

2014

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

STATUTE LAW AMENDMENT BILL 2014 (No 2)

EXPLANATORY STATEMENT

**Presented by
Simon Corbell MLA
Attorney-General**

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 that the Bill commences 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 *Health Records (Privacy and Access) Act 1997* and the *Lifetime Care and Support (Catastrophic Injuries) Act 2014*. Each amendment is explained in an explanatory note to the amendment.

Health Records (Privacy and Access) Act 1997

The *Health Records (Privacy and Access) Act 1997* is amended by omitting the words 'in the ACT' from the dictionary definition of **health service provider**.

The definition of **health service provider** is currently restricted to entities that provide a health service in the ACT. Consequently, information-sharing between members of a treating team can be difficult if a health service provider is outside the ACT as the term **treating team** is defined by reference to health service providers.

By removing the limiting words ‘in the ACT’ from the definition of **health service provider**, health records of a person treated by a treating team that includes health service providers outside the ACT will be able to be more easily shared with those providers.

Lifetime Care and Support (Catastrophic Injuries) Act 2014

The *Lifetime Care and Support (Catastrophic Injuries) Act 2014* (the **LTCS Act**) is amended to insert new section 6 (3) (aa) to make it clear that the term ‘CTP cover under the CTP Act’ extends to a motor vehicle involved in a motor accident if the vehicle is covered by a compulsory third-party insurance policy in force under the law of a jurisdiction other than the ACT. This clarification is consistent with the *Motor Accidents (Lifetime Care and Support) Act 2006* (NSW), which the LTCS Act is intended to mirror and on which minimum benchmarks agreed for the National Injury Insurance Scheme for motor accidents have been modelled.

Section 98 of the LTCS Act is amended to give the power to approve forms to the LTCS commissioner instead of the director-general. The LTCS commissioner is responsible for decisions about a person’s eligibility for the LTCS scheme and a participant’s treatment and care needs. Most of the forms required under the LTCS Act relate to these functions, for example, applications to participate in the LTCS scheme, so it is appropriate for the LTCS commissioner to have the power to approve the forms.

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 Legislation Act, section 151 is amended to present the rules for working out periods of time generally in an Act or statutory instrument in table form, consistent with

the approach in the *Acts Interpretation Act 1901* (Cwlth), section 36. This will make it easier for legislation users to work out periods of time under ACT legislation. Current section 151 (2) to (6) is replaced by items in the table. Current section 151 (7) is remade as a consequence of the remake of section 151 (2) to (6). These amendments do not substantively change the existing policy on working out periods of time.

The dictionary, part 1 is amended by remaking the definitions of **calendar month** and **month** and omitting the definition of **named month**. **Calendar month** is currently defined as ‘a period beginning at the start of any day of a named month and ending at the end of the day before the corresponding day of the next named month or, if there is no such corresponding day, at the end of the last day of the next named month.’.

The definition of **month** is substituted by another amendment to replicate the substance of the current definition of **calendar month**. As a consequence, the definition of **calendar month** is being simplified in accordance with current plain language drafting style. The revised definitions of **month** and **calendar month** will be consistent with the definitions of those terms in the *Acts Interpretation Act 1901* (Cwlth) and are more consistent with how **calendar month** and **month** are generally understood.

The amendments also remove the need for a definition of **named month**, which is omitted by another amendment.

Further, minor amendment are made in Schedule 2 to include revisions of section 2, note 2, and section 151 (1), note 1 as a consequence of the remaking of the definitions of **calendar month** and **month** and the omission of the definition of **named month**.

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 *Electoral Act 1992* and the *Government Procurement Act 2001* as a consequence of the amendments of the *Legislation Act 2001* included in schedule 2.