

2013

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

**TERRITORY AND MUNICIPAL SERVICES
LEGISLATION AMENDMENT BILL 2013**

EXPLANATORY STATEMENT

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Territory and Municipal Services Legislation Amendment Bill 2013

Overview of the Bill

The Territory and Municipal Services Legislation Amendment Bill 2013 (the Bill) makes minor and technical amendments to a number of laws within the Territory and Municipal Services portfolio.

The laws amended by the Bill are:

Animal Diseases Act 2005 and Animal Diseases Regulation 2006

The Bill amends the *Animal Diseases Act 2005* and *Animal Diseases Regulation 2006* to replace the term *restricted feed material* with *restricted animal material*, making the legislation consistent with other Australian jurisdictions' legislation. The Bill also replaces several mentions of *director-general* with *chief veterinary officer*, to provide that it is the chief veterinary officer who administers certain functions under the Act and Regulation.

Cemeteries and Crematoria Act 2003

The Bill amends the *Cemeteries and Crematoria Act 2003* to clarify various provisions of the Act, including clarifying that human remains include foetal remains for certain provisions; providing that the issuing of an improvement notice to end a contravention of the Act is a reviewable decision; and reducing the maximum penalties for the strict liability offences in sections 24 and 25 in line with the ACT's *Guide for Framing Offences*.

Stock Act 2005 and Stock Regulation 2005

The Bill amends the *Stock Act 2005* and *Stock Regulation 2005* to facilitate the setting of the minimum stock levy.

Human rights implications

No provisions in the Bill engage rights under the *Human Rights Act 2004*.

CLAUSE NOTES

Clause 1 Name of Act

This clause provides that the name of the Act is the *Territory and Municipal Services Legislation Amendment Act 2013*.

Clause 2 Commencement

This clause provides for the commencement of the Act. The Act will commence on the day after its notification day.

Clause 3 Legislation amended—sch 1

This clause provides that the legislation mentioned in schedule 1 is amended by the Act.

SCHEDULE 1 LEGISLATION AMENDED

Part 1.1 ANIMAL DISEASES ACT 2005

Clause 1.1 Section 53, new definition of *non-restricted animal material statement*

This clause inserts a new signpost definition of *non-restricted animal material* into section 53.

Clause 1.2 Section 53, definition of *non-restricted feed material*

This clause omits a signpost definition of *non-restricted feed material* from section 53, which has been replaced with a new definition of *non-restricted animal material*.

Clause 1.3 Section 53, new definition of *restricted animal material*

This clause inserts a new definition of *restricted animal material* into section 53, which will replace the current definition of *restricted feed material* and correct the terminology used.

Clause 1.4 Section 53, new definition of *restricted animal material statement*

This clause inserts a new signpost definition of *restricted animal material statement* into section 53, which will replace the current definition of *restricted feed material statement* and correct the terminology used.

Clause 1.5 Section 53, definition of *restricted feed material*

This clause omits the signpost definition of *restricted feed material* from section 53, which has been replaced with a new definition of *restricted animal material*.

Clause 1.6 Section 53, definition of *restricted feed material statement*

This clause omits the signpost definition of *restricted feed material statement* from section 53, which has been replaced with a new definition of *restricted animal material statement*.

Clause 1.7 Section 55

This clause replaces the current definition of *feed statements* in section 55 with a definition of *animal material statements*, correcting the terminology used.

Clause 1.8 Dictionary, new definition of *non-restricted animal material statement*

This clause inserts a new signpost definition of *non-restricted animal material statement* into the dictionary.

Clause 1.9 Dictionary, definition of *non-restricted feed material statement*

This clause omits the dictionary definition of *non-restricted feed material statement*, which has been replaced in the dictionary with a new definition of *non-restricted animal material statement*.

Clause 1.10 Dictionary, new definition of *restricted animal material*

This clause inserts a new signpost definition of *restricted animal material* into the dictionary.

Clause 1.11 Dictionary, new definition of *restricted animal material statement*

This clause inserts a new signpost definition of *restricted animal material statement* into the dictionary.

Clause 1.12 Dictionary, definition of *restricted feed material*

This clause omits the dictionary definition of *restricted feed material*, which has been replaced in the dictionary with a new definition of *restricted animal material*.

Clause 1.13 Dictionary, definition of *restricted feed material statement*

This clause omits the dictionary definition of *restricted feed material statement*, which has been replaced in the dictionary with a new definition of *restricted animal material statement*.

Clause 1.14 Further amendments, mentions of *director-general*

This clause replaces *director-general* with *chief veterinary officer* in sections 23, 39, 40, 42-45, 52 and 87A, to provide that the chief veterinary officer administers the functions in these sections.

Clause 1.15 Further amendments, mentions of *feed material*

This clause replaces references of *feed material* with *animal material* in part 5 heading, sections 56-61 and the dictionary of the Act, correcting the terminology used.

