



Australian Capital Territory

Statute Law Amendment Act 2003

A2003-41

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Australian Capital Territory

Statute Law Amendment Act 2003

A2003-41

An Act to amend or repeal certain Acts and regulations for the purpose of statute law revision

*Notified under the Legislation Act 2001 on 11 September 2003
(see www.legislation.act.gov.au)*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Statute Law Amendment Act 2003*.

2 Commencement

- (1) This Act commences on the 28th day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

- (2) However, a date or time provided by a special commencement provision for an amendment made by this Act has effect as the commencement date or time of the amendment.

- (3) In this section:

special commencement provision, for an amendment made by this Act, is a provision, in brackets beginning with the text ‘commencement:’, at the end of the amendment.

Example

An amendment followed by ‘(commencement: the 90th day after this Act’s notification day)’ means that the amendment commences on the 90th day after the notification day.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

3 Purpose

The purpose of this Act is to improve the quality of the statute law of the Territory by amending or repealing Acts and regulations for the purpose of statute law revision.

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Acts and regulations amended—schs 1-3

Schedules 1 to 3 amend the Acts and regulations mentioned in them.

6 Act repealed—sch 4

Schedule 4 repeals the Act mentioned in it.

Schedule 1 Minor amendments

(see s 5)

Part 1.1 Health Act 1993

[1.1] Section 12

omit everything before subsection (2), substitute

12 Approval of Calvary Health Care ACT committees

- (1) The Minister may, in writing, declare a committee appointed by the peak management body (however described) of Calvary Health Care ACT that corresponds to a committee of a kind mentioned in section 8 (2) (a), (b) or (c) to be an approved public sector quality assurance committee.

Explanatory note

Under the *Health Act 1993*, section 12, the Minister may declare a committee appointed by the Board of Management of Calvary Hospital that corresponds to a committee of a kind mentioned in section 8 (2) (a), (b) or (c) to be an approved public sector quality assurance committee.

The reference to Calvary Hospital has been replaced with a reference to Calvary Health Care ACT, to reflect the current name of the organisation.

Under section 8 (1), the Minister may declare that a particular committee is an approved public sector quality assurance committee for a health facility or for a stated purpose. The functions of a public sector quality assurance committee are decided by the Minister, and may include all or any of the functions set out in section 8 (2) (a) to (c), as follows:

- (a) to conduct quality assurance activities among health service providers for the purpose of assessing and evaluating the health services provided by the Territory, to report, and make recommendations, to the chief executive in relation to those services and to monitor the implementation of those recommendations;
- (b) to conduct research or investigations into morbidity and mortality in the ACT and to report, and make recommendations, to the chief executive in relation to that research or those investigations;

- (c) to investigate, assess, review and evaluate the clinical privileges provided to health service providers and to report, and make recommendations, to the chief executive in relation to whether those clinical privileges should be preserved, varied or withdrawn.

A **health service provider** (defined in the *Health Act 1993*, dictionary) is a person who provides health services at a health facility (ie an institution where health services are provided by the Territory) or uses the equipment or other facilities of a health facility for the purpose of providing health services elsewhere, and includes chiropractors, osteopaths, dental technicians, dental prosthetists, dentists, doctors, nurses, optometrists and pharmacists.

The present management body at Calvary Health Care ACT is not a board. This amendment replaces the reference to 'Board of Management' to bring the provision into line with the current management structure at Calvary Health Care ACT.

The amendment will enable the management body at Calvary Health Care ACT to appoint committees that can be declared to be approved public sector quality assurance committees by the Minister.

[1.2] Dictionary, definition of *approved public sector committee*

omit

(Approval of Calvary Hospital committees)

substitute

(Approval of Calvary Health Care ACT committees)

Explanatory note

This amendment is consequential on the previous amendment.

Schedule 2 Structural amendments

(see s 5)

Part 2.1 Legislation Act 2001

[2.1] Section 19 (6) to (11)

renumber as section 19 (8) to (13)

[2.2] New section 19 (6) and (7)

insert

- (6) Without limiting subsection (3) or (5), the regulations may prescribe requirements to be satisfied for additional material to be entered in the register under this section, including, for example, requirements about—
- (a) the form of the material; and
 - (b) the making of requests for its entry in the register.
- (7) The regulations may also make provision about the following in relation to instruments (other than registrable instruments) to be entered in the register under this section:
- (a) the numbering of the instruments by the parliamentary counsel, whether in a series of numbers allocated under section 59 (Numbering) or otherwise;
 - (b) the identification of the instruments, including, for example, authorising the parliamentary counsel to—
 - (i) add a name to an unnamed instrument; or
 - (ii) amend an instrument's name; or
 - (iii) add notes to an instrument to assist in its identification; or

- (iv) do anything else in relation to an instrument to assist users of the register to identify or refer to the instrument.

Explanatory note

This amendment makes it clear that regulations can be made to improve consistency in the entry of additional material in the legislation register. This will help users to access the material more easily. Under the Act, section 19 (3) and (5), the parliamentary counsel may enter additional material in the register in any way the parliamentary counsel considers will help users of the register. The additional material includes, for example, statutory instruments that are not registrable instruments, the administrative arrangements for the ACT under the *Australian Capital Territory (Self-Government) Act 1988*, (Cwlth) and the Australian Road Rules applying in all States and Territories including the ACT. As this kind of material is generally similar to registrable instruments, it is helpful to users if regulations ensure that it can be entered and numbered in the register in a similar way to registrable instruments.

[2.3] Chapter 3 heading

substitute

Chapter 3 Authorised versions and evidence of laws and legislative material

Explanatory note

This amendment and the other amendments of chapter 3 permit authorised electronic versions of Acts, statutory instruments and republications (*legislation*) to be downloaded from a web site approved under the Act. They also allow authorised written versions of legislation to be produced directly from authorised electronic versions of the legislation.

