and a standard provision
13 explaining the status of notes.

14 **[3.145] Section 30CA (2)**

15 *omit*

16 30C (g)

17 *substitute*

18 30C (1) (f)

19 **Explanatory note**

20 This amendment updates a cross-reference that was not updated following the amendment
21 of section 30C by the *Gaming Machine Amendment Act 2000*, section 7 and the subsequent
22 renumbering of paragraphs in the next republication.

23 **[3.146] Section 30CA (3)**

24 *omit*

25 the commencement of the *Gaming Machine (Amendment) Act 1993*,
26 section 18

27 *substitute*

28 1 November 1993

1 **Explanatory note**

2 This amendment substitutes the actual date of commencement of the *Gaming Machine*
3 *(Amendment) Act 1993*, section 18.

4 **[3.147] Section 59 (2)**

5 *substitute*

6 (2) A return must be in writing.

7 *Note* If a form is approved under the *Gambling and Racing Control Act 1999*,
8 s 53D for a return, the form must be used.

9 **Explanatory note**

10 This amendment makes it clear that the return is in a form approved for a gaming law
11 under the *Gambling and Racing Control Act 1999*, s 53D rather than independently under
12 the *Gaming Machine Act 1987*.

13 **[3.148] New dictionary**

14 *insert*

15 **Dictionary**

16 (see s 3)

17 *Note 1* The Legislation Act contains definitions and other provisions relevant to
18 this Act.

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

- 20 • ACT
21 • Commonwealth
22 • Corporations Act
23 • disallowable instrument (see s 9)
24 • Executive
25 • financial year
26 • Legislative Assembly
27 • month
28 • the Territory.

1 **Explanatory note**

2 This amendment inserts a dictionary and standard dictionary notes.

3 **Part 3.12 Health Professionals (Special**
4 **Events Exemptions) Act 2000**

5 **[3.149] Section 3, definition of *restricted substance*,**
6 **paragraph (a)**

7 *omit*

8 schedule 4;

9 *substitute*

10 schedule 4; or

11 **Explanatory note**

12 This amendment inserts an ‘or’ at the end of a paragraph in accordance with current
13 drafting practice.

14 **[3.150] Section 3, definition of *special event***

15 *substitute*

16 *special event* means an event that is declared to be a special event
17 under section 5 (1).

18 **Explanatory note**

19 This amendment converts the definition from a signpost definition in accordance with
20 current drafting practice.

21 **[3.151] Section 3, definition of *supply***

22 *substitute*

23 *supply*—see the *Poisons and Drugs Act 1978*, dictionary.

24 **Explanatory note**

25 This amendment adds ‘dictionary’ to the end of the definition, in line with current drafting
26 practice, so that the definition can be more easily located.

1 **[3.152] Section 3, definitions (as amended)**

2 *relocate to the dictionary*

3 **Explanatory note**

4 This amendment relocates the definitions to a new dictionary that is inserted by another
5 amendment.

6 **[3.153] 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 terms used in this
11 Act, and includes references (*signpost definitions*) to other terms
12 defined elsewhere.

13 For example, the signpost definition ‘*drugs and poisons standard*—see
14 the *Poisons and Drugs Act 1978*, dictionary.’ means that the term ‘drugs
15 and poisons standard’ is defined in that dictionary and the definition
16 applies to this Act.

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

21 **Explanatory note**

22 This amendment inserts a standard dictionary provision.

1 **[3.154] New dictionary**

2 *insert*

3 **Dictionary**

4 (see s 2)

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

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

- 8 • ACT
- 9 • dental prosthetist
- 10 • dental technician
- 11 • dentist
- 12 • doctor
- 13 • Minister (see s 162)
- 14 • notifiable instrument (see s 10)
- 15 • nurse
- 16 • penalty unit (see s 133)
- 17 • pharmacist.

18 **Explanatory note**

19 This amendment inserts a dictionary and standard dictionary notes.

20 **Part 3.13 Long Service Leave (Contract**
21 **Cleaning Industry) Act 1999**

22 **[3.155] New section 2A**

23 *insert*

24 **2A Notes**

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

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

1 **Explanatory note**

2 This amendment inserts a standard provision about notes.

3 **[3.156] Section 9**

4 *substitute*

5 **9 Delegation by board**

6 The board may delegate the board's functions to a public servant.

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

9 **Explanatory note**

10 This amendment updates the delegation provision by removing the words 'in writing'
11 because the Legislation Act, section 232 provides that a delegation must be made, or
12 evidenced, in writing. Also, the reference to the 'common seal' of the board is
13 unnecessary because the signature of a person authorised by the board for the purpose of
14 making a delegation is taken to be the signature of the board (see Legislation Act,
15 section 199 (2)).

16 *Function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and
17 power.

18 A standard note about delegations is also added.

19 **[3.157] Section 11**

20 *substitute*

21 **11 Term of appointment of members**

22 A member is appointed for a term of not longer than 5 years.

23 **Explanatory note**

24 This amendment remakes the section to omit an unnecessary subsection and note. The
25 Legislation Act, section 206 (2) provides if a law provides for a maximum term of
26 appointment, the instrument of appointment must state the period for which the
27 appointment is made.

1 **[3.158] Section 13 heading**

2 *substitute*

3 **13 Ending of appointment**

4 **Explanatory note**

5 This amendment updates the heading in line with current drafting practice.

6 **[3.159] Section 13, new note**

7 *insert*

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

10 **Explanatory note**

11 This amendment updates the section by inserting a standard note about resignation. The
12 Legislation Act, section 210 provides that a person's appointment also ends if the person
13 resigns.

14 **[3.160] Sections 19 and 20**

15 *substitute*

16 **19 Long Service Leave Registrar**

17 (1) The chief executive must appoint a public servant as Long Service
18 Leave Registrar.

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

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

24 (2) The registrar has the functions given under this Act or another
25 Territory law.

1 (3) Until the chief executive makes an appointment under
2 subsection (1), the registrar is the public servant for the time being
3 exercising the duties of the public service office the duties of which
4 include exercising the functions of the registrar.

5 (4) Subsection (3) is a law to which the Legislation Act, section 88
6 (Repeal does not end effect of transitional laws etc) applies.

7 (5) Subsections (3) and (4) and this subsection expire 1 year after the
8 day this section commences.

9 **20 Deputy Long Service Leave Registrar**

10 (1) The chief executive must appoint a public servant as Deputy Long
11 Service Leave Registrar.

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

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

17 (2) The deputy registrar may exercise any function of the registrar,
18 subject to any direction of the registrar.

19 (3) Until the chief executive makes an appointment under subsection
20 (1), the deputy registrar is the public servant for the time being
21 exercising the duties of the public service office the duties of which
22 include exercising the functions of the deputy registrar.

23 (4) Subsection (3) is a law to which the Legislation Act, section 88
24 (Repeal does not end effect of transitional laws etc) applies.

25 (5) Subsections (3) and (4) and this subsection expire 1 year after the
26 day this section commences.

27 **Explanatory note**

28 This amendment remakes the sections and removes the requirement that the chief
29 executive must create and maintain offices for a registrar and deputy registrar in the public
30 service. The Legislation Act, section 207 provides that an appointment may be made by

1 naming the person appointed or by nominating the occupant of a position (however
2 described), at a particular time or from time to time.

