

2013

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

STATUTE LAW AMENDMENT BILL 2013 (No 2)

EXPLANATORY STATEMENT

**Presented by
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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 3 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 14 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 — Notes

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

Clause 4 — Purpose of Act

This clause states the bill's purpose.

Clause 5 — Legislation amended—schs 1-3

This clause gives effect to the amendments made by schedules 1, 2 and 3.

Schedule 1 — Minor amendments

Schedule 1 provides for minor, non-controversial amendments initiated by government directorates and agencies. It contains amendments of the *Education and Care Services National Law (ACT) 2011*, the *Health Act 1993*, the *Medicines, Poisons and Therapeutic Goods Regulation 2008*, the *Public Health Act 1997* and the *Public Health Regulation 2000*. Each amendment is explained in an explanatory note to the amendment.

Education and Care Services National Law (ACT) 2011

The *Education and Care Services National Law (ACT) 2011* ('the ACT Act') is amended to bring the Act into line with amendments made in Victoria to the Education and Care Services National Law set out in the *Education and Care Services National Law Act 2010* (Vic). Under the ACT Act, section 6, any amendments passed in Victoria to the National Law must be presented to the ACT Legislative Assembly within 6 sitting days and may be disallowed by the Assembly. Amendments made to the National Law in 2011 by the *Children's Services Amendment Act 2011* (Vic) were not tabled in the ACT Assembly so were not taken to be part

of the National Law as it applies in the ACT. A technical amendment has been made to the ACT Act to ensure that the Victorian amendments are included in the National Law as it applies in the ACT.

Health Act 1993 and other legislation

The *Health Act 1993*, section 59 is amended to include eligible midwives (in addition to doctors and dentists) as a class of health practitioners that may be considered by the scope of clinical practice committee for suitability to be credentialled to provide health services based on their qualifications, experience, skill and other professional attributes. Section 59 sets out the functions of the committee, including deciding whether or not to credential a health practitioner and the terms on which the practitioner is credentialled. A number of related consequential amendments are also made in part 5 (Reviewing scope of clinical practice), part 10 (Review of decisions) and to section 189 (Protection of doctor or dentist from liability in emergency) to include eligible midwives. A new definition of ‘eligible midwife’ is inserted in section 52 that is based on the meaning of the term under the *Health Insurance Act 1973* (Cwlth), section 21.

The *Health Act 1993* is also amended to relocate provisions about pharmacy ownership and premises from part 9 of the Act to new part 3B in the *Public Health Act 1997*. Some provisions have been repealed or amended before relocation to reflect changes in the meaning of ‘pharmacist’ under the *Legislation Act 2001* as a consequence of the *Health Practitioner Regulation National Law (ACT)*, which provides that only an individual may practise as a health practitioner. Provisions about the Minister’s power to approve standards for community pharmacy premises are repealed because these have been overtaken by a code of practice that sets standards for community pharmacy premises. Other provisions about restrictions on ownership of pharmacy businesses are also relocated from the *Public Health Regulation 2000* to the *Public Health Act 1997* as the intention is to co-locate provisions about pharmacy ownership, licensing and restrictions on premises in one Act. The definition of **complying pharmacy corporation** in the regulation, section 62 (2) is amended before relocation to provide that the object of the corporation is not to practice as a pharmacist but to own and control a pharmacy business. This change is consequential on the *Health Practitioner Regulation National Law (ACT)*, which provides that only an individual may practise as a health practitioner. The requirement in the definition for a trust deed to have written approval by the

National Pharmacy Board is also omitted as this is no longer a function of the Board. The *Medicines, Poisons and Therapeutic Goods Regulation 2008* is amended to change an Act reference that is consequential on the relocating of provisions relating to pharmacies.

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. These amendments reflect the process of continuous review and improvement of the operation of the Legislation Act.

The definition of *Standards Australia* in the *Legislation Act 2001*, dictionary, part 1, is amended as a consequence of the change of name of the organisation.

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, adding notes, improving syntax, omitting redundant provisions and other minor changes to update or improve the form of legislation. In particular, amendments are made to the *Children and Young People Act 2008* to include an updated definition of *Aboriginal or Torres Strait Islander person*. Act dictionaries are updated to include signposts definitions for terms defined elsewhere in the Act and archaic words such as 'shall' 'notwithstanding' and 'any or all' are replaced in a number of Acts with more current language.