At present, electronic versions of legislation are only authorised when viewed at an approved web site. Printed versions of legislation are presently only authorised when printed by authority of the ACT government. Improvements to the legislation register will allow digital signatures to be included in locked pdf files of legislation accessible at an approved web site. This will allow legislation users to verify whether downloaded copies of those files are the same as the digitally signed pdf files authorised by the parliamentary counsel.

The proof of authorised electronic versions of legislation is supported by the presumptions in new section 24. Written copies of legislation produced directly from authorised electronic versions will be authorised versions, and proof is supported by the presumptions in new section 25.

The amendments of chapter 3 also extend the range of legislative material for which authorised electronic and written versions will be available. The legislative material (defined in new section 22A) includes additional material entered in the legislation register under section 19 and material used under chapter 14 to work out the meaning of Acts and statutory instruments.

[2.4] New section 22A

in chapter 3, insert

22A Definitions for ch 3

In this chapter:

law means an Act or statutory instrument, whether or not it has been amended, and includes, in relation to a republication—

- (a) a collection of 2 or more Acts or statutory instruments; or
- (b) all or part of an agreement or other instrument that has the force of law or is in, or attached to, an Act or statutory instrument.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 and s 13).

legislative material means material (other than a law or provision of a law) relating to an Act or statutory instrument.

Examples of legislative material

- 1 Additional material entered in the register under section 19 (3) (Contents of register) that is not an Act or statutory instrument, for example—
 - the Australian Road Rules: These rules apply throughout Australia and apply in the ACT under the *Road Transport (Safety and Traffic Management) Regulations 2000*. They have been entered in the register as a notifiable instrument even though they are not a statutory instrument and are not taken to be a notifiable instrument under section 47 (Statutory instruments may make provision by applying law or instrument);

- appointments of Ministers: Ministers are appointed by the Chief Minister under the Self-Government Act, section 41. An instrument notifying an appointment may be entered in the register even though the instrument is not a statutory instrument.
- 2 Material that may be considered under chapter 14 in working out the meaning of an Act or statutory instrument, for example, an explanatory statement for the bill that became the relevant Act that was presented to the Legislative Assembly before the Act was passed.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

republication includes part of a republication.

Explanatory note

See the explanatory note for the amendment of the heading to chapter 3.

This amendment relocates the definition of **law** from sections 24 and 25 so that it applies generally in chapter 3. The definition repeats the definition of **law** in section 107 rather than picking it up by reference using a signpost definition. The extension of the definition (paragraphs (a) and (b)) applies only in relation to republications, to more clearly reflect the use of the definition in chapter 3. Paragraph (b) has been widened to include any part of an agreement or instrument mentioned. This brings this part of the definition into line with the position of Acts and statutory instruments (see sections 7 and 13).

In addition, the amendment inserts a new definition of **legislative material** wide enough to encompass material entered in the legislation register under section 19 (eg additional material that the parliamentary counsel considers likely to be useful to users of the register) and extrinsic material that may be used under chapter 14 in working out the meaning of an Act or statutory instrument (eg explanatory statements for bills).

The amendment also includes a new definition of **republication**. This definition ensures that the chapter applies to parts of republications in the same way as it applies to whole republications. This means that users of legislation can print and use as an authorised republication only the parts of the republication they need. The definition brings the position of republications into line with the position of Acts and statutory instruments (see sections 7 and 13). A note has been included in the definition of **law** to remind users of this.

[2.5] Section 23

substitute

23 Authorisation of versions by parliamentary counsel (LRA s 8)

The parliamentary counsel may authorise written or electronic versions of a law, republication or legislative material.

Note **Written** includes printed (see dict, pt 1, def **writing**).

Explanatory note

See the explanatory note for the amendment of the heading to chapter 3.

This amendment remakes section 23 to widen its scope to include legislative material as defined in new section 22A. The remade section refers to **written** versions (rather than printed) to take advantage of the definition of **writing** in the Legislation Act (dictionary, part 1), that is, **writing** includes any way of representing or reproducing words in visible form. In the context of the legislation register, printing is the most common form.

[2.6] Section 24

substitute

24 Authorised electronic versions (LRA s 20, s 22, s 23)

- (1) An electronic copy of a law, republication or legislative material is an authorised version if—
 - (a) it is accessed at, or downloaded from, an approved web site in a format authorised by the parliamentary counsel; or
 - (b) it is authorised by the parliamentary counsel and is in the format in which it is authorised by the parliamentary counsel.

Example of authorised electronic format

a locked pdf file

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

- (2) It is presumed, unless the contrary is proved—
- (a) that an internet site purporting to be an approved web site is an approved web site; and
 - (b) that an electronic copy of a law, republication or legislative material accessed at, or downloaded from, an approved web site and purporting to be authorised by the parliamentary counsel (however expressed) is an authorised version of the law, republication or legislative material; and
 - (c) that any other electronic copy of a law, republication or legislative material purporting to be authorised by the parliamentary counsel (however expressed) is an authorised version of the law, republication or legislative material; and
 - (d) that an authorised electronic version of an Act or statutory instrument correctly shows the Act or instrument; and
 - (e) that an authorised electronic version of a republication of a law correctly shows the law as at the republication date; and
 - (f) that an authorised electronic version of legislative material correctly shows the material.

Examples of an electronic copy of a republication purporting to be authorised by the parliamentary counsel

- 1 The republication has the words ‘Authorised by the ACT Parliamentary Counsel’ on the front cover and the words ‘Authorised when accessed at www.legislation.act.gov.au or in authorised printed form’ at the foot of each page of the republication.
- 2 The republication has the words ‘Authorised by the ACT Parliamentary Counsel’ on the front cover and the words ‘Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au’ at the foot of each page of the republication.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see s 7 and s 13). A reference to a republication includes a reference to part of a republication (see s 22A).