3 The amendment includes transitional arrangements that operate until new appointments are
4 made.

5 The amendment also inserts standard notes about appointments in each of the sections.

6 **Part 3.14** **Magistrates Court Act 1930**

7 **[3.161] Section 1**

8 *substitute*

9 **1 Name of Act**

10 This Act is the *Magistrates Court Act 1930*.

11 **Explanatory note**

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

13 **[3.162] Section 116H (1) (a), (2) (a) and (3)**

14 *omit*

15 116A (3)

16 *substitute*

17 116AA (1)

18 **Explanatory note**

19 This amendment updates a cross-reference.

1 **Part 3.15** **Magistrates Court Rules 1932**

2 **[3.163]** **Part 6**

3 *substitute*

4 **Part 6** **Australian register of**
5 **judgments**

6 **31** **Entry of Australian judgments in register**

7 A judgment required to be registered in the court under the *Service*
8 *and Execution of Process Act 1992* (Cwlth), section 105
9 (Enforcement of judgments) must be entered in the Australian
10 register of judgments kept by the registrar.

11 **Explanatory note**

12 This amendment updates part 6 of the rules to bring it into line with the *Service and*
13 *Execution of Process Act 1992* (Cwlth), section 105 (Enforcement of judgments).

14 **[3.164]** **Part 11**

15 *omit*

16 **Explanatory note**

17 This amendment omits a redundant part. All former New South Wales Acts in force in the
18 ACT have been fully assimilated into ACT law (see Legislation Act, dict, pt 1, def *former*
19 *NSW Act*).

1 **Part 3.16** **Prisoners (International**
2 **Transfer) Act 1999**

3 **[3.165] Section 4, definition of *function***

4 *omit*

5 **Explanatory note**

6 This amendment omits a redundant definition. *Function* is defined in the Legislation Act,
7 dictionary, part 1 to include authority, duty or power.

8 **[3.166] Section 4, definitions (as amended)**

9 *relocate to the dictionary*

10 **Explanatory note**

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

13 **[3.167] Section 4, remainder**

14 *substitute*

15 **4 Dictionary**

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

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

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

23 **4A Terms defined in Commonwealth Act**

24 A term defined in the Commonwealth Act has the same meaning in
25 this Act.

1 **4B Notes**

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

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

4 **Explanatory note**

5 This amendment inserts a standard dictionary provision, remakes an interpretative
6 provision in accordance with current drafting practice and inserts a standard notes
7 provision.

8 **[3.168] Section 5 heading**

9 *substitute*

10 **5 Minister's functions**

11 **Explanatory note**

12 This amendment updates the heading in line with current drafting practice.

13 **[3.169] Section 6 heading**

14 *substitute*

15 **6 Functions of prison officers, police officers and others**

16 **Explanatory note**

17 This amendment updates the heading in line with current drafting practice.

18 **[3.170] New dictionary**

19 *insert*

20 **Dictionary**

21 (see s 4)

22 *Note 1* The Legislation Act contains definitions and other provisions relevant to
23 this Act.

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

- 25 • ACT

- 1 • Australia
- 2 • Commonwealth
- 3 • Executive
- 4 • Federal Court
- 5 • function
- 6 • Minister (see s 162)
- 7 • State
- 8 • the Territory.

9 **Explanatory note**

10 This amendment inserts a dictionary and standard dictionary notes.

11 **Part 3.17 Protection Orders Act 2001**

12 **[3.171] Section 32 (1) (b)**

13 *omit*

14 section 205 (When may the court make a protection order?)

15 *substitute*

16 section 205 (When Childrens Court may make interim protection
17 order)

18 **Explanatory note**

19 This amendment is consequential on the amendment of the heading to the *Children and*
20 *Young People Act 1999*, section 205 by an earlier amendment.

1 **[3.174] Section 121 (4), definition of *authorised person*,**
2 **paragraph (b)**

3 *omit*

4 14 (2)

5 *substitute*

6 12A (1)

7 **Explanatory note**

8 This amendment updates a cross-reference.

9 **[3.175] Dictionary, definitions of *occupier***

10 *substitute*

11 *occupier*—

12 (a) for this Act (other than part 5)—of a place, includes—

13 (i) an owner of the place; and

14 (ii) a person in charge of the place; and

15 (iii) a person authorised to be present at the place as an agent
16 of an occupier, owner or person in charge of the place;
17 and

18 (b) for part 5 (Inspection and analysis)—see section 75.

19 **Explanatory note**

20 This amendment combines the 2 definitions of *occupier*.

1 **Part 3.19** **Public Sector Management Act**
2 **1994**

3 **[3.176]** **Section 3, definition of *Territory instrumentality*,**
4 **paragraph (e)**

5 *omit*

6 subsection (2)

7 *substitute*

8 section 3A

9 **Explanatory note**

10 This amendment updates a cross-reference.

11 **[3.177]** **Schedule 3, amendment 3.19, new**
12 **section 57A (1) (a)**

13 *omit*

14 employers

15 *substitute*

16 employees

17 **Explanatory note**

18 This amendment corrects a minor drafting error.

1 **Part 3.20** **Race and Sports Bookmaking**
2 **Act 2001**

3 **[3.178] Dictionary, definition of *controlling body***

4 *substitute*

5 *controlling body*—see the *Racing Act 1999*, dictionary.

6 **Explanatory note**

7 This amendment updates a reference consequential on another amendment to insert a
8 dictionary in the *Racing Act 1999*.

9 **Part 3.21** **Racing Act 1999**

10 **[3.179] Section 1**

11 *substitute*

12 **1 Name of Act**

13 This Act is the *Racing Act 1999*.

14 **Explanatory note**

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

16 **[3.180] Section 3, definitions**

17 *relocate to the dictionary*

18 **Explanatory note**

19 This amendment relocates the definitions to a new dictionary that is inserted by another
20 amendment

1 **Explanatory note**

2 This amendment provides for the consequential renumbering of subsections

3 **[3.184] Section 16 (3)**

4 *substitute*

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

8 **Explanatory note**

9 This amendment omits a provision that is unnecessary because of the Legislation Act,
10 section 196 (1). That section provides that a provision of a law that gives a function to an
11 entity also gives the entity the powers necessary and convenient to exercise the function.
12 The amendment also inserts a standard note about the power to exercise functions.

13 **[3.185] Section 17**

14 *substitute*

15 **17 Delegation by racing club**

16 The racing club may delegate its functions under this Act to a
17 member, officer or employee of the racing club.

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

20 **Explanatory note**

21 This amendment updates the delegation provision, as follows:

- 22 • the word ‘any’ (of the club’s functions) is omitted because the Legislation Act,
23 section 234 provides that the delegation instrument may provide that the delegation
24 has effect in stated circumstances or subject to stated conditions, limitations or
25 directions or that all of the function, or a stated part of the function, is delegated;
- 26 • the word ‘powers’ is omitted because *function* is defined in the Legislation Act,
27 dictionary, part 1 to include authority, duty and power, and is the drafting term used
28 now;
- 29 • the words ‘except this power of delegation’ are omitted because the Legislation Act,
30 section 236 provides that the person who can delegate cannot delegate the power to
31 delegate unless the legislation creating the power to delegate states that it can be;

- 1 • the words ‘A delegation under this section may be revoked at any time’ are
2 unnecessary because the Legislation Act, section 237 provides that the person who
3 has delegated can amend or revoke the delegation in whole or part;
- 4 • the words ‘and does not derogate from the power of the racing club to act itself in any
5 matter’ are unnecessary because the Legislation Act, section 240 provides that the
6 person who has delegated a function can exercise the delegated function.
- 7 This amendment also inserts a standard note about delegations.

