

**2025**

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

**ELEVENTH ASSEMBLY**

**HEALTH LEGISLATION AMENDMENT BILL 2025**

**EXPLANATORY STATEMENT  
and  
HUMAN RIGHTS COMPATIBILITY STATEMENT  
(*Human Rights Act 2004, s 37*)**

**Presented by  
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HEALTH  
5 FEBRUARY 2025**

## HEALTH LEGISLATION AMENDMENT BILL 2025

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*.

This explanatory statement relates to the Health Legislation Amendment Bill 2025 (Bill) as presented to the Legislative Assembly. It has been prepared to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly. The statement is to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill.

### OVERVIEW AND PURPOSE OF THE BILL

The Bill is an omnibus bill, which amends several health portfolio pieces of legislation to support the efficient and effective functioning of the ACT health system. It seeks to address minor or technical issues that have largely been identified by ACT Government directorates and is part of the ACT Government's ongoing effort to ensure that ACT's statute book is of the highest standard.

Amendment bills such as this, which make minor, technical and non-controversial amendments, 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 not justify separate legislation. However, the cumulative effect of the amendments and repeals made through this Bill will have a positive impact on the ACT health system and the overall quality of ACT law.

### SUMMARY OF AMENDMENTS

The Bill amends the following legislation under the health portfolio:

- *Gene Technology Act 2003*
- *Gene Technology (GM Crop Moratorium) Act 2004*
- *Gene Technology Regulation 2004*
- *Human Cloning and Embryo Research Act 2004*
- *Medicines, Poisons and Therapeutic Goods Act 2008*

The Bill includes amendments to—

- Substitute references throughout health portfolio legislation of the 'Commonwealth administrative appeals tribunal' with the 'Commonwealth administrative review tribunal', following a change in name of this Commonwealth entity; and
- Substitute a reference under the *Gene Technology (GM Crop Moratorium) Act 2004* to the ACT Administrative Appeals Tribunal with the ACT Civil and Administrative Tribunal (ACAT) and insert standard provisions that deal with the review of decisions by ACAT. ACAT replaced the ACT Administrative Appeals Tribunal in 2008.

- Make other technical amendments to ACT legislation to correct minor errors, such as typographical errors and outdated cross-references, update cross references to guidelines and regulations, 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.

## **CLIMATE IMPACT**

The amendments in the Bill are of a minor and technical nature, and do not change the policy intent of any of the legislation being amended, therefore no climate impacts are anticipated.

## **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.

## HEALTH LEGISLATION AMENDMENT BILL 2025

### *Human Rights Act 2004 - Compatibility Statement*

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Health Legislation Amendment Bill 2025**. 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** consistent with the *Human Rights Act 2004*.

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Tara Cheyne MLA  
Attorney-General

## CLAUSE NOTES

### Clause 1 Name of Act

This is a technical clause and provides that the title of the Act will be the *Health Legislation Amendment Act 2025* (the **Act**).

### Clause 2 Commencement

This clause provides for the commencement of the Act.

The provisions in the Act commence 7 days after the Act's notification day.

### Clause 3 Legislation amended – sch 1

This is a formal clause identifying that the Act amends the legislation mentioned in schedule 1. The legislation amended by the Act are:

- *Gene Technology Act 2003*
- *Gene Technology (GM Crop Moratorium) Act 2004*
- *Gene Technology Regulation 2004*
- *Human Cloning and Embryo Research Act 2004*
- *Medicines, Poisons and Therapeutic Goods Act 2008*

## Schedule 1 Legislation amended

### Part 1.1 Gene Technology Act 2003

#### Clause 1.1 Section 7, note

This clause omits 'other than Norfolk Island' in the note at section 7. This amendment updates the note because of changes to the *Gene Technology Act 2000* (Cwlth), section 7 made by the *Territories Legislation Amendment Act 2016* (Cwlth).

#### Clause 1.2 Section 19(1) and (2)(a)

This clause replaces a reference to the 'Commonwealth administrative appeals tribunal' with the 'Commonwealth administrative review tribunal'

#### Clause 1.3 Section 19(3)

This clause replaces a reference to the 'Commonwealth Administrative Appeals Tribunal Act (other than part 4A)' with the '*Administrative Review Tribunal Act 2024* (Cwlth) (other than part 7)'

#### Clause 1.4 Section 19(4)

This clause replaces a reference to the 'Commonwealth Administrative Appeals Tribunal Act' with the '*Administrative Review Tribunal Act 2024* (Cwlth)'

### **Clause 1.5 Section 19(4)**

This clause corrects a minor referencing error by substituting ‘part 4A’ with ‘part 7’. This results from changes introduced by the *Administrative Review Tribunal Act 2024* (Cwlth).