Explanatory note

See the explanatory note for the amendment of the heading to chapter 3.

Remade section 24 extends the form and range of authorised electronic versions of laws, republications and legislative material. The section will permit authorised versions to be downloaded from an approved web site. At present electronic versions of laws are only authorised when viewed at an approved web site. Improvements to the legislation register and the ease with which the accuracy of downloaded files can be verified using digital signatures have enabled this step to be made.

New section 24 (2) widens the presumptions in favour of authorised electronic copies of legislation to include electronic copies in authorised format downloaded from an approved web site.

The presumption of accuracy in existing section 24 (2) has been extended to authorised electronic versions of legislative material (defined in new section 22A). New section 24 (2) (f) provides this presumption for legislative material.

Section 24 as remade no longer defines *law*. The definition has been relocated in new section 22A inserted by another amendment.

[2.7] Section 25

substitute

25 Authorised written versions (LRA ss 6-9, ss 20-23)

- (1) A written copy of a law, republication or legislative material is an authorised version if—
 - (a) it is a written copy produced directly from an authorised electronic version of the law, republication or legislative material; or
 - (b) it is a written copy of another version of the law, republication or legislative material authorised by the parliamentary counsel.

Example for par (a)

An authorised electronic version of an Act is downloaded from an approved web site and printed. The printed copy is an authorised written version of the Act.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

- (2) It is presumed, unless the contrary is proved—
- (a) that a written copy of a law, republication or legislative material purporting to be authorised by the parliamentary counsel (however expressed) is an authorised version of the law, republication or legislative material; and
 - (b) that an authorised written version of an Act or statutory instrument correctly shows the Act or instrument; and
 - (c) that an authorised written version of a republication of a law correctly shows the law as at the republication date; and
 - (d) that an authorised written version of legislative material correctly shows the material.

Examples of a written copy of a republication purporting to be authorised by the parliamentary counsel

- 1 The republication has the words ‘Authorised by the ACT Parliamentary Counsel’ on the front cover and the words ‘Authorised by the parliamentary counsel and printed by authority of the ACT Government’ at the foot of each page of the republication.
- 2 The republication has the words ‘Authorised by the ACT Parliamentary Counsel and printed by authority of the ACT Government’ on the front cover and the words ‘Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au’ at the foot of each page of the republication.
- 3 The republication has the words ‘Authorised by the ACT Parliamentary Counsel’ on the front cover and the words ‘Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au’ at the foot of each page of the republication.

Note A reference to an Act or statutory instrument includes a reference to a provision of the Act or instrument (see, s 7 and s 13). A reference to a republication includes a reference to part of a republication (see s 22A).

Explanatory note

See the explanatory note for the amendment of the heading to chapter 3.

Traditionally, the only authorised written versions of ACT legislation have been those printed by authority of the ACT Government (eg by the government printer). This is reflected in the presumptions in existing section 25.

However, improvements to the legislation register and the use of digital signatures for verifying electronic material remove the need for such a narrow approach. Consequently, remade section 25 (1) provides for a written copy of a law, republication or legislative material to be an authorised version if it is a written copy produced directly from an authorised electronic version. The authorised electronic format used for ACT laws (locked pdf) enables downloaded laws to be printed with complete accuracy, irrespective of the operating system used in the computer into which the laws are downloaded and the system used for printing. In practice, the same locked pdf file has been (and will continue to be) used to publish an authorised electronic version of a law and any written version published by authority of the ACT Government.

New section 25 (2) widens the presumptions in favour of authorised written legislation to include written copies printed from authorised electronic versions.

The presumption of accuracy in existing section 25 (2) has also been extended to authorised written versions of legislative material (defined in new section 22A). New section 25 (2) (d) provides this presumption for legislative material.

Section 25 as remade no longer defines *law*. The definition has been relocated in new section 22A inserted by another amendment.

[2.8] Section 26 (2), example 3

substitute

- 3 using an authorised written version of a republication

Explanatory note

This amendment brings the language of the example into line with sections 24 and 25 as remade by this part.

[2.9] Section 26 (4)

substitute

- (4) For subsection (3), an authorised version of a law, republication or legislative material is a reliable source of information.

Explanatory note

This amendment, consequential on the remaking of sections 24 and 25, widens the scope of the subsection so that authorised versions of legislative material are a reliable source of information.

[2.10] Section 28 (5) and (6)

substitute

- (5) The making of the proposed law is notified in the Gazette by—
- (a) publishing the text of the law in the Gazette; or
 - (b) publishing in the Gazette a statement—
 - (i) that the law has been passed by the Legislative Assembly; and
 - (ii) of the place or places where copies of the law can be obtained (whether by purchase or otherwise).
- (6) If the making of the proposed law is notified in the Gazette, the parliamentary counsel must enter in the register—
- (a) a statement that the law has been passed by the Legislative Assembly; and
 - (b) a statement that the law was notified in the Gazette on a stated date; and
 - (c) the text of the law.
- (6A) If the making of the proposed law is notified in the Gazette by publishing the statement mentioned in subsection (5) (b), copies of the law must be available on the day of publication (the *Gazette date*), or as soon as practicable after the Gazette date, at the place, or each of the places, stated in the Gazette.

Explanatory note

The substituted subsections apply to cases where the making of an Act has to be notified in the Gazette. This would only happen in exceptional cases, for example, if some technical problem made notification using the legislation register impracticable at the time for notification.