8 **[3.186] Section 22 (3)**

9 *substitute*

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

13 **Explanatory note**

14 This amendment omits a provision that is unnecessary because of the Legislation Act,
15 section 196 (1). That section provides that a provision of a law that gives a function to an
16 entity also gives the entity the powers necessary and convenient to exercise the function.
17 The amendment also inserts a standard note about the power to exercise functions

18 **[3.187] Section 23**

19 *substitute*

20 **23 Delegation by harness club**

21 The harness club may delegate its functions under this Act to a
22 member, officer or employee of the harness club.

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

25 **Explanatory note**

26 This amendment updates the delegation provision, as follows:

- 27 • the word ‘any’ (of the club’s functions) is omitted because the Legislation Act,
28 section 234 provides that the delegation instrument may provide that the delegation
29 has effect in stated circumstances or subject to stated conditions, limitations or
30 directions or that all of the function, or a stated part of the function, is delegated;

- 1 • the word ‘powers’ is omitted because *function* is defined in the Legislation Act,
2 dictionary, part 1 to include authority, duty and power, and is the drafting term used
3 now;
- 4 • the words ‘except this power of delegation’ are omitted because the Legislation Act.
5 section 236 provides that the person who can delegate cannot delegate the power to
6 delegate unless the legislation creating the power to delegate states that it can be;
- 7 • the words ‘A delegation under this section may be revoked at any time’ are
8 unnecessary because the Legislation Act, section 237 provides that the person who
9 has delegated can amend or revoke the delegation in whole or part;
- 10 • the words ‘and does not derogate from the power of the harness club to act itself in
11 any matter’ are unnecessary because the Legislation Act, section 240 provides that the
12 person who has delegated a function can exercise the delegated function.
- 13 This amendment also inserts a standard note about delegations.

14 **[3.188] Section 28 (3)**

15 *substitute*

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

19 **Explanatory note**

20 This amendment omits a provision that is unnecessary because of the Legislation Act,
21 section 196 (1). That section provides that a provision of a law that gives a function to an
22 entity also gives the entity the powers necessary and convenient to exercise the function.
23 The amendment also inserts a standard note about the power to exercise functions.

24 **[3.189] Section 29**

25 *substitute*

26 **29 Delegation by greyhound club**

27 The greyhound club may delegate its functions under this Act to a
28 member, officer or employee of the greyhound club.

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

31 **Explanatory note**

32 This amendment updates the delegation provision, as follows:

- 1 • the word ‘any’ (of the club’s functions) is omitted because the Legislation Act,
2 section 234 provides that the delegation instrument may provide that the delegation
3 has effect in stated circumstances or subject to stated conditions, limitations or
4 directions or that all of the function, or a stated part of the function, is delegated;
5 • the word ‘powers’ is omitted because *function* is defined in the Legislation Act,
6 dictionary, part 1 to include authority, duty and power, and is the drafting term used
7 now;
8 • the words ‘except this power of delegation’ are omitted because the Legislation Act.
9 section 236 provides that the person who can delegate cannot delegate the power to
10 delegate unless the legislation creating the power to delegate states that it can be;
11 • the words ‘A delegation under this section may be revoked at any time’ are
12 unnecessary because the Legislation Act, section 237 provides that the person who
13 has delegated can amend or revoke the delegation in whole or part;
14 • the words ‘and does not derogate from the power of the greyhound club to act itself in
15 any matter’ are unnecessary because the Legislation Act, section 240 provides that the
16 person who has delegated a function can exercise the delegated function.
17 This amendment also inserts a standard note about delegations.

18 **[3.190] Section 39 (b)**

19 *substitute*

- 20 (b) to exercise the functions given to the tribunal by this Act or
21 another Act.

22 **Explanatory note**

23 This amendment brings the paragraph into line with current drafting practice. The
24 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the
25 function, and is the drafting term used now.

26 **[3.191] Section 43 (3)**

27 *substitute*

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

31 **Explanatory note**

32 This amendment omits a provision that is unnecessary because of the Legislation Act,
33 section 196 (1). That section provides that a provision of a law that gives a function to an

1 entity also gives the entity the powers necessary and convenient to exercise the function.
2 The amendment also inserts a standard note about the power to exercise functions.

3 **[3.192] Section 52 (a)**

4 *substitute*

5 (a) by a lawyer; or

6 **Explanatory note**

7 This amendment replaces a reference to ‘legal practitioner’ with ‘lawyer’, in line with
8 current drafting practice. *Lawyer* is defined in the Legislation Act, dictionary, part 1.

9 **[3.193] Section 62**

10 *substitute*

11 **62 Immunity from liability**

12 A member of the tribunal is not civilly liable for an act or omission
13 done honestly in the exercise, or purported exercise, of a function
14 under this Act.

15 **Explanatory note**

16 This amendment updates language and brings the section into line with current drafting
17 practice. In particular—

- 18 • ‘performance’ is omitted, because *exercise* a function is defined in the Legislation
19 Act, dictionary, part 1 to include perform the function. It is the drafting term that is
20 now used in relation to functions; and
- 21 • ‘powers’ is omitted, because *function* is defined in the Legislation Act, dictionary,
22 part 1 to include authority, duty and power, and is the drafting term used now.

1 **[3.194] Schedule 1, clause 1 (1), new notes**

2 *insert*

3 *Note 1* For the making of appointments (including acting appointments), see
4 Legislation Act, pt 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 Legislation Act, 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 **[3.195] Schedule 1, clause 1 (2)**

12 *omit*

13 legal practitioners

14 *substitute*

15 lawyers

16 **Explanatory note**

17 This amendment replaces a reference to ‘legal practitioners’ with ‘lawyers’, in line with
18 current drafting practice. *Lawyer* is defined in the Legislation Act, dictionary, part 1.

19 **[3.196] Schedule 1, clause 1 (4)**

20 *substitute*

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

24 **Explanatory note**

25 This amendment omits a provision that is unnecessary because of the Legislation Act,
26 section 208. That section provides that a person may be reappointed to a position if the
27 person is eligible to be appointed to the position. This amendment also inserts a standard
28 note about section 208.

1 **[3.197] Schedule 1, clause 2 (4)**

2 *omit*

3 **Explanatory note**

4 This amendment omits a provision that is unnecessary because of the Legislation Act,
5 section 225. That section states that an acting appointment is not affected by a defect etc.

6 **[3.198] Schedule 1, clauses 3, 4 and 5**

7 *substitute*

8 **3 Term of office**

9 A member of the tribunal must be appointed for a term not longer
10 than 3 years.

11 **4 Ending of appointment**

12 (1) The Minister must end the appointment of a member of the tribunal
13 if the member—

14 (a) ceases to be eligible for membership in the relevant capacity;
15 or

16 (b) becomes bankrupt, applies to take the benefit of a law for the
17 relief of bankrupt or insolvent debtors, compounds with
18 creditors or makes an assignment of remuneration for their
19 benefit; or

20 (c) fails to disclose an interest as required by clause 7.