### **Clause 1.6 Section 19(4) note**

This clause replaces a reference to the ‘Commonwealth Administrative Appeals Tribunal Act’ with the ‘*Administrative Review Tribunal Act 2024* (Cwlth)’ in the note.

### **Clause 1.7 Section 183 heading**

This clause updates the heading of section 183 to reflect the replacement of the Commonwealth Administrative Appeals Tribunal with the Commonwealth Administrative Review Tribunal.

### **Clause 1.8 Section 183(1)**

This clause replaces a reference to the ‘Commonwealth Administrative Appeals Tribunal Act’ with the ‘*Administrative Review Tribunal Act 2024* (Cwlth)’.

### **Clause 1.9 Section 183(2)**

This clause replaces a reference to the ‘Commonwealth Administrative Appeals Tribunal Act, section 3’ with the ‘*Administrative Review Tribunal Act 2024* (Cwlth), section 4’.

### **Clause 1.10 Sections 192B to 192D**

This clause omits sections 192B to 192D of the *Gene Technology Act 2003*, as the *Gene Technology Act 2000* (Cwlth) sections 192B to 192D have been repealed.

### **Clause 1.11 Section 192E, new note**

This clause inserts a note clarifying that section 192E does not appear in the Commonwealth Act (i.e., the *Gene Technology Act 2000* (Cwlth)). This note is of the kind mentioned in section 8A, note 2 of the *Gene Technology Act 2003*.

### **Clause 1.12 Dictionary, definitions of Commonwealth administrative appeals tribunal and Commonwealth Administrative Appeals Tribunal Act**

This clause omits the definitions of ‘Commonwealth administrative appeals tribunal’ and ‘Commonwealth Administrative Appeals Tribunal Act’ which has been made redundant as a result of other amendments in the Act.

### **Clause 1.13 Dictionary, definitions of Commonwealth administrative review tribunal**

This clause substitutes the definition of ‘Commonwealth administrative appeals tribunal’ with ‘Commonwealth administrative reviews tribunal’ to reflect the replacement of the Commonwealth Administrative Appeals Tribunal with the Administrative Review Tribunal.

## **Part 1.2 Gene Technology (GM Crop Moratorium) Act 2004**

### **Clause 1.14 New part 3A**

This clause inserts a new part 3A – Notification and review of decisions.

Following the reference update to the ACAT under clause 1.15, this amendment inserts standard provisions about applying to the ACAT for review of a decision.

New section 32A inserts the definitional term ‘*reviewable decision*’ for part 3A.

New section 32B provides that the decision-maker must give a reviewable decision notice to a person who is the subject of the reviewable decision, if the Minister makes a reviewable decision.

New section 32C provides that the following people may apply to the ACAT for review of a reviewable decision:

- a) A person mentioned in new section 32B.
- b) Any other person whose interests are affected by the decision.

### **Clause 1.15 Section 34**

This clause replaces a reference to the ‘administrative appeals tribunal’ which is a reference to the ACT Administrative Appeals Tribunal with ‘ACAT’, which stands for the ACT Civil and Administrative Tribunal. ACAT replaced the ACT Administrative Appeals Tribunal in 2008.

### **Clause 1.16 Dictionary, note 2, new dot point**

This clause inserts ‘ACAT’, which stands for the ACT Civil and Administrative Tribunal in the note. ACAT replaced the ACT Administrative Appeals Tribunal in 2008.

### **Clause 1.17 Dictionary, new definition of reviewable decision**

This clause inserts a defined term ‘reviewable decision’ to align with the standard provisions inserted by Clause 1.14.

## **Part 1.3 Gene Technology Regulation 2004**

### **Clause 1.18 Section 38, note**

This clause replaces a reference to the ‘Commonwealth administrative appeals tribunal’ with the ‘Commonwealth administrative review tribunal’ in the note at section 38.

## **Part 1.4 Human Cloning and Embryo Research Act 2004**

### **Clause 1.19 Section 23, definition of *proper consent*, paragraph (a) and note**

This clause replaces a reference to the 2007 version of the ‘Ethical guidelines on the use of assisted reproductive technology in clinical practice and research’ (the Guidelines) with the most recent version of the Guidelines which was issued in 2017 and updated in 2023.

This clause also inserts a note to the relevant website to access the guidelines.