As such a case is likely to be rare, it may be preferable to publish the Act in full in the Gazette (as can be done at present for registrable instruments—see Legislation Act, section 61 (4) (a)) or to make copies of the Act available for free rather than setting up special arrangements for its sale. The remade subsections, therefore, authorise these things to be done. Under the proposed subsections, if the making of an Act is initially notified in

the Gazette, the making of the Act and its text must in any event be entered in the register (and made available at an approved web site). This can be expected to happen very soon after Gazette notification and any special arrangements for making copies of the Act available are likely to be needed only for a short time.

Existing subsection (6) (b) requires ‘later’ entries to be made in the legislation register about an Act notified in the Gazette. As these entries should be made as soon as possible, the express requirement for a later entry serves no purpose and has been omitted from the remade provision.

[2.11] Section 28 (7)

omit

for purchase

Explanatory note

This amendment is consequential on the remaking of section 28 (5).

[2.12] Section 28

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections.

[2.13] Section 59 (2)

omit

statutory

substitute

registrable

Explanatory note

This amendment brings the language of section 59 (2) more closely into line with the language of section 59 (1).

[2.14] Section 60 heading

substitute

60 Correction etc of name of registrable instrument

Explanatory note

This amendment changes the heading (by adding ‘etc’) to better reflect the section’s contents.

[2.15] Section 60 (1) (a)

omit

made

substitute

notified

Explanatory note

Section 60 deals with the parliamentary counsel’s power to correct the name of a registrable instrument, including in cases where the name of the instrument includes a year that is not the year that the instrument was made (section 60 (1) (a)). Usually a registrable instrument is made and notified in the same year, and it includes in its name the year it was made. However, if a registrable instrument is made at the end of a year, but is not notified until the next year, the name it bears should include the year that it was notified, not made.

This amendment makes that change.

[2.16] Section 61 (4) (b) (ii)

substitute

- (ii) of the place or places where copies of the instrument can be obtained (whether by purchase or otherwise).

Explanatory note

This amendment, and the amendments of sections 61 (5), (6) and (7), apply to cases where the making of a registrable instrument has to be notified in the Gazette. This would only happen in exceptional cases, for example, if some technical problem made notification using the legislation register impracticable at the time for notification.

As these cases are likely to be rare, it may be preferable to make copies of the instrument available for free rather than setting up special arrangements for its sale. The amendments

of section 61, therefore, authorise this to be done. Under the amended section, if the making of a registrable instrument is initially notified in the Gazette, the making of the instrument and its text must in any event be entered in the register (and made available at an approved web site). This can be expected to happen very soon after Gazette notification and any special arrangements for making copies of the instrument available are likely to be needed only for a short time.

[2.17] Section 61 (5)

omit

later

Explanatory note

Existing subsection (5) requires ‘later’ entries to be made in the legislation register about a registrable instrument notified in the Gazette. As these entries should be made as soon as possible, the express requirement for a later entry serves no purpose and has been omitted.

[2.18] Section 61 (6)

omit

If

substitute

If the making of

Explanatory note

This amendment brings the language of section 61 (6) more closely into line with the language of section 61 (5).

[2.19] Section 61 (6) and (7)

omit

for purchase

Explanatory note

See the explanatory note for the amendment of section 61 (4) (b) (ii).

[2.20] Sections 65A (6) and 69 (6)

omit

later

Explanatory note

These amendments omit an unnecessary word. The amended provisions apply to cases where the disallowance or amendment of a subordinate law or disallowable instrument by the Legislative Assembly has to be notified in the Gazette. This would only happen in exceptional cases, for example, if some technical problem made notification using the legislation register impracticable at the time for notification. In these cases, the existing provisions require that ‘later’ entries be made in the legislation register about the disallowance or amendment of the instrument. As these entries should be made as soon as possible, the express requirement for a later entry serves no purpose.

[2.21] Section 73 (5) (d)

substitute

- (d) section 79A (Commencement of amendment of uncommenced law);
- (e) section 81 (Exercise of powers between notification and commencement).

Explanatory note

This amendment is consequential on the insertion of new section 79A by another amendment.

[2.22] Section 79 (1)

omit

the notification

substitute

its notification

Explanatory note

This amendment tightens language.

[2.23] New section 79A

insert

79A Commencement of amendment of uncommenced law

- (1) This section applies if a law (the *amending law*) amends a law that has not commenced (the *uncommenced law*).
- (2) The amendment of the uncommenced law does not of itself commence that law.
- (3) The amendment made by the amending law commences on the commencement of the uncommenced law.
- (4) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

Explanatory note

This amendment inserts proposed new section 79A to make it clear that an amendment of a law that has not commenced does not of itself commence the law, and that the amendment commences on the commencement of the uncommenced law. Because of the definition of *law* in section 72, the proposed section will apply to the amendment of an uncommenced provision in the same way as it applies to an uncommenced law.

[2.24] Section 91 (9), examples 4 and 5

substitute

- 4 If a section numbered '7A' is to be inserted (by an amending section headed 'New section 7A', with the command '*in division 2.2, insert*') into an amended law with an existing sequence 'section 7 [in division 2.2]—division 2.3 [heading]—section 8', inserted section 7A is inserted between section 7 and the heading to division 2.3 (that is, at the end of division 2.2).
- 5 If a section numbered '7A' is to be inserted (by an amending section headed 'New section 7A', with the command '*in division 2.3, insert*') into an amended law with an existing sequence 'section 7 [in division 2.2]—division 2.3 [heading]—section 8', inserted section 7A is inserted between the heading to division 2.3 and section 8 (that is, at the beginning of division 2.3).

Explanatory note

This amendment brings the examples into line with current drafting practice.

[2.25] Section 94 (4), new definition of *appointment*

insert

appointment includes acting appointment.

Explanatory note

This amendment makes it clear that a reference to appointment in section 94 includes an acting appointment.

[2.26] Section 107, definition of *law*, paragraph (b)

substitute

- (b) all or part of an agreement or other instrument that has the force of law or is in, or attached to, an Act or statutory instrument.