21 (2) The Minister may end the appointment of a member of the tribunal
22 for misbehaviour or physical or mental incapacity.

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

25 **Explanatory note**

26 This amendment updates the clauses and omits unnecessary provisions.

27 New clause 3 does not include the words 'specified in the instrument of appointment'.
28 This is because the Legislation Act, section 206 (2) states that, if a law provides for a

Schedule 3 Technical amendments
Part 3.21 Racing Act 1999

Amendment [3.199]

1 maximum period of appointment, the period of appointment must be stated in the
2 instrument of appointment.

3 New clause 4 is remade in an updated form. The existing clause 4 (1) (a) dealt with
4 resignation. This is unnecessary, because the Legislation Act, section 210 provides that a
5 person's appointment also ends if the person resigns. A standard note to this effect is
6 inserted in the clause.

7 Existing clause 5 is unnecessary because the entitlements of members of the tribunal are
8 subject to determinations of the Remuneration Tribunal under the *Remuneration Tribunal*
9 *Act 1995*.

10 **[3.199] Schedule 2, clause 1, new notes**

11 *insert*

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

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

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

18 **Explanatory note**

19 This amendment inserts standard notes about appointments.

20 **[3.200] Schedule 2, clauses 2, 3 and 4**

21 *substitute*

22 **2 Term of office**

23 An assessor must be appointed for a term not longer than 3 years.

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

27 **3 Ending of appointments**

28 (1) The Minister must end the appointment of an assessor if the assessor
29 fails to disclose an interest as required by clause 5.

1 (2) The Minister may end the appointment of an assessor for
2 misbehaviour or physical or mental incapacity.

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 the clauses and omits unnecessary provisions.

7 New clause 2 does not include the words 'specified in the instrument of appointment, and
8 is eligible for re-appointment'. This is because the Legislation Act, section 206 (2) states
9 that, if a law provides for a maximum period of appointment, the period of appointment
10 must be stated in the instrument of appointment. The Legislation Act, section 208
11 provides that a person may be reappointed to a position if the person is eligible to be
12 appointed to the position. A standard note about section 208 is also inserted.

13 Existing clause 3 (1) (a) deals with resignation. This is unnecessary, because the
14 Legislation Act, section 210 provides that a person's appointment also ends if the person
15 resigns. A standard note to this effect is inserted in the clause.

16 The existing clause 4 (1) (a) dealt with resignation. This is unnecessary, because the
17 Legislation Act, section 210 provides that a person's appointment also ends if the person
18 resigns. A standard note to this effect is inserted in the clause

19 Existing clause 4 is unnecessary because the entitlements of assessors are subject to
20 determinations of the Remuneration Tribunal under the *Remuneration Tribunal Act 1995*.

21 **[3.201] New dictionary**

22 *insert*

23 **Dictionary**

24 (see s 2)

25 *Note 1* The Legislation Act contains definitions and other provisions relevant to
26 this Act.

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

- 28 • Legislative Assembly
29 • Minister (see s 162)
30 • penalty unit (see s 133).

1 **5A Deputy Registrar of Motor Vehicles**

2 (1) The chief executive must appoint a public servant as Deputy
3 Registrar of Motor Vehicles.

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

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

8 (2) The deputy registrar may exercise any function of the registrar,
9 subject to any direction of the registrar.

10 (3) Until the chief executive makes an appointment under subsection
11 (1), the deputy registrar is the public servant for the time being
12 exercising the duties of the public service office the duties of which
13 include exercising the functions of the deputy registrar.

14 (4) Subsection (3) is a law to which the Legislation Act, section 88
15 (Repeal does not end effect of transitional laws etc) applies.

16 (5) Subsections (3) and (4) and this subsection expire 1 year after the
17 day this section commences.

18 **Explanatory note**

19 This amendment removes the requirement that the chief executive must create and
20 maintain offices for the registrar and deputy registrar in the public service. The
21 Legislation Act, section 207 provides that an appointment may be made by naming the
22 person appointed or by nominating the occupant of a position (however described), at a
23 particular time or from time to time.

24 The amendment includes transitional arrangements that operate until new appointments are
25 made.

26 The amendment also inserts standard notes about appointments in each of the sections.

- 1 **[3.203] Section 5B**
- 2 *substitute*
- 3 **5B Inspectors**
- 4 (1) The chief executive may appoint a public servant as an inspector for
5 this Act.
- 6 *Note 1* For the making of appointments (including acting appointments), see
7 Legislation Act, pt 19.3.
- 8 *Note 2* In particular, a person may be appointed for a particular provision of a
9 law (see Legislation Act, s 7 (3)) and an appointment may be made by
10 naming a person or nominating the occupant of a position (see s 207).
- 11 (2) The following are also inspectors:
- 12 (a) the registrar;
- 13 (b) the deputy registrar;
- 14 (c) a police officer of or above the rank of sergeant;
- 15 (d) a police officer below the rank of sergeant nominated in
16 writing by the chief police officer for this Act.
- 17 (3) If, immediately before the commencement of this section, the duties
18 of an office in the public service included exercising the functions of
19 an inspector, then, until the chief executive makes an appointment
20 under subsection (1) in relation to the office or the duties of the
21 office cease to include exercising the functions of an inspector, a
22 public servant for the time being exercising the duties of the office
23 is an inspector.
- 24 (4) Subsection (3) is a law to which the Legislation Act, section 88
25 (Repeal does not end effect of transitional laws etc) applies.
- 26 (5) Subsections (3) and (4) and this subsection expire 1 year after the
27 day this section commences.

1 **Explanatory note**

2 This amendment removes the requirement that the chief executive must create and
3 maintain offices for inspectors in the public service. The Legislation Act, section 207
4 provides that an appointment may be made by naming the person appointed or by
5 nominating the occupant of a position (however described), at a particular time or from
6 time to time.

7 This amendment also—

- 8 • removes the reference in existing subsection (3) (now new s (2)) to ‘a public servant
9 for the time being exercising the functions of a public service office’ (ie an acting
10 inspector) as a consequence of the amendment described above and because the
11 Legislation Act, section 220 provides that a person acting in a position has, subject to
12 the instrument making or evidencing the appointment, all the functions of the
13 occupant of the position; and
- 14 • changes the reference in existing subsection (3) to a member of the police force to
15 police officer, which is defined in the Legislation Act, dictionary, part 1 to mean a
16 member or special member of the Australian Federal Police.

17 The amendment includes transitional arrangements that operate until new appointments are
18 made.

19 Standard notes about appointments are also inserted.

20 **[3.204] Section 10 (1) (c) (iii) and 11 (1) (d)**

21 *omit*

22 *resided*

23 *substitute*

24 *lived*

25 **Explanatory note**

26 These amendments update language.

1 **[3.205] Section 11 (2)**

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

3 (b) if paragraph (a) does not apply—a copy of the corporation’s
4 accounts for the period beginning on the day of its
5 incorporation and ending no more than 1 month immediately
6 before the day it applies for the grant of the licence.

7 (3) The accounts mentioned in subsection (2) must have been audited
8 by a qualified accountant.

