

2014

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

STATUTE LAW AMENDMENT BILL 2014

EXPLANATORY STATEMENT

**Presented by
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Background

The object of the Statute Law Amendment Bill 2014 (the 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 that schedule 1, part 1.2 commences on 1 July 2014 and the remaining provisions commence 21 days after the day the Bill 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 *Corrections Management Act 2007*, the *Cultural Facilities Corporation Act 1997* and the *Dangerous Substances Act 2004*. Each amendment is explained in an explanatory note to the amendment.

Corrections Management Act 2007

The *Corrections Management Act 2007* is amended to increase the field from which the Minister may appoint an adjudicator for the purposes of the Act. Section 177 provides that the Minister may appoint at least 1 adjudicator. An adjudicator reviews disciplinary matters and segregation decisions under the Act. Currently, adjudicators are required to be magistrates. The

amendment will allow the Minister to appoint as an adjudicator a person who is judicially qualified, that is, a judge or magistrate, retired judge or magistrate, or someone who has been a legal practitioner for not less than 5 years.

Cultural Facilities Corporation Act 1997

The *Cultural Facilities Corporation Act 1997* is amended to repeal section 15. Under section 15, the Cultural Facilities Corporation (the *corporation*) is required, at the end of each quarter, to give the Minister a report on the quarter about its and the Act's operation. The Minister is required to present the report to the Legislative Assembly within 6 sitting days after receiving it. The report is usually not the subject of discussion in the Assembly. It generally contains information that is also available in other publications the corporation produces, such as the annual report, seasonal calendars of events and the 2 websites the corporation maintains for the Canberra Theatre Centre and the ACT Museums and Galleries.

The corporation will continue to report on its activities and performance under the *Annual Reports (Government Agencies) Act 2004*.

The repeal of section 15 commences on 1 July 2014. This will enable the corporation to give the Minister a final quarterly report for the quarter ending on 30 June 2014.

Dangerous Substances Act 2004

The *Dangerous Substances Act 2004* (the *DS Act*) is amended as a consequence of the enactment of the *Work Health and Safety Act 2011* (the *WHS Act*). Since the enactment of the WHS Act, it has been possible for a person to have corresponding or inconsistent duties under the DS Act and the WHS Act in relation to dangerous substances, including asbestos and hazardous chemicals. The inclusion of new section 8A in the DS Act makes it clear that a person with corresponding duties under the DS Act and the WHS Act in relation to a dangerous substance will be complying with the person's duties under the DS Act if the person complies with their duties under the WHS Act.

Section 8A (2) makes it clear that if the person has a duty or power under the DS Act in relation to a dangerous substance that is inconsistent with a duty under the WHS Act in relation to the

same substance, the duty under the DS Act has no effect to the extent of the inconsistency. However, section 8A (3) provides that a duty under the DS Act is not to be taken to be inconsistent with a duty under the WHS Act to the extent that both duties can operate concurrently.

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 dictionary, part 1 is amended to insert a new definition of *coroner* to help users of legislation.

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 relocate, from the *Work Health and Safety Regulation 2011* to the *Work Health and Safety Act 2011*, transitional provisions dealing with investigations under the former *Work Safety Act 2008*.