Explanatory note

This amendment makes it clear that all or any part of an agreement or instrument mentioned in the paragraph can be republished. In some cases, republication of the whole agreement or instrument may not assist users of the republication and may cause needless cost.

[2.27] Section 109

omit

printed

substitute

written

Explanatory note

This amendment brings the language of the section into line with sections 24 and 25 as remade by this part.

[2.28] Section 141 (5) to (7)

omit

Explanatory note

This amendment omits provisions that will be covered by the provisions of chapter 3 as amended by this part.

[2.29] Section 142, table 1, item 1, columns 2 and 3, note

omit

(Authorised versions and evidence of Acts and statutory instruments)

substitute

(Authorised versions and evidence of laws and legislative material)

Explanatory note

This amendment updates a reference to the heading of chapter 3 as amended by this part.

[2.30] Section 178 heading

omit

authority

substitute

power

Explanatory note

This amendment brings the section more closely into line with current drafting practice. **Power** is defined in the Legislation Act, dictionary, part 1 to include authority, and is the drafting term used rather than authority.

[2.31] Section 178

omit

authority

substitute

power

Explanatory note

This amendment brings the section more closely into line with current drafting practice. *Power* is defined in the Legislation Act, dictionary, part 1 to include authority, and is the drafting term used rather than authority.

[2.32] New section 199 (1A)

insert

(1A) To remove any doubt, subsection (1) applies in relation to a function even though a law authorises or requires the function to be exercised in writing.

Explanatory note

This amendment makes it clear that, if a function must or may be exercised in writing, the function may be exercised by the body by resolution.

[2.33] Section 199 (6)

omit

the thing

substitute

the effect of the thing

Explanatory note

This amendment clarifies the provisions.

[2.34] Section 199

renumber subsections when Act next republished under Legislation Act

Explanatory note

This amendment provides for the consequential renumbering of subsections because of the insertion of new subsection (1A).

[2.35] New division 19.3.2A

insert

Division 19.3.2A Standing acting arrangements

225A Application of div 19.3.2A

This division applies to a position if a law provides that a person acts in the position in stated circumstances.

Example

The *Hypothetical Act 2003* provides for the deputy director of the hypothetical entity to act in the position of director of the entity if the position is vacant or the director cannot for any reason exercise the functions of the position.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

225B Person acting may exercise functions etc

- (1) A person acting in the position has, subject to the law providing for the acting or any other law, all the functions of the occupant of the position.

Note **Function** is defined in the dict, pt 1 to include authority, duty and power.

- (2) All Territory laws apply in relation to the person as if the person were the occupant of the position.

Explanatory note

This amendment inserts a new division that contains provisions applying to standing acting arrangements, that is, where a law itself provides that in stated circumstances a person automatically acts in a position. The *Planning and Land Act 2002*, section 26 (3) is an example of such a law. The provisions of the new division are based on provisions of the Act applying to acting appointments (see section 220).

[2.36] Section 234 (b)

omit

the function

substitute

a function

Explanatory note

This amendment corrects a minor drafting error.

[2.37] Section 253 (3)

substitute

- (3) A statutory instrument (other than a subordinate law or disallowable instrument) is taken to be made by the Executive if it is signed by 2 or more Ministers who are members of the Executive.
- (4) A statutory instrument mentioned in subsection (3) made in accordance with the subsection is taken to be made when it is signed by the second Minister signing.
- (5) This section is subject to section 41 (Making of certain statutory instruments by Executive).

Explanatory note

This amendment makes it clear when a statutory instrument, other than a subordinate law or disallowable instrument, made by the Executive is made. Section 41 deals with the making of subordinate laws and disallowable instruments by the Executive.

[2.38] Section 255 (1), note

substitute

Note See also s 46 (3), which deals with the repeal and replacement of forms that are registrable instruments and prevents their amendment.

Explanatory note

This amendment makes it clear that the forms dealt with in section 46 (3) are forms that are registrable instruments.

[2.39] Section 302

substitute

302 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under this Act.

- (2) The regulations may make provision in relation to notification in the Gazette under the following sections:

- (a) section 28 (Notification of Acts);
- (b) section 61 (Notification of registrable instruments);
- (c) section 65A (Notification of disallowance by resolution of Assembly);
- (d) section 69 (Notification of amendments made by resolution of Assembly).

- (3) In particular, the regulations may make provision in relation to the form of the Gazette and its publication, including how it may or must be published.

Explanatory note

This amendment remakes the regulation-making power to include provision for cases where the making of an Act or registrable instrument, or the disallowance or amendment of a subordinate law or disallowable instrument, has to be notified in the Gazette. This would only happen in exceptional cases, for example, if some technical problem made notification using the legislation register impracticable at the time for notification. This

could happen after normal business hours at the ACT Government Shopfront. In these cases, it may be necessary to publish a special edition of the Gazette promptly and make it available elsewhere. The regulations would set out the requirements to be satisfied in these cases.

[2.40] Dictionary, part 1, new definition of *OH&S commissioner*

insert

OH&S commissioner means the Occupational Health and Safety Commissioner under the *Occupational Health and Safety Act 1989*.

Explanatory note

This amendment inserts a new definition of *OH&S commissioner*.

[2.41] Dictionary, part 1, definition of *Territory authority*

substitute

Territory authority means a body established under an Act, but does not include a body declared under the regulations not to be a Territory authority.

Explanatory note

This amendment remakes the existing definition, which was inserted in the former *Interpretation Act 1967* in 1989 and relocated to the Legislation Act in 2001. The remade definition refers simply to a ‘body’ without mentioning whether or not it is incorporated. That amplification is no longer necessary because it is now part of the definition of ‘body’ in the Legislation Act, dictionary, part 1. The remade definition also allows the regulations to set out bodies that are not to be Territory authorities. For example, a body registered under the *Cooperatives Act 2002* as a cooperative, or an association incorporated under the *Associations Incorporation Act 1991*, may be declared under the regulations not to be a Territory authority.

