

2010

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

**STATUTE LAW AMENDMENT BILL 2010 (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 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 7 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 *Mental Health (Treatment and Care) Act 1994* and the *Work Safety 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 (No 2) continues the process with similar amendments being made to the *Canberra Institute of Technology Act 1987*, the *Casino Control Act 2006*, the *Gaming Machine Act 2004* and the *Racing Act 1999*. Language in relation to bankruptcy has been replaced with references to the *Legislation Act 2001* definition of ***bankrupt or personally insolvent***.

Mental Health (Treatment and Care) Act 1994

The bill amends the Act to give effect to 2 minor amendments to make the process of delegating certain functions under the Act simpler and more consistent with other similar delegations.

The amendment of section 119 makes it possible for the chief psychiatrist to delegate functions under the Act without Ministerial approval. It is not usual for Ministerial approval to be required before a function is delegated.

The amendment omitting section 120D (3) and the following note has the effect of removing the requirement for a delegation of the care coordinator's functions to be a notifiable instrument under the Legislation Act. It is not usual for delegations to be notifiable instruments.

Work Safety Act 2008

The bill amends the Act, sections 36 (c) to clarify that a serious event under division 3.3 of the Act includes a serious injury to a worker, as well as to any other person.

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.