### **Clause 1.20 Section 23, definition of *proper consent*, paragraph (b)**

This clause updates the definition of *proper consent* by replacing the reference to the *Research Involving Human Embryos Regulations 2003* (Cwlth) with the ‘regulations made for the *Research Involving Human Embryos Act 2002* (Cwlth), section 24 (9), definition of *proper consent*’.

This is because the *Research Involving Human Embryos Regulations 2003* (Cwlth) has been repealed and replaced by the *Research Involving Human Embryos Regulations 2017*. Rather than reference to the regulations themselves, this amendment refers instead to the head of power under the *Research Involving Human Embryos Act 2002* (Cwlth) to make the regulations.

### **Clause 1.21 Section 23, definition of *unsuitable for implantation*, paragraph (a) and note**

This clause replaces a reference to the 2007 version of the ‘Ethical guidelines on the use of assisted reproductive technology in clinical practice and research’ (the Guidelines) with the most recent version of the Guidelines which was issued in 2017 and updated in 2023.

This clause also inserts a note to the relevant website to access the guidelines.

### **Clause 1.22 Section 23, definition of *unsuitable for implantation*, paragraph (b)**

This clause updates the definition of *unsuitable for implantation* by replacing the reference to the *Research Involving Human Embryos Regulations 2003* (Cwlth) with the ‘regulations made for the *Research Involving Human Embryos Act 2002* (Cwlth), section 7(1), definition of *unsuitable for implantation*, paragraph (b)’.

This is because the *Research Involving Human Embryos Regulations 2003* (Cwlth) has been repealed and replaced by the *Research Involving Human Embryos Regulations 2017*. Rather than reference to the regulations themselves, this amendment refers instead to the head of power under the *Research Involving Human Embryos Act 2002* (Cwlth) to make the regulations.

### **Clause 1.23 Section 30(4)(c)**

This clause inserts ‘the CEO of’ after ‘issued by’ in the following context: ‘any relevant guidelines, or relevant parts of guidelines, issued by [the CEO of] the NHMRC’.



This amendment updates language in line with other references in the *Human Cloning and Embryo Research Act 2004* to the NHMRC.

#### **Clause 1.24 Section 30(4)(c)**

This clause replaces the reference to the ‘*Research Involving Human Embryos Regulations 2003* (Cwlth) for this paragraph’ with the ‘regulations made for the *Research Involving Human Embryos Act 2002* (Cwlth), section 21(4)(c)’.

This is because the *Research Involving Human Embryos Regulations 2003* (Cwlth) has been repealed and replaced by the *Research Involving Human Embryos Regulations 2017*. Rather than reference to the regulations themselves, this amendment refers instead to the head of power under the *Research Involving Human Embryos Act 2002* (Cwlth) to make the regulations.

#### **Clause 1.25 Section 40, definition of *Commonwealth administrative appeals tribunal***

This clause omits the defined term of ‘Commonwealth administrative appeals tribunal’.

#### **Clause 1.26 Section 40, new definition of *Commonwealth administrative review tribunal***

This clause inserts a new defined term of ‘Commonwealth administrative review tribunal’, following the omission of the defined term of ‘Commonwealth administrative appeals tribunal’ in clause 1.25.

#### **Clause 1.27 Section 40, definition of *decision***

This clause updates the definition of ‘decision’ to reflect the replacement of the *Administrative Appeals Tribunal Act 1975* (Cwlth) by the *Administrative Review Tribunal Act 2024* (Cwlth).

#### **Clause 1.28 Section 41(1)**

This clause replaces a reference to the ‘Commonwealth administrative appeals tribunal’ with the ‘Commonwealth administrative review tribunal’.

#### **Clause 1.29 Section 41(2)**

This clause replaces a reference to the *Administrative Appeals Tribunal Act 1975* (Cwlth) by the *Administrative Review Tribunal Act 2024* (Cwlth).

#### **Clause 1.30 Section 51(1)(a)**

This clause corrects a cross-referencing error by substituting section 25A with section 25 to reflect amendments to the *Prohibition of Human Cloning for Reproduction Act 2002* (Cwlth).

**Clause 1.31 Section 51(1)(b)**

This clause corrects a cross-referencing error by substituting section 47A with section 47B to reflect amendments to the *Research Involving Human Embryos Act 2002* (Cwlth).

**Part 1.5 Medicines, Poisons and Therapeutic Goods Act 2008**

**Clause 1.32 Section 156, definition of *Commonwealth administrative laws*, paragraph (a)**

This clause updates a cross-reference to reflect the replacement of the *Administrative Appeals Tribunal Act 1975* (Cwlth) by the *Administrative Review Tribunal Act 2024* (Cwlth).