[2.42] Dictionary, part 2, new definition of *Act*

insert

Act, for chapter 14 (Interpretation of Acts and statutory instruments)—see section 136.

Note See also def *Act* in dict, pt 1.

Explanatory note

This amendment inserts a signpost definition in accordance with current drafting practice.

[2.43] Dictionary, part 2, definition of *law*, new paragraph (aa)

before paragraph (a) insert

- (aa) for chapter 3 (Authorised versions and evidence of laws and legislative material)—see section 22A; and

Explanatory note

This amendment amends a signpost definition to take account of the definition of *law* in new section 22A.

[2.44] Dictionary, part 2, definition of *law*

renumber paragraphs when Act next republished under Legislation Act

[2.45] Dictionary, part 2, new definition of *legislative material*

insert

legislative material, for chapter 3 (Authorised versions and evidence of laws and legislative material)—see section 22A.

Explanatory note

This amendment inserts a signpost definition in line with current drafting practice.

[2.46] Dictionary, part 2, definition of *republishing*

substitute

republishing—

- (a) for chapter 3 (Authorised versions and evidence of laws and legislative material)—see section 22A; and
- (b) for chapter 11 (Republishing of Acts and statutory instruments)—see section 107.

Explanatory note

This amendment revises a signpost definition to take account of the definition of *republishing* in new section 22A.

[2.47] Dictionary, part 2, new definition of *working out the meaning of an Act*

insert

working out the meaning of an Act, for part 14.2 (Key principles of interpretation)—see section 138.

Explanatory note

This amendment inserts a signpost definition in accordance with current drafting practice.

Schedule 3 Technical amendments

(see s 5)

Part 3.1 Animal Welfare Regulations 2001

[3.1] Regulation 8 (4)

omit

subsection (1)

substitute

subregulation (1)

Explanatory note

This amendment corrects a reference to a provision.

Part 3.2 Building and Construction Industry Training Levy Act 1999

[3.2] Section 7 (2) and (3)

substitute

(2) A member is appointed by the Minister.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

(3) An appointment must not be for longer than 3 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

Explanatory note

This amendment brings the subsections into line with current drafting practice. In particular, it removes a provision that requires the instrument of appointment to state the period of appointment. The Legislation Act, section 206 (2) provides that, if a law provides for a maximum period of appointment, the period of appointment must be stated in the instrument of appointment. The amendment also updates standard appointment notes.

[3.3] Section 9 (1) (a)

omit

pecuniary

substitute

financial

Explanatory note

This amendment updates language.

[3.4] Section 11

omit everything before paragraph (a), substitute

11 Ending of appointment

The Minister must end the appointment of a member if the member—

Explanatory note

This amendment updates language (replacing ‘terminate’ with ‘end’). ‘End’ is the drafting term that is now used in relation to appointments.

[3.5] Section 15, definition of *owner*

omit

for

substitute

of

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.6] Section 15, definition of *public authority*, paragraph (b)

omit

body corporate

substitute

corporation

Explanatory note

This amendment updates language.

[3.7] Section 15, definition of *value*

omit

for

substitute

of

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.8] Section 22 (2)

omit

(as the case requires)

Explanatory note

This amendment omits unnecessary words.

[3.9] Section 22 (2), new note

insert

Note For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.10] Section 29

substitute

29 Appointment

The board may appoint a person as an inspector for this Act.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Explanatory note

This amendment omits the reference to the appointment being made in writing. The Legislation Act, section 206 provides that an appointment must be made, or evidenced, in writing. The amendment also inserts standard notes about appointments.

[3.11] Section 31 (4)

omit

(as the case requires)

Explanatory note

This amendment omits unnecessary words.

[3.12] Dictionary, new notes

insert

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- appoint
- document
- exercise
- function
- Minister
- penalty unit (see s 133)
- State
- the Territory.

Explanatory note

This amendment inserts standard dictionary notes.

[3.13] Dictionary, definitions of *owner* and *project owner*

substitute

owner, of land, for part 3 (Levy on building and construction work)—see section 15.

project owner, for work, for part 3 (Levy on building and construction work)—see section 15.

Explanatory note

This amendment brings the signpost definitions into line with current drafting practice.

[3.14] Dictionary, new definition of *qualified valuer*

insert

qualified valuer, for part 3 (Levy on building and construction work)—see section 15.

Explanatory note

This amendment inserts a signpost definition in line with current drafting practice.

[3.15] Dictionary, definition of *value*

substitute

value, of work, for part 3 (Levy on building and construction work)—see section 15.

Explanatory note

This amendment brings the signpost definition into line with current drafting practice.

Part 3.3 **Building and Construction
Industry Training Levy
Regulations 2001**

[3.16] Regulation 3 heading

substitute

3 **Qualified valuer—Act, s 15, def *qualified valuer***

Explanatory note

This amendment brings the provision heading into line with current drafting practice.

[3.17] Regulation 3 (1) (b), new note

insert

Note *State* is defined in the Legislation Act, dict, pt 1.

Explanatory note

This amendment inserts a new note, to help the reader find the meaning of a term used in the provision.

Part 3.4 Bushfire Inquiry (Protection of Statements) Act 2003

[3.18] New section 5 (4)

insert

- (4) This Act is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

Explanatory note

The *Bushfire Inquiry (Protection of Statements) Act 2003* (the *Inquiry Act*), section 4 provides a defence to an action for defamation in relation to making of statements, or the giving of documents, to the McLeod Inquiry into the operational response to the January 2003 bushfires in the ACT. It also provides a defence to an action for defamation arising from the publication of certain reports of the inquiry, or a fair summary of them or extract from them.