9 **Explanatory note**

10 This amendment restructures the subsection in line with current drafting practice.

11 **[3.206] Section 11 (3) and (4)**

12 *substitute*

13 (4) An application under subsection (1) must be notified in accordance
14 with section 11B (Notification of application).

15 (5) In this section:

16 *accounts*—see the Corporations Act, section 9 (Dictionary),
17 definition of *financial records*.

18 *accounts in relation to a period* (the *first period*) includes accounts
19 for each of 2 periods whose total length corresponds to the length of
20 the first period.

21 **Explanatory note**

22 This amendment restructures the subsections to bring them more closely into line with
23 current drafting practice, including turning existing subsection (3) (an interpretation
24 provision) into the definitions contained in new subsection (5).

25 The amendment also updates the definition of *accounts*. That term is not defined in the
26 Corporations Act, so the defined term *financial records* is used for the definition of
27 accounts.

1 **[3.207] Section 11A (2) (d)**

2 *omit*

3 certificate, diploma or testamur

4 *substitute*

5 degree, diploma or certificate

6 **Explanatory note**

7 This amendment updates language.

8 **[3.208] Section 18**

9 *substitute*

10 **18 Telling people about Act's requirements**

11 (1) If a person gives information to a licensee in relation to any matter
12 that a licensee must enter in a dealings register, the licensee must
13 tell the person about the requirements of section 17.

14 (2) In this section:

15 *licensee* includes someone acting for the licensee.

16 **Explanatory note**

17 This amendment updates the structure and language of the section.

18 **[3.209] Section 24 (1), definition of *defect notice***

19 *omit*

20 , being a notice

21 **Explanatory note**

22 This amendment updates language.

1 **[3.210] Section 27 (7)**

2 *omit*

3 in good faith

4 *substitute*

5 honestly

6 **Explanatory note**

7 This amendment updates language.

8 **[3.211] Section 32A, new definition of *NSW Act***

9 *insert*

10 *NSW Act* means the *Registration of Interests in Goods Act 1986*
11 (NSW).

12 **Explanatory note**

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

14 **[3.212] Section 32A, definition of *the NSW Act***

15 *omit*

16 **Explanatory note**

17 This amendment is consequential on the previous amendment.

18 **[3.213] Section 51 (1)**

19 *omit*

20 refuse or

21 **Explanatory note**

22 This amendment updates language. The Legislation Act, dictionary, part 1 defines *fail* to
23 include refuse.

1 **[3.214] Section 51 (2)**

2 *omit*

3 refusing or

4 **Explanatory note**

5 This amendment updates language. The Legislation Act, dictionary, part 1 defines *fail* to
6 include refuse.

7 **[3.215] Section 54**

8 *substitute*

9 **54 Protection of registrar and deputy registrar**

10 The registrar and deputy registrar are not civilly or criminally liable
11 for an act done honestly by them in, or in relation to, an inquiry.

12 **Explanatory note**

13 This amendment brings the section more closely into line with current drafting practice
14 and updates language.

15 **[3.216] Section 60 (1)**

16 *omit*

17 pecuniary

18 *substitute*

19 financial

20 **Explanatory note**

21 This amendment updates language.

22 **[3.217] Section 71 (4)**

23 *relocate as section 71 (7)*

24 **Explanatory note**

25 This amendment relocates the subsection to bring the order of subsections into line with
26 current drafting practice.

1 **[3.218] Section 71 (5)**

2 *omit*

3 **Explanatory note**

4 This amendment omits a subsection as a consequence of other amendments that renumber
5 and relocate section 71's subsections.

6 **[3.219] Section 71 (6)**

7 *renumber as section 71 (4)*

8 **Explanatory note**

9 This amendment renumbers the subsection consequentially on another amendment.

10 **[3.220] Section 71 (7)**

11 *omit*

12 (7) In making a decision under subsection (6)

13 *substitute*

14 (5) In making a decision under subsection (4)

15 **Explanatory note**

16 This amendment renumbers the subsection consequentially on another amendment and
17 updates a cross-reference.

18 **[3.221] Section 71 (8)**

19 *omit*

20 (8) Subsection (7)

21 *substitute*

22 (6) Subsection (5)

23 **Explanatory note**

24 This amendment renumbers the subsection consequentially on another amendment and
25 updates a cross-reference.

1 **[3.222] New section 71 (8)**

2 *insert*

3 (8) An executive officer of a corporation is taken to have committed a
4 disqualifying act if the executive officer was an executive officer of
5 a corporation when the corporation committed the disqualifying act.

6 **Explanatory note**

7 This amendment brings the language of existing subsection (5) more closely into line with
8 current drafting practice and relocates the subsection consequentially on another
9 amendment.

10 **[3.223] Section 87**

11 *omit*

12 **Explanatory note**

13 This amendment omits an unnecessary provision. The Legislation Act, part 19.5 now
14 deals comprehensively with service of documents.

15 **[3.224] Section 89A (2) (c) (iii)**

16 *omit*

17 resided

18 *substitute*

19 lived

20 **Explanatory note**

21 This amendment updates language.

1 **[3.227] Dictionary, definition of *executive officer***

2 *omit*

3 means the person

4 *substitute*

5 means a person

6 **Explanatory note**

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

8 **Part 3.23 Security Industry Regulations**
9 **2003**

10 **[3.228] Regulation 6 (3), definition of *custodial officer*,**
11 **paragraph (h)**

12 *omit*

13 section 6 (Powers and functions of prison officers, police officers
14 and others)

15 *substitute*

16 section 6 (Functions of prison officers, police officers and others)

17 **Explanatory note**

18 This amendment is consequential on the amendment of the heading to the *Prisoners*
19 (*International Transfer*) Act 1999, section 6 by an earlier amendment.

1 **Part 3.24** **Smoke-free Areas (Enclosed**
2 **Public Places) Regulations**
3 **1994**

4 **[3.229] Regulation 4 (1) and (2)**

5 *omit*

6 section 14 (3)

7 *substitute*

8 section 16 (3)

9 **Explanatory note**

10 This amendment updates a cross-reference.

11 **Part 3.25** **Spent Convictions Act 2000**

12 **[3.230] Section 3 (2), note**

13 *omit*

14 s 7 (k)

15 *substitute*

16 s 7 (1) (o)

17 **Explanatory note**

18 This amendment updates a cross-reference.

1 **[3.231] Section 4**

2 *substitute*

3 **4 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 terms used in this
6 Act, and includes references (*signpost definitions*) to other terms
7 defined elsewhere.

8 For example, the signpost definition ‘*conviction*—see section 6.’ means
9 that the term ‘conviction’ is defined in that section and the definition
10 applies to this Act.

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 **Explanatory note**

16 This amendment brings the section and notes into line with current drafting practice.

17 **[3.232] Section 6, examples 3 and 4**

18 *substitute*

19 3 The court dismisses the charge under the *Children and Young People*
20 *Act 1999*, section 98 (2) (a).

21 4 The court makes an order mentioned in the *Children and Young People*
22 *Act 1999*, section 98 (2) (b).

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

26 **Explanatory note**

27 This amendment is consequential on the restructure of the *Children and Young People*
28 *Act 1999*, section 98 by an earlier amendment. It also adds an example note in accordance
29 with current drafting practice.

