

2009

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

**STATUTE LAW AMENDMENT BILL 2009 (No 2)
EXPLANATORY STATEMENT**

**Circulated by the authority
of
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Background

The object of this bill is to continue to enhance the ACT's statute book to ensure that it is of the highest standard. The bill does this 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 enable legislative amendments and repeals to be made that, taken alone, would generally be insufficiently important to justify separate legislation. The amendments are also 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 significant 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 greatly enhances access to legislation by making it easier to find in an up-to-date form and easier to read and understand. Statute law amendment bills are an extremely useful vehicle for assisting the ongoing process of modernising the statute book. Laws need to be regularly kept up to date to reflect continuous 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 assist in keeping 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 following legislation:

- *ACT Civil and Administrative Tribunal (Transitional Provisions) Regulation 2009*
- *Casino Control Act 2006*
- *Children and Young People Act 2008*
- *Construction Occupations (Licensing) Act 2004*

- *Construction Occupations (Licensing) Regulation 2004*
- *Gaming Machine Act 2004*
- *Gaming Machine Regulation 2004*
- *Medicines, Poisons and Therapeutic Goods Act 2008*
- *Public Sector Management Act 1994*

Each amendment is explained in an explanatory note to the amendment.

ACT Civil and Administrative Tribunal (Transitional Provisions) Regulation 2009; Construction Occupations (Licensing) Act 2004 and Construction Occupations (Licensing) Regulation 2004

The *ACT Civil and Administrative Tribunal (Transitional Provisions) Regulation 2009* (the ACAT(TP) Regulation) is amended by omitting modified sections 301B and 301C and the amendment is consequential on other amendments in the bill that substantively incorporate the modifications into the *Construction Occupations (Licensing) Act 2004* and the *Construction Occupations (Licensing) Regulation 2004* to the same effect. Section 301B modified the *Construction Occupations (Licensing) Act 2004*, and section 301C modified the *Construction Occupations (Licensing) Regulation 2004*. The modifications were necessary because of amendments made by the *ACT Civil and Administrative Tribunal Act 2008*. Both sections 301B and 301C are due to expire on 2 February 2010. The ACAT(TP) Regulation amendment ensures that the modifications will instead expire on the commencement of the bill, section 5, when the substantive provisions incorporated under the *Construction Occupations (Licensing) Act 2004* and the *Construction Occupations (Licensing) Regulation 2004* take effect.

Casino Control Act 2006

The bill makes minor amendments to the Act, sections 75, 76, 100, 105 and 110. Section 75 is amended so that control procedures for the operation of the casino must include details about the level of supervision that is appropriate and reasonable for a casino employee. It also provides that the requirement to include job descriptions apply in relation to licensed staff only, that is, casino employees. Section 76 inserts a new paragraph to give the commission the option of taking time additional to the

1 week presently allowed, to consider changes proposed by the casino licensee to the control procedures before the changes are automatically approved under subsection 76 (6). Section 100 has been recast to make it clear that games in the casino must be conducted in accordance with approved rules. Section 105 has been amended to stop casino employees from accepting gratuities for any service provided at the casino and section 110 has been amended to permit casino patrons to use EFTPOS debit facilities to pay for food and drinks only. The casino operator continues to be prohibited from providing cash advances from EFTPOS facilities.

Children and Young People Act 2008

The Act section 863 enables the chief executive to declare a care team for a child or young person, comprising team members from various care areas, including health professionals, family support workers and education providers. Section 863 (2) is amended to provide that a care team for a child or young person can include someone who is responsible for coordinating or delivering a service or care to the child or young person, or his or her family members, in relation to the administration of a sentence or order under another territory law, such as the *Crimes (Sentence Administration) Act 2005* or the *Mental Health (Treatment and Care) Act 1994*.

Gaming Machine Act 2004

The Act, section 158 provides for the auditing of a licensee's accounts in relation to the operation of gaming machines. Section 158 is amended by removing the requirement for smaller licensees who have an annual gaming machine revenue of less than \$200 000, to have their gaming machine accounts audited. They will, however, still be required to provide the commission with certified income and expenditure statements for the financial year. The amendment also requires club membership information to be presented by class in the membership report if different classes of members exist.

Gaming Machine Regulation 2004

A number of amendments have been made to the regulation to enhance the transparency of the voting process, including inserting new sections 22A and 22B. Section 22A provides for someone other than the secretary to exercise functions under

sections 21 and 22, such as the vote counting function. Section 22B gives the commission a supervisory role in ensuring that the functions are exercised properly. An amendment to section 20 allows the club to recommend how members vote.