The Legislation Act, section 88 (2), provides that if a law (the *savings law*) declares that a law (the *declared law*) is a law to which that section applies, the effect of the declared law does not end only because of the repeal of the declared law (which includes its expiry—see Legislation Act, section 82, definition of *repeal*).

The Inquiry Act, section 5 provides for the expiry of the Act on 30 September 2003, or on a later date determined by the Minister. The proposed amendment removes any doubt about whether the defence provided by the Act would still be available after 30 September 2003 (or after any Ministerially declared later date).

Part 3.5 Civil Law (Wrongs) Act 2002

[3.19] Section 38 (3), definition of ABS

omit

Explanatory note

This amendment is consequential on the next amendment.

[3.20] Section 38 (3), definition of *average weekly earnings*

substitute

average weekly earnings means—

- (a) the average weekly earnings, States and Territories, seasonally adjusted for the ACT (all males total earnings) contained in *Average Weekly Earnings, Australia* issued by the Australian Statistician; or
- (b) if the Australian Statistician issues a publication (however described) containing average weekly earnings in substitution for, or instead of, the average weekly earnings mentioned in paragraph (a)—the substituted average weekly earnings.

Explanatory note

This amendment replaces an incorrect reference to the ABS (the Australian Bureau of Statistics) with a reference to the ‘Australian Statistician’ and updates the reference to the publication issued by the Australian Statistician.

Part 3.6 **Crimes (Forensic Procedures)
Act 2000**

[3.21] Section 18, table, item 1, column 2

omit

17

substitute

19

Explanatory note

This amendment updates a cross-reference.

Part 3.7 Discrimination Act 1991

[3.22] Title

omit

render

substitute

make

Explanatory note

This amendment updates language.

[3.23] Section 1

substitute

1 Name of Act

This Act is the *Discrimination Act 1991*.

Explanatory note

This amendment revises the section providing for the Act's name to bring it into line with current drafting practice.

[3.24] Section 3

renumber as section 4

Explanatory note

New section 2 (Dictionary) and new section 3 (Notes) are inserted by a later amendment, so this amendment renumbers existing section 3 as new section 4.

[3.25] Section 4 (1), definition of *commissioner*

substitute

commissioner means the Discrimination Commissioner.

Explanatory note

This amendment updates the definition.

[3.26] Section 4 (1), definition of *contract worker*

substitute

contract worker means a person (the ***worker***) who does work for someone else (the ***third person***) under a contract between the worker's employer and the third person.

Explanatory note

This amendment revises the language of the definition to bring it more closely into line with current drafting practice.

[3.27] Section 4 (1), new definition of *disability*

insert

disability—see section 5AA (Meaning of ***disability***).

Explanatory note

This amendment inserts a new definition of ***disability*** that replaces the existing definition of ***impairment*** (omitted by the next amendment). The term 'disability' is to be used in the Act instead of 'impairment'.

This is a textual change that brings terminology used in the Act into line with other legislation (including the *Disability Services Act 1991* (ACT) and the *Disability Discrimination Act 1992* (Cwlth)) and common usage.

[3.28] Section 4 (1), definition of *impairment*

omit

Explanatory note

This amendment is consequential to the above amendment.

[3.29] Section 4 (1), definition of *principal*

substitute

principal means—

- (a) for a commission agent—a person for whom the commission agent does work as a commission agent; or

- (b) for a contract worker—a person for whom the contract worker does work under a contract between the contract worker’s employer and the person.

Explanatory note

This amendment revises the language of the definition to bring it more closely into line with current drafting practice.

[3.30] Section 4 (1), definition of *relevant class of persons*

substitute

relevant class of people means a class of people whose members are identified by reference to an attribute mentioned in section 7.

Explanatory note

This amendment revises the definition to bring it more closely into line with current drafting practice.

[3.31] Section 4 (1), definition of *services*, paragraph (e)

substitute

- (e) services provided by a government, government authority, local government body or corporation in which a government has a controlling interest; and

Explanatory note

This amendment replaces the reference to ‘a company or other body corporate’ with ‘corporation’. *Corporation* is defined in the Legislation Act, dictionary, part 1 to include a body politic or corporate.

[3.32] Section 4 (1), definitions (as amended)

relocate to dictionary

Explanatory note

This amendment relocates the definitions to a new dictionary inserted by a later amendment.

[3.33] Section 4, remainder

substitute

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition ‘*discriminate*—see section 8.’ means that the word ‘discriminate’ is defined in section 8.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment inserts standard dictionary and notes provisions in line with current drafting practice. A new dictionary is inserted by a later amendment.

[3.34] New section 4A

insert

4A Meaning of *doing* an act

(1) In this Act:

doing an act includes failing to do the act.

Note The Legislation Act, dict, pt 1 defines *fail* to include refuse.

(2) In this Act, a reference to doing an act because of a particular matter includes a reference to doing an act because of 2 or more matters

that include the particular matter, whether or not the particular matter is the dominant or substantial reason for doing the act.

Explanatory note

This amendment converts former section 4 (2) into a new definition of *doing* in new section 4A (1), and former section 4 (3) into new section 4A (2), in line with current drafting practice.

[3.35] Section 5

substitute

5 Meaning of *complainant* and *respondent*

In this Act:

complainant means—

- (a) for a complaint lodged by an agent—the person or each person on whose behalf the complaint is lodged; and
- (b) for an investigation for which there are 2 or more complainants—each complainant.

respondent means—

- (a) for a complaint—the person who is alleged to have done the act or acts to which the complaint relates; and
- (b) for an investigation of a complaint for which there are 2 or more respondents—each respondent; and
- (c) for an investigation initiated by the commissioner—each person whose actions are the subject of the investigation.