1 **[3.233] Section 12 (2)**

2 *omit*

3 section 98 (i)

4 *substitute*

5 section 98 (2) (a)

6 **Explanatory note**

7 This amendment is consequential on the restructure of the *Children and Young People*
8 *Act 1999*, section 98 by an earlier amendment.

9 **[3.234] Section 12 (5), (6) and (7)**

10 *omit*

11 98 (j)

12 *substitute*

13 98 (2) (b)

14 **Explanatory note**

15 This amendment is consequential on the restructure of the *Children and Young People*
16 *Act 1999*, section 98 by an earlier amendment.

17 **[3.235] Section 13 (2)**

18 *omit*

19 crime-free period

20 *substitute*

21 ***crime-free period***

22 **Explanatory note**

23 This amendment brings the term, which is a defined term, into line with current drafting
24 practice.

-
- 1 **[3.236] Dictionary, new notes**
- 2 *insert*
- 3 *Note 1* The Legislation Act contains definitions and other provisions relevant to
4 this Act.
- 5 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:
- 6 • administrative unit
- 7 • entity
- 8 • exercise
- 9 • function
- 10 • law, of the Territory
- 11 • penalty unit (see s 133)
- 12 • State
- 13 • Territory authority
- 14 • the Territory.
- 15 **Explanatory note**
- 16 This amendment inserts standard dictionary notes.
- 17 **[3.237] Dictionary, definition of *ACT offence*, note**
- 18 *omit*
- 19 **Explanatory note**
- 20 This amendment omits a note made redundant by the insertion of standard dictionary notes
21 by another amendment.
- 22 **[3.238] Dictionary, definition of *casino***
- 23 *omit*
- 24 **Explanatory note**
- 25 This amendment omits a redundant definition. The uses of the term in section 19 (1) (b)
26 (iv) and (6) are clear from their context.

1 **[3.239] Dictionary, definition of *correctional agency***

2 *omit*

3 **Explanatory note**

4 This amendment omits a definition made redundant by the insertion of a new definition of
5 *prison officer* by another amendment.

6 **[3.240] Dictionary, definition of *function***

7 *omit*

8 **Explanatory note**

9 This amendment omits the definition of a term that is defined in the Legislation Act,
10 dictionary, part 1 and which is mentioned in the standard dictionary notes inserted by
11 another amendment.

12 **[3.241] Dictionary, definition of *law enforcement agency*,
13 paragraph (f)**

14 *substitute*

15 (f) the CrimTrac Agency, established under the *Public Service*
16 *Act 1999* (Cwlth), section 65 (Establishment etc. of Executive
17 Agencies);

18 **Explanatory note**

19 This amendment omits a reference to the abolished National Exchange of Police
20 Information and substitutes a reference to the corresponding new agency.

21 **[3.242] Dictionary, definition of *law enforcement agency*,
22 paragraphs (i) and (j)**

23 *substitute*

24 (i) the Attorney-General for the Territory, the Commonwealth, a
25 State or another Territory;

26 (j) people employed in a government department of the
27 Commonwealth, a State or another Territory and whose
28 primary functions are the beginning or conduct of proceedings
29 for offences;

1 **Explanatory note**

2 This amendment improves syntax and updates language in accordance with current
3 drafting practice.

4 **[3.243] Dictionary, definition of *prison officer***

5 *substitute*

6 *prison officer* includes a person employed in an entity responsible
7 under the law of the Territory, or of the Commonwealth, a State or a
8 foreign country, for providing correctional services for offenders.

9 **Explanatory note**

10 This amendment subsumes the substance of the definition of *correctional agency*, which is
11 omitted by another amendment.

12 **[3.244] Dictionary, definition of *public authority*, note**

13 *omit*

14 **Explanatory note**

15 This amendment omits a note made redundant by the insertion of standard dictionary notes
16 by another amendment.

17 **Part 3.26 Supervised Injecting Place**
18 **Trial Act 1999**

19 **[3.245] Section 3, definitions**

20 *relocate to the dictionary*

21 **Explanatory note**

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

1 **[3.248] Section 19**

2 *substitute*

3 **19 Committee's functions**

4 The functions of the advisory committee are—

- 5 (a) to make written recommendations to the Minister about the
6 matters mentioned in section 29 (1) (Minister must consult
7 committee); and
8 (b) to exercise other functions given to the advisory committee by
9 this Act or another Territory law.

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

13 *Note 2* A reference to an Act includes a reference to the statutory instruments
14 made or in force under the Act, including regulations (see Legislation
15 Act, s 104).

16 **Explanatory note**

17 This amendment updates language and omits a provision that is unnecessary (s 19 (2))
18 because of the Legislation Act, section 196 (1). That section provides that a provision of a
19 law that gives a function to an entity also gives the entity the powers necessary and
20 convenient to exercise the function.

21 The amendment also inserts a standard note about the power to exercise functions.

22 **[3.249] Section 20 (3)**

23 *substitute*

- 24 (3) Each member of the advisory committee is appointed by the
25 Minister for a term of not longer than 3 years.

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

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

1 **Explanatory note**

2 This amendment updates language and brings the subsection into line with current drafting
3 practice, as follows:

- 4 • the reference to the appointment being ‘by instrument’ is omitted because the
5 Legislation Act, section 206 provides that an appointment must be made, or
6 evidenced, in writing; and
- 7 • the words ‘may be re-appointed’ are not included. This is because the Legislation
8 Act, section 208 provides that a person may be reappointed to a position if the person
9 is eligible to be appointed to the position.

10 The amendment also inserts standard notes about appointments and section 208.

11 **[3.250] Section 20 (4)**

12 *substitute*

13 (4) A member holds office on the terms (if any) in relation to matters
14 not provided for by this Act that are stated in the instrument of
15 appointment.

16 **Explanatory note**

17 The reference in existing subsection (4) to a member holding office for the term stated in
18 the instrument of appointment is omitted. This is because the Legislation Act,
19 section 206 (2) states that, if a law provides for a maximum period of appointment, the
20 period of appointment must be stated in the instrument of appointment.

21 **[3.251] Section 20 (5)**

22 *omit*

23 **Explanatory note**

24 This amendment omits an unnecessary subsection. The Legislation Act, section 199 (4)
25 provides that the exercise of a function by a body is not affected only because of a vacancy
26 in the body’s membership.

1 **[3.252] Section 21**

2 *omit*

3 in writing

4 **Explanatory note**

5 The reference to the appointment being made ‘in writing’ is omitted because the
6 Legislation Act, section 206 provides that an appointment must be made, or evidenced, in
7 writing.

8 **[3.253] Sections 22 and 23**

9 *substitute*

10 **22 Ending of appointments**

11 (1) The Minister may end the appointment of a member for
12 misbehaviour or physical or mental incapacity.

13 (2) The Minister must end the appointment of a member if the
14 member—

15 (a) becomes bankrupt, applies to take the benefit of a law for the
16 relief of bankrupt or insolvent debtors, compounds with
17 creditors or makes an assignment of remuneration for their
18 benefit; or

19 (b) is absent for 3 consecutive meetings without leave; or

20 (c) is convicted in Australia or elsewhere of an offence punishable
21 by imprisonment for 1 year or longer.

22 *Note* A person’s appointment also ends if the person resigns (see Legislation
23 Act, s 210).

