

2009

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

**STATUTE LAW AMENDMENT BILL 2009
EXPLANATORY STATEMENT**

**Circulated by the authority of
Simon Corbell MLA
Attorney General**

Background

The object of this bill is to further enhance the ACT's statute book to ensure that it is of the highest standard. The bill does so by amending Acts and regulations for statute law revision purposes only.

This bill forms part of the technical amendments program for ACT legislation. Under guidelines for the technical amendments program approved by the government, the essential criteria for the inclusion of amendments in the bill are that the amendments are minor or technical and non-controversial.

The development of a technical amendments program for ACT legislation was in response to the need for greater flexibility in the drafting of amendments for statute law revision purposes and to minimise costs associated with keeping ACT legislation up to date. Statute law amendment bills are an important part of maintaining and enhancing the standard of ACT law. They provide an opportunity to make amendments and repeals that, taken alone, would generally be insufficiently important to justify separate legislation and are inappropriate to make as editorial amendments under the *Legislation Act 2001*, chapter 11 (which provides for the republication of Acts and statutory instruments). However, the cumulative effect of the amendments and repeals made through a technical amendments program and statute law amendment bills can have a substantial impact on the ACT statute book and the overall quality of ACT law.

The ACT statute book is all ACT legislation taken as a body of law. A statute book that is well maintained significantly enhances access to legislation by making it easier to find in an up-to-date form and easier to read and understand. Statute law amendments under the technical amendments program can greatly assist the process of modernisation of the statute book. Laws need to be kept up to date to reflect ongoing technological and societal change.

The bill contains four schedules and has been structured to assist the transparency of the amendments made by it.

When enacted, this bill will help to improve the quality of the ACT's statute book by making it simpler, more consistent and more coherent, and will help to keep it up to date.

Clause 1 — Name of Act

This clause provides for the bill's name.

Clause 2 — Commencement

This clause provides for the bill's commencement 21 days after the day it is notified under the *Legislation Act 2001*. This will enable the Parliamentary Counsel's Office to have up-to-date republications of the affected legislation ready for the legislation register on the day the amendments commence.

Clause 3 — Purpose

This clause states the bill's purpose.

Clause 4 — Notes

This clause confirms that an explanatory note in the bill does not form part of the Act when it is enacted.

Clause 5 — Legislation amended—schs 1-3

This clause gives effect to the amendments made by schedules 1 to 3.

Clause 6 — Legislation repealed—sch 4

This clause gives effect to the repeals made by schedule 4.

Schedule 1 — Minor amendments

Schedule 1 provides for minor, non-controversial amendments initiated by government departments and agencies. It contains amendments of the *Environment Protection Act 1997* and the *Mental Health (Treatment and Care) Act 1994*. Each amendment is explained in an explanatory note to the amendment.

Environment Protection Act 1997

The Act requires public notice (by way of notification on the ACT legislation register) of the making of applications for environmental authorisations and the granting or review of environmental authorisations. Environmental authorisations can cover things as diverse as holding outdoor concerts to running pest control operations. Once a notice has been notified or, in the case of applications for authorisations, the period for public consultation has ended, there is little value in the notifications remaining current.

While future notices may include expiry clauses, this amendment inserts a provision in the Act that automatically expires notices once they have served their purpose. The expired notices will still be available on the register, but will appear under the 'repealed' heading. This will ensure that only truly current instruments are included under the 'current' heading on the register, making it easier to access them.

Mental Health (Treatment and Care) Act 1994

The amendment inserts a standard provision in the Act to make it clear that officials exercising functions under the Act are protected from any civil liability that may arise in the proper exercise of those functions. The liability attaches instead to the Territory.

Schedule 2 — Structural amendments of Legislation Act

Schedule 2 provides for non-controversial structural amendments of the *Legislation Act 2001* initiated by the Parliamentary Counsel's Office.

The schedule includes a number of amendments of section 60. Section 60 ensures that legislative instruments notified on the legislation register are named correctly in line with current legislative drafting practice. It provides for names to be added to unnamed instruments and sets out the limited circumstances in which the name of an instrument may be corrected to bring it into line with current legislative drafting practice. Consistent naming of instruments makes them easier for users to find, therefore enhancing access to legislation.

The amendment will extend section 60 to statutory instruments added to the register under section 19 (3) (Contents of register). That section includes provision for certain

statutory instruments to be added to the register as ‘additional material’ if the parliamentary counsel considers it is likely to be helpful to users of the register. For example, appointments of public servants to various statutory bodies are generally not notifiable but can be included on the register for public information, where appropriate. The amendment will ensure that the naming conventions for legislative instruments apply also to this additional material.

Section 131 (1) is remade to include a reference to ‘signpost definition’ in brackets to make clear that the definition described in that subsection is a signpost definition. A later amendment inserts a definition in the dictionary, part 1 for the term ‘signpost definition’.

The dictionary, part 1 is amended to—

- insert signpost definitions for **AS**, **AS/NZS**, **Australian Standard** and **Australian/New Zealand Standard**; and
- insert a new definition of **daily newspaper** to simplify the statute book (the term is used in over 50 Acts and regulations); and
- insert signpost definitions of **person** and **signpost definition** as a consequence of other amendments of the Legislation Act; and
- omit the definitions of **see** (as a consequence of the amendment of section 131 (1)) and **registrar of liquor licences** (as a consequence of amendments of the *Liquor Act 1975* by the *ACT Civil and Administrative Tribunal Legislation Amendment Act 2008* to replace the positions of *registrar* and *deputy registrar* with the *commissioner for fair trading*); and
- revise the definition of **sitting day** so that it is consistent with the practice of the Legislative Assembly.

Other amendments of the Legislation Act include the following:

- an amendment of section 91 (9) (b) to change ‘amending Act’ to ‘amending law’ so the wording of the paragraph is consistent with the rest of section 91 (9), which refers to ‘amending law’;

- an amendment of section 160, which deals with references to people generally, to make clear that section 160 (1) is giving meaning to person and to enable a signpost definition of person to be inserted in the dictionary.

Schedule 3 — Technical amendments

Schedule 3 contains minor or technical amendments of legislation initiated by the Parliamentary Counsel's Office. Each amendment is explained in an explanatory note in the schedule.

The amendments include the correction of minor errors, updating language, improving syntax and other minor changes to update or improve the form of legislation.

Schedule 4 — Repeals

Schedule 4 repeals a number of notifiable instruments under the *Environment Protection Act 1997*. The instruments still appear on the legislation register under the 'current' heading but have served their purpose and are no longer needed. The repealed notices will still be available on the legislation register, but will appear under the 'repealed' heading. This will ensure that only truly current instruments are included under the 'current' heading on the register, making it easier to access them.

A corresponding amendment in schedule 1 inserts a new provision in the *Environment Protection Act 1997* to automatically expire notifiable instruments that have served their purpose.