Explanatory note

This amendment brings the definitions into line with current drafting practice.

[3.36] Section 5AA heading

omit

impairment

substitute

disability

Explanatory note

This amendment is consequential on the next amendment.

[3.37] Section 5AA (1), definition of *impairment*

omit

impairment

substitute

disability

Explanatory note

This amendment amends what was the definition of *impairment* to make it a definition of *disability*. The term ‘disability’ is to be used in the Act instead of ‘impairment’.

This is a textual change that brings terminology used in the Act into line with other legislation (including the *Disability Services Act 1991* (ACT) and the *Disability Discrimination Act 1992* (Cwlth)) and common usage.

[3.38] Section 5AA (2)

omit

impairment includes an impairment

substitute

disability includes a disability

Explanatory note

This amendment is consequential on the change of terminology from ‘impairment’ to ‘disability’.

[3.39] Section 5AA (2) (a) to (c)

omit

impairment

substitute

disability

Explanatory note

This amendment is consequential on the change of terminology from ‘impairment’ to ‘disability’.

[3.40] Section 5A

omit everything before paragraph (a), substitute

5A Meaning of *potential pregnancy*

In this Act:

potential pregnancy, of a woman, includes—

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.41] Section 6

substitute

6 MLAs as employers

(1) For this Act, a member of the Legislative Assembly (in his or her capacity as an office-holder or otherwise) is taken to be an employer in relation to a person who is, or who is seeking to be, employed under the *Legislative Assembly (Members’ Staff) Act 1989*, section 5 or 10 as a member of the staff of the member.

(2) In this section:

office-holder—see the *Legislative Assembly (Members’ Staff) Act 1989*, section 3.

Explanatory note

This amendment updates language and brings the form of the provision in line with current drafting practice. In particular, the Legislation Act, dictionary, part 1 defines *for*, in relation to an Act, to include for the purposes of the Act.

[3.42] Section 7 (1) (j)

substitute

(j) disability;

Explanatory note

This amendment replaces ‘impairment’ with ‘disability’. The term ‘disability’ is to be used in the Act instead of ‘impairment’.

This is a textual change that brings terminology used in the Act into line with other legislation (including the *Disability Services Act 1991* (ACT) and the *Disability Discrimination Act 1992* (Cwlth)) and common usage.

[3.43] Section 7 (2)

omit everything before paragraph (a), substitute

(2) In this Act, a reference to an attribute mentioned in subsection (1) includes—

Explanatory note

This amendment updates language.

[3.44] Section 8 (3)

omit

determining

substitute

deciding

Explanatory note

This amendment updates language.

[3.45] Section 9 (2)

substitute

- (2) This section does not limit the operation of section 8 in relation to discrimination on the ground of disability.

Explanatory note

This amendment updates language and is also consequential on the change of terminology from ‘impairment’ to ‘disability’.

[3.46] Section 9 (3)

omit

Nothing in this Act shall be taken to

substitute

This Act does not

Explanatory note

This amendment updates language.

[3.47] Section 9 (4), definition of *assistance animal*

omit

a disability

substitute

the person’s disability

Explanatory note

This amendment is consequential on the change of terminology from ‘impairment’ to ‘disability’.

[3.48] Section 10 (1) (a) and (b)

omit

determining

substitute

deciding

Explanatory note

This amendment updates language.

[3.49] Section 12 (1) (a) and (b)

omit

determining

substitute

deciding

Explanatory note

This amendment updates language.

[3.50] Section 14 (1) (a) and (2) (a)

omit

determining

substitute

deciding

Explanatory note

This amendment updates language.

[3.51] Section 15 (2) (a)

omit

refusing or

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines *fail* to include refuse.

[3.52] Section 15 (2), new note

insert

Note The Legislation Act, dict, pt 1 defines *fail* to include refuse.

Explanatory note

This amendment inserts a note to remind readers about the extended meaning of *fail*.

[3.53] Section 16 (a)

omit

refusing or

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines *fail* to include refuse.

[3.54] Section 16, new note

insert

Note The Legislation Act, dict, pt 1 defines *fail* to include refuse.

Explanatory note

This amendment inserts a note to remind readers about the extended meaning of *fail*.

[3.55] Section 18 (1) (a)

omit

refusing or

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines *fail* to include refuse.

[3.56] Section 18 (1), new note

insert

Note The Legislation Act, dict, pt 1 defines *fail* to include refuse.

Explanatory note

This amendment inserts a note to remind readers about the extended meaning of *fail*.

[3.57] Section 19 (a)

after

premises

insert

(public premises)

Explanatory note

This amendment inserts a tagged-term definition to allow the language of the section to be updated.

[3.58] Section 19 (b)

omit

any such

substitute

public

Explanatory note

This amendment updates language.

[3.59] Section 19 (c)

omit

such

substitute

public

Explanatory note

This amendment updates language.

[3.60] Section 19 (d)

substitute

- (d) by refusing to allow the other person the use of any facilities (*public facilities*) in public premises that the public or a section of the public is entitled or allowed to use (whether for payment or not); or

Explanatory note

This amendment inserts a tag-term definition to allow the language of the section to be updated and updates language.

[3.61] Section 19 (e)

omit

any such

substitute

public

Explanatory note

This amendment updates language.

[3.62] Section 19 (f)

omit

such

substitute

public

Explanatory note

This amendment updates language.

[3.63] Section 20

omit 1st mention of

person

substitute

person (the *provider*)

Explanatory note

This amendment allows the next amendment to update language by replacing ‘firstmentioned’ with the tag term ‘provider’.

[3.64] Section 20 (b) and (c)

omit

firstmentioned person

substitute

provider

Explanatory note

This amendment updates language.

[3.