24 **Explanatory note**

25 This amendment updates language and brings section 22 into line with current drafting
26 practice. Section 23 is unnecessary, because the Legislation Act, section 210 provides that
27 a person’s appointment also ends if the person resigns. A standard note to this effect is
28 inserted in the section.

1 **[3.254] Section 29 (1) (d)**

2 *substitute*

3 (d) the terms on which people under 18 years old may attend the
4 facility; and

5 **Explanatory note**

6 This amendment updates language and brings the paragraph into line with current drafting
7 practice.

8 **[3.255] New dictionary**

9 *insert*

10 **Dictionary**

11 (see s 2)

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

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

- 15 • Attorney-General
16 • DPP
17 • Executive
18 • Legislative Assembly
19 • Minister (see s 162)
20 • notifiable instrument (see s 10)
21 • penalty unit (see s 133)
22 • regulations.

23 **Explanatory note**

24 This amendment inserts a dictionary and standard dictionary notes.

1 **Part 3.27** **Taxation Administration Act**
2 **1999**

3 **[3.256] Section 3, definition of *corporation***

4 *substitute*

5 *corporation*—see the Corporations Act, section 57A.

6 **Explanatory note**

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

8 **[3.257] Section 3, definition of *function***

9 *omit*

10 **Explanatory note**

11 This amendment omits a redundant definition. *Function* is defined in the Legislation Act,
12 dict, pt 1 to include authority, duty or power.

13 **[3.258] Section 3, definition of *tax officer***

14 *omit*

15 **Explanatory note**

16 This amendment omits the definition. A new definition of *tax officer* is inserted in the
17 dictionary by the amendment that inserts the new dictionary.

18 **[3.259] Section 3, definitions (as amended)**

19 *relocate to the dictionary*

20 **Explanatory note**

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

1 **[3.260] Section 3, 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 terms used in this
6 Act, and includes references (*signpost definitions*) to other terms
7 defined elsewhere.

8 For example, the signpost definition '*group*—see section 112.' means
9 that the term 'group' is defined in that section and the definition applies
10 to this Act.

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 **Explanatory note**

16 This amendment inserts a standard dictionary provision.

17 **[3.261] Section 4 (i) and (j)**

18 *substitute*

19 (i) an Act declared under the regulations to be a tax law.

20 *Note* A reference to an Act includes a reference to the statutory instruments
21 made or in force under the Act, including regulations (see Legislation
22 Act, s 104).

23 **Explanatory note**

24 This amendment omits paragraph (j) (that referred to a regulation under any of the Acts
25 mentioned in the other paragraphs of section 4). Paragraph (j) is no longer necessary
26 because the Legislation Act, section 104 provides that a reference to an Act includes a
27 reference to the statutory instruments made or in force under the Act.

28 The amendment also inserts a standard note about section 104.

1 **[3.262] Section 8 (3), definition of *tax avoidance scheme*,**
2 **paragraph (a)**

3 *omit*

4 *manner*

5 *substitute*

6 *way*

7 **Explanatory note**

8 This amendment updates language.

9 **[3.263] Section 8 (3)**

10 *relocate as section 8 (6)*

11 **Explanatory note**

12 This amendment relocates a subsection that contains definitions to the end of the section,
13 in line with current drafting practice.

14 **[3.264] Section 8**

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 **[3.265] Section 22 (3)**

20 *substitute*

21 (3) In subsection (1):

22 *Territory* includes an officer, Minister and Territory authority.

23 **Explanatory note**

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

- 1 **[3.266] Section 23 (3)**
- 2 *substitute*
- 3 (3) In this section:
- 4 ***ground of invalidity*** means—
- 5 (a) the ground of invalidity of a tax law; or
- 6 (b) the ground of mistake (whether law or a fact) about the validity
- 7 or invalidity of a tax law; or
- 8 (c) any other restitutionary ground relating to the validity or
- 9 invalidity of a tax law.
- 10 ***non-legislative change*** of the law means a change of the law or of
- 11 legal principles, or a change in what is generally perceived to be the
- 12 state of the law or legal principles, but does not include a change
- 13 made by legislation.
- 14 ***Territory*** includes an officer, Minister and Territory authority.

15 **Explanatory note**

16 This amendment brings the structure and language of the subsection more closely into line

17 with current drafting practice.

- 18 **[3.267] Section 34 (b)**
- 19 *omit*
- 20 refuses or

21 **Explanatory note**

22 This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines

23 ***fail*** to include refuse.

1 **[3.268] Section 34, note**

2 *substitute*

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

4 *Note 2* The following table contains a summary of the effect of s 31 to s 34:

5 **Explanatory note**

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

7 **[3.269] Section 67 (1) to (3)**

8 *omit*

9 or refuse

10 **Explanatory note**

11 This amendment updates language. The Legislation Act, dictionary, part 1 defines *fail* to
12 include refuse.

13 **[3.270] Section 78**

14 *omit*

15 any function or power of the commissioner

16 *substitute*

17 the commissioner's functions

18 **Explanatory note**

19 This amendment updates the delegation provision, as follows:

- 20 • the word 'any' (of the commissioner's functions) is omitted because the Legislation
21 Act, section 234 provides that the delegation instrument may provide that the
22 delegation has effect in stated circumstances or subject to stated conditions,
23 limitations or directions or that all of the function, or a stated part of the function, is
24 delegated;
- 25 • the word 'power' is omitted because *function* is defined in the Legislation Act,
26 dictionary, part 1 to include authority, duty and power, and is the drafting term used
27 now.

1 **[3.275] Section 88 (2)**

2 *omit*

3 refuse or

4 **Explanatory note**

5 This amendment updates language. The Legislation Act, dictionary, part 1 defines *fail* to
6 include refuse.

7 **[3.276] Section 130**

8 *omit*

9 **Explanatory note**

10 This amendment omits a provision that is unnecessary. The matter is adequately dealt with
11 by the *Evidence Act 1995* (Cwlth), part 4.3 (Facilitation of proof).

12 **[3.277] New dictionary**

13 *insert*

14 **Dictionary**

15 (see s 2)

16 *Note 1* The Legislation Act contains definitions and other provisions relevant to
17 this Act.

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

- 19
- 20 • ACT
 - 21 • Commonwealth
 - 22 • Executive
 - 23 • individual
 - 24 • Magistrates Court
 - 25 • penalty unit (see s 133)
 - 26 • State
 - 27 • Supreme Court
 - 28 • Legislative Assembly
 - 29 • Minister (see s 162)
 - the Territory.

- 1 *tax officer*—
2 (a) for this Act, means—
3 (i) the commissioner; or
4 (ii) an authorised officer; or
5 (iii) anyone else engaged (whether as an officer or employee
6 or otherwise) in the administration or enforcement of a
7 tax law; and
8 (b) for division 9.4 (Secrecy)—see section 94.

9 **Explanatory note**

10 This amendment inserts a dictionary, a new definition of *tax officer* that includes its
11 meaning for division 9.4 (in line with current drafting practice), and standard dictionary
12 notes.