Medicines, Poisons and Therapeutic Goods Act 2008

The Act, section 88 (1) sets out the form that a licence to deal with a regulated substance or regulated therapeutic good must take. Section 88 (1) is amended to state that a licence must be in writing.

The Act, section 93, requires a licence-holder to tell the chief health officer about a change to anything stated in a licence to deal with a regulated substance or regulated therapeutic good, or an application to amend the licence. Section 93 is amended by substituting a new heading, to better reflect the operation of the section, and by adding new section 93 (1) (b). The new paragraph requires a licence-holder to tell the chief health officer about any change to a material particular in the application for the licence that might affect the basis on which it was issued, for example, a change in the nominated individual for the supervision of dealings with regulated substances under the licence or to the security arrangements for the licensed premises.

Public Sector Management Act 1994

The *Public Sector Management Act 1994*, section 56 (1) is amended by replacing a reference to the approval of classifications under management standards with a reference to industrial agreements. This reflects the fact that classifications are now set out in industrial agreements. The dictionary definition of ***non-appellable promotion*** has also been updated for similar reasons.

Schedule 2 — Structural amendments of Legislation Act

Schedule 2 provides for structural amendments of the *Legislation Act 2001* initiated by the Parliamentary Counsel's Office that are non-controversial. Each amendment is explained in an explanatory note to the amendment.

Structural issues are particularly concerned with making the statute book more coherent and concise, and therefore more accessible. Strategies to achieve these

objectives include things like avoiding unnecessary duplication and maximising the standardisation of legislative provisions. This simplifies legislation by eliminating the need to repeat standard technical definitions and other provisions in every Act. The amendments schedule 2 also reflect the process of continuous review and improvement of the operation of the Legislation Act and the enhancement of access to ACT legislation.

The Legislation Act is amended by adding two new definitions to the dictionary, part 1, and amending an existing definition.

A new definition of **bankrupt or personally insolvent** establishes a single term to cover the range of circumstances by which an individual may be considered bankrupt or insolvent under the *Bankruptcy Act 1966* (Cwlth). The definition includes individuals having a similar bankruptcy or personal insolvency status in a foreign country and people in any other circumstances seeking to benefit from any law for the relief of bankrupt or insolvent debtors. Up to 19 other Acts and regulations have been amended in Schedule 3 as a consequence of this amendment.

The current definition of **gazette** has been amended to include an internet site approved by the commissioner for public administration so that employment notices and related material usually notified or published in the gazette under the *Public Sector Management Act 1994*, can be published on the internet.

A new definition of **home address** has also been inserted to simplify the statute book and avoid the unnecessary duplication of the term throughout various Acts and statutory instruments. Nearly 60 Acts and regulations have been amended in Schedule 3 as a consequence of this amendment.

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, omitting redundant provisions and other minor changes to update or improve the form of legislation. In particular, nearly 80 Acts and Regulations are amended in this Bill as a consequence of the insertion of the definitions of **bankrupt or personally insolvent** and **home address** in the Legislation Act, dictionary, part 1, by an amendment in schedule 2.

Schedule 4 — Repeals

Schedule 4 repeals two redundant Acts. The *Financial Relations Agreement Act 2000* (FRA Act) gave effect to the 1999 *Intergovernmental Agreement (IGA) on the Reform of Commonwealth-State Financial Relations*. Under the 1999 IGA, the Territory was required to implement the agreement by legislation and the agreement was set out in the FRA Act, schedule 1. Obligations under the 1999 IGA have been met and it has been superseded by the 2008 *Intergovernmental Agreement on Federal Financial Relations* that does not require legislation to give it effect. As the purpose of the FRA Act was to provide a vehicle for the 1999 IGA, the Act is now obsolete and may be repealed.

The *Murray-Darling Basin Agreement Act 2007* (MDBA Act) implemented an interstate agreement, the *Murray-Darling Basin Agreement*, about the water, land and other environmental resources of the Murray-Darling Basin. This agreement has been superseded by a revised agreement that was the result of the *Intergovernmental Agreement on Murray-Darling Basin Reform* signed at the July 2008 Council of Australian Governments' meeting. The revised agreement establishes the Murray-Darling Basin Authority, a Commonwealth agency, and was signed by the Chief Minister in September 2008. The text of the revised agreement is in the *Water Act 2007 (Cwlth)*, schedule 1. The MDBA Act is therefore no longer needed and may be repealed.