**2022**

**THE LEGISLATIVE ASSEMBLY FOR THE**

**AUSTRALIAN CAPITAL TERRITORY**

**STATUTE LAW AMENDMENT BILL 2022**

**EXPLANATORY STATEMENT**

**and**

**HUMAN RIGHTS COMPATIBILITY STATEMENT**

**(*Human Rights Act 2004*, s 37)**

**Presented by**

**Shane Rattenbury MLA**

**Attorney-General**

**June 2022**

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# STATUTE LAW AMENDMENT BILL 2022

**The Bill is not a Significant Bill.** Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

## OVERVIEW AND PURPOSE OF THE BILL

The object of the *Statute Law Amendment Bill 2022* (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.

The 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 non-controversial, and minor or technical.

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 generally 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, the 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.

## SUMMARY OF AMENDMENTS

The Bill includes amendments to—

* the *Territory Records Act 2002*, section 36 (e),to remove an unnecessary requirement for the Minister to approve leave for the director of territory records; and
* update multiple Acts and regulations with gender-neutral language; and
* make other technical amendments of ACT legislation to correct minor errors, such as typographical errors and outdated cross-references, update language, update and omit notes, remove redundant provisions and other minor changes to update or improve ACT legislation.

## CONSULTATION ON THE PROPOSED APPROACH

As the Bill is an omnibus bill to provide for minor, non-controversial and technical legislative amendments, consultation on the Bill was conducted internally with ACT Government directorates only.

## CONSISTENCY WITH HUMAN RIGHTS

The Bill does not engage any human rights under the *Human Rights Act 2004*. Therefore, a human rights proportionality analysis is not required.

## Statute Law Amendment Bill 2022

#### Human Rights Act 2004 – Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Statute Law Amendment Bill 2022**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly **is /is not** consistent with the *Human Rights Act 2004.*

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Shane Rattenbury MLA
Attorney-General

## CLAUSE NOTES

### 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 [clause 1.1]

Schedule 1 provides for minor, non-controversial amendments initiated by government directorates and agencies, and contains an amendment of the *Territory Records Act 2002*. The amendment is explained in an explanatory note to the amendment.

Territory Records Act 2002 [clause 1.1]

The *Territory Records Act 2002*, section 36 (e), provides that the Minister may end the appointment of the director of territory records ‘if the director is absent from duty for 14 consecutive days, or for 28 days in any 12 months, except on leave given by the Minister’.

The words ‘except on leave given by the Minister’ create a requirement for the Minister to approve the director’s leave if the director intends to be on leave for longer than 14 consecutive days or for 28 days in any 12 month period. While the director’s appointment to the position of director of territory records is made under the *Territory Records Act 2002*, part 4 (Director of Territory Records), the director is employed as an SES member under the *Public Sector Management Act 1994*, and that Act provides the process for approval of the director’s leave.

Replacing the words ‘except on leave given by the Minister’ with ‘other than on approved leave’ removes the requirement created for the Minister to need to approve the director’s leave.

## 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 will be retained to preserve the usual numbering of schedule 3.

## Schedule 3 — Technical amendments [clauses 3.1 – 3.224]

Schedule 3 contains 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, such as typographical errors and outdated cross-references, updating language, updating and omitting notes, omitting redundant provisions, renumbering paragraphs and other minor changes to update or improve the form of legislation.

In particular, amendments in schedule 3 update multiple Acts and regulations with gender-neutral language, replacing instances of ‘he or she’, ‘his or her’, ‘him or her’ and ’himself or herself’ with ‘they’, ‘their’, ‘them’, ‘themself' or the relevant noun.