13 **Part 3.28** **Taxation (Government**
14 **Business Enterprises)**
15 **Regulations 2003**

16 **[3.278] Regulation 4**

17 *omit*

- 18 • Canberra Tourism and Events Corporation

19 *substitute*

- 20 • Australian Capital Tourism Corporation

21 **Explanatory note**

22 This amendment updates a reference to a body.

1 **Part 3.29** **Victims of Crime Regulations**
2 **2000**

3 **[3.279] Regulation 8 (4), notes**

4 *substitute*

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

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

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

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

14 **Explanatory note**

15 This amendment updates the standard notes about appointments.

1 **Schedule 4** **Repeal of redundant or**
2 **obsolete legislation**

3 (see s 6)

4 **Part 4.1** **Institute for the Study of Man**
5 **and Society Incorporation Act**
6 **1968**

7 **Explanatory note**

8 This part repeals an Act that is no longer needed.

9 The *Institute for the Study of Man and Society Incorporation Act 1968* provided for the
10 incorporation of the institute known as The Institute for the Study of Man and Society.

11 The institute was set up by an organisation called Australian Frontier (itself established by
12 the Australian Council of Churches as an independent body) to promote the understanding
13 and study of society. Incorporation of the institute was part of the preparatory work for the
14 institute undertaken in the late 1960s and early 1970s. Other preparatory work included
15 defining the objects, structure and methods of the institute, identifying the buildings and
16 resources needed and fundraising. Land was granted to the institute by the National
17 Capital Development Commission for the construction of buildings for the institute.

18 Though enough funds were raised for the building, there were insufficient funds for
19 ongoing costs. As the Reverend Frank Engel states in his book *21 years of Australian*
20 *Frontier* (published in 1988 by Australian Frontier) ‘in spite of the generous support of a
21 number of individuals, groups and companies, it was not surprising, indeed it was
22 inevitable, that in 1974 the Australian Frontier Commission had to decide that the time had
23 come to abandon the plan for an Institute in Canberra and to surrender the choice site to
24 the National Capital Development Commission’ (p 73).

25 As the institute ‘never became a reality’ (Engel *op cit*), the Act has no ongoing operation
26 and can be repealed. Its previous operation is saved by this Act, section 6 (2) (Legislation
27 repealed—sch 4).

28 *Institute for the Study of Man and Society Incorporation Act 1968*
29 A1968-35

1 **Part 4.2** **Judgment Creditors Remedies** 2 **Act 1933**

3 **Explanatory note**

4 This part repeals an Act that is no longer needed.

5 The *Judgment Creditors Remedies Act 1933* deals with the enforcement of High Court
6 judgments. It provides that a person in whose favour a High Court judgment is given is
7 entitled to the same remedies for enforcement against a judgment debtor's ACT property
8 or a judgment debtor resident or present in the ACT that a person in whose favour an ACT
9 Supreme Court judgment is given.

10 The Act is no longer necessary because the Commonwealth has legislated in the *Judiciary*
11 *Act 1903* (Cwlth), section 77M (Enforcement of judgments) to the same effect.

12 *Judgment Creditors Remedies Act 1933* A1933-8

13 **Part 4.3** **Spent Convictions** 14 **Regulations 2003**

15 **Explanatory note**

16 This part repeals regulations that are no longer needed.

17 The *Spent Convictions Regulations 2003* are made obsolete by an amendment in this Act,
18 schedule 3 of the *Spent Convictions Act 2000*, dictionary, definition of *law enforcement*
19 *agency*, paragraph (f).

20 *Spent Convictions Regulations 2003* SL2003-15

21 **Part 4.4** **Registrable instruments that** 22 **are no longer needed**

23 **Explanatory note**

24 This part repeals registrable instruments that are spent. Any ongoing effect of the
25 instruments is preserved by section 6.

26 Registrable instruments made since 12 September 2001 are required to be notified on the
27 ACT legislation register. To assist users of the register to find the current law more easily,
28 registrable instruments are divided in the register between current and repealed
29 instruments, as is the case with Acts. To avoid unnecessary clutter in the current

1 instruments on the register, the Legislation Act, section 89 provides for the automatic
2 repeal of certain instruments once they are spent. However, not all spent instruments are
3 automatically repealed, for example, if the instrument contains a substantive provision.
4 Accordingly, this part of the schedule repeals some spent instruments made since
5 12 September 2001.

6 The Parliamentary Counsel's Office has started a process of including in the legislation
7 register registrable instruments made before 12 September 2001. The office is giving
8 priority in the current financial year to including all earlier disallowable instruments on the
9 register. An amendment to the Legislation Act in schedule 2 will make it clear that the
10 automatic repeal provisions apply to registrable instruments whenever they were made.
11 This will enable many earlier spent registrable instruments to be included in the repealed,
12 rather than the current, part of the register as they are backcaptured. Accordingly, this part
13 of the schedule also provides for the repeal of the 'backcaptured instruments' identified so
14 far as being spent.

15 **Division 4.4.1** **ACTION Authority Act 2001—**
16 **disallowable instrument—s 36**

- 17 • *Transfer of Employees to ACTION Authority* DI2002-3

18 **Division 4.4.2** **Independent Competition and**
19 **Regulatory Commission Act**
20 **1997—disallowable instruments—**
21 **s 15, s 16**

- 22 • *Reference for an investigation under section 15 and specified*
23 *requirements in relation to investigation under section 16*
24 *DI2001-65*
25 • *Reference for investigation under section 15 and specified*
26 *requirements in relation to investigation under section 16*
27 *DI2001-69*
28 • *Reference for investigation under section 15 and specified*
29 *requirements in relation to investigation under section 16*
30 *DI2001-291*
31 • *Industry reference for investigation into full retail*
32 *contestability for electricity* DI2001-346

- 1 • *Independent Competition and Regulatory Commission*
2 *Reference for Investigation* DI2002-11
3 • *Independent Competition and Regulatory Commission*
4 *(Reference for Investigation) 2002 (No 2)* DI2002-185
5 • *Independent Competition and Regulatory Commission*
6 *(Reference for Investigation) Determination 2002 (No 3)*
7 DI2002-227

8 **Division 4.4.3 Legislative Assembly (Members’**
9 **Staff) Act 1989—disallowable**
10 **instruments—s 5, s 6, s 10, s 11**

- 11 • *Terms and conditions of employment of staff of office-holders*
12 *pursuant to section 6 (2)* DI2001-161
13 • *Arrangements under sub-section 10 (2) for the employment of*
14 *staff by members* DI2001-169
15 • *Arrangements under sub-section 5 (2) for the employment of*
16 *staff by the Speaker* DI2001-170
17 • *Terms and conditions of employment of staff of members*
18 *pursuant to section 11 (2) 2002 (No 2)* DI2002-209
19 • *Terms and conditions of employment of staff of the Speaker*
20 *pursuant to section 6 (2) 2002 (No 2)* DI2002-210
21 • *Terms and conditions of employment of staff of office-holders*
22 *pursuant to section 6 (2) 2002 (No 2)* DI2002-211

23 **Division 4.4.4 Utilities Act 2000—disallowable**
24 **instruments—s 61, s 65**

- 25 • *Utilities (Dam Safety Code) Variation Determination 2003*
26 DI2003-27
27 • *Utilities (Emergency Planning Code) Determination 2003*
28 DI2003-32
29 • *Utilities (Variation of Franchise Customer Electricity Metering*
30 *Code) Approval 2003 (No 1)* DI2003-256
31

Endnote

Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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