

**2010**

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

**STATUTE LAW AMENDMENT BILL 2010  
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 2 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 and 3**

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

#### **Schedule 1 — Minor amendments**

Schedule 1 provides for minor, non-controversial amendments initiated by government departments and agencies. It contains amendments of a number of Acts in relation to bankruptcy as well as amendments of the *Education Act 2004* and the *Road Transport (Third-Party Insurance) Act 2008*. Each amendment is explained in an explanatory note to the amendment.

#### **Bankruptcy-related amendments**

The *Statute Law Amendment Act 2009 (No 2)* inserted a new definition of **bankrupt or personally insolvent** in the *Legislation Act 2001*, dictionary, part 1. The definition 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. A number of Acts and regulations were also amended in that Act, schedule 3 as a consequence of the new definition.

The Statute Law Amendment Bill 2010 continues the process with similar amendments being made to the *Aboriginal and Torres Strait Islander Elected Body Act 2008*, *Building Act 2004*, *Children and Young People Act 2008*, *Commissioner for the Environment Act 1993*, *Duties Act 1999*, *Financial Management Act 1996* and the *Road Transport (Third-Party Insurance) Act 2008*. Language in relation to bankruptcy has been replaced with references to the *Legislation Act 2001* definition of **bankrupt or personally insolvent**. The amendment of the *Building Act 2004* also clarifies the meaning of **insolvent** in relation to builders that are corporations.

#### Education Act 2004

The bill amends the Act to give effect to a number of minor amendments to resolve operational issues that have arisen in the practical administration of the Act. Some of the amendments had been included in the Education Amendment Bill 2009 that related to the suspension of students, however that bill was negatived.

Sections 83, 85, 87, 88A and 89 are amended to provide that various applications in relation to the registration of schools must be made available free of charge at a departmental office, and not specifically at the chief executive's office as presently required. Sections 67 and 119 are amended to make it clear that a person may hold an appointment as an authorised person (government) and an authorised person (non-government) at the same time.

A new section 10 (4A) (which was not included in the 2009 bill) has also been inserted to provide that the parents of a child whose home registration has been cancelled must enrol the child in an education provider's course within 14 days of the cancellation.

## Road Transport (Third-Party Insurance) Act 2008

The bill amends the Act, sections 60, 62 and 72. Sections 60 and 62 amend the definitions of **uninsured motor vehicle** and **unidentified motor vehicle** respectively, to clarify that a motor vehicle that is designed to be used in off-road areas, and that is not registered or insured, is not an uninsured, or unidentified, motor vehicle (as the case may be) for the purposes of the Act and, therefore, the nominal defendant will not be liable for personal injury resulting from any motor accident caused by the uninsured vehicle, or in which the unidentified motor vehicle is involved.

Section 72 is revised to allow an injured person to receive early payment of medical expenses up to the maximum amount allowed under the Act, section 74 (1) if the report by a police officer about the injured person's motor accident is delayed and the injured person is able to give the insurer information about the date when, and the police officer to whom, the motor accident was reported or, if the accident was reported at a data entry point, the submission number for the report.

The Act, section 52 (c) is also amended in relation to bankruptcy. The term **bankrupt or personally insolvent** as defined in the *Legislation Act 2001*, dictionary, part 1, is substituted. The definition covers the range of circumstances in which an individual may be considered bankrupt or insolvent.

### **Schedule 2 — Structural amendments of Legislation Act**

Schedule 2 is reserved for minor, non-controversial amendments of the *Legislation Act 2001* initiated by the Parliamentary Counsel's Office. This bill does not provide for such amendments but the schedule heading is retained to preserve the usual numbering of schedule 3.

### **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, amendments have been made to a range of Acts and regulations that comprise the road transport legislation to remove duplication of standard definitions. Definitions common to the road transport legislation, including ***Australian Transport Council, driver, motor vehicle*** and ***road transport authority*** (or ***authority***), have been omitted from various Acts and regulations and relocated to the *Road Transport (General) Act 1999*, dictionary. As this Act already contains definitions that are applicable to other road transport legislation, it is logical to centrally locate other relevant definitions to the dictionary to make the road transport legislation more user-friendly. New notes that cross-refer to terms defined in the *Road Transport (General) Act 1999*, dictionary have been inserted in the dictionaries of the amended Acts and regulations to assist users. This will be an ongoing process that will be continued in future Statute Law Amendment Bills.

A number of amendments have also been made to the *Road Transport (General) Act 1999*, schedule 1, tables, to correct incorrect cross-references and update language.