Part 1.2 ANIMAL DISEASES REGULATION 2006

Clause 1.16 Schedule 1, item 12, column 3

This clause replaces a reference to *restricted feed material* with *restricted animal material*, correcting the terminology used.

Clause 1.17 Dictionary, new definition of *property identification code*

This clause inserts a new signpost definition of *property identification code* into the dictionary.

Clause 1.18 Dictionary, definition of *property identifier code*

This clause omits the dictionary definition of *property identifier code*, which has been replaced in the dictionary with a new definition of *property identification code*.

Clause 1.19 Further amendments, mentions of *director-general*

This clause replaces *director-general* with *chief veterinary officer* in sections 6-10, 26, 36 and 37, to provide that the chief veterinary officer administers the functions in these sections.

Clause 1.20 Further amendments, mentions of *identifier*

This clause replaces *property identifier code* with *property identification code* to correct the terminology used.

Part 1.3 CEMETERIES AND CREMATORIA ACT 2003

Clauses 1.21-1.24 Sections 7 (1) (b), 22 (1), 22 (2) and 23 (4)

These clauses amend sections 7 (1) (b), 22 (1), 22 (2) and 23 (4) to clarify that the provisions include foetal remains.

Clause 1.25 Section 24 (1), penalty

The ACT's *Guide for Drafting Offences* provides that strict liability offences should not have penalties of over 50 penalty units or 6 months' imprisonment. This clause reduces the penalty for the strict liability offence in section 24 (1) to 50 penalty units, imprisonment for 6 months or both.

Clause 1.26 New section 24 (3) to (5)

This clause corrects an anomaly.

Section 24 (1) (b) of the Act exempts a person from the offence of burying human remains in a place other than a cemetery if that person has the written permission of the Minister.

This clause provides the Minister with the power to give permission to an individual to bury human remains in a place other than a cemetery. Before giving such permission, the Minister must be satisfied that it would not be contrary to the interests of public health to give permission.

Clause 1.27 Section 25 (1), penalty

The ACT's *Guide for Drafting Offences* provides that strict liability offences should not have penalties of over 50 penalty units or 6 months' imprisonment. This clause reduces the penalty for the strict liability offence in section 25 (1) to 50 penalty units, imprisonment for 6 months or both.

Clause 1.28 Section 26

This clause amends section 26 to clarify that the provision includes foetal remains.

Clause 1.29 Schedule 1, item 3

This clause amends schedule 1 of the Act to provide that the issuing of an improvement notice under section 17 (3) is a reviewable decision.

Clause 1.30 Schedule 1, item 5, column 3

This clause amends schedule 1 to clarify that the item includes foetal remains.

Clause 1.31 Dictionary, definitions of *bury* and *exhume*

This clause amends the dictionary definitions of *bury* and *exhume* to clarify that foetal remains are covered by the definitions.

Part 1.4 STOCK ACT 2005

Clause 1.32 Section 6 (1)

This clause omits the requirement for the Minister's determination of stock units and levy amount per stock unit to be in writing, given that the *Legislation Act 2001* already requires disallowable instruments to be in writing.

Clause 1.33 New section 7 (2)

This clause inserts a requirement that the director-general's determination of stock carrying capacity of a piece of land be made by notifiable instrument. Notifiable instruments must be notified on the ACT Legislation Register.

Clause 1.34 New section 7A

This clause inserts a new section 7A, which provides that the Minister may determine a minimum stock levy by disallowable instrument. The minimum stock levy is currently determined by the Executive. The requirement that the Minister's determination of the minimum stock levy be made by disallowable instrument allows for parliamentary oversight of the determination.

Clause 1.35 Section 8 (3) (b)

This clause inserts the words (*if any*) after the words *minimum stock levy* to reflect the Minister's discretion in new section 7A.

Clause 1.36 Section 8 (4), definition of *minimum stock levy*

This clause omits the definition of *minimum stock levy*. The definition is replaced by new section 7A, which provides that the Minister may determine the minimum stock levy by disallowable instrument.

Clause 1.37 Section 68 (1)

This clause omits the requirement for the Minister's determination of fees for the Act to be in writing, given that the *Legislation Act 2001* already requires disallowable instruments to be in writing.

Clause 1.38 Section 69 (1)

This clause omits the requirement for the Minister's approval of forms for the Act to be in writing, given that the *Legislation Act 2001* already requires instruments to be in writing.

Clause 1.39 Dictionary, new definition of *minimum stock levy*

This clause inserts a signpost definition of *minimum stock levy* into the dictionary, referring the reader to new section 7A.

Part 1.5 STOCK REGULATION 2005

Clause 1.40 Section 4

This clause omits the Executive's determination of the minimum stock levy, given that new section 7A of the *Stock Act 2005* provides that the Minister may determine a minimum stock levy by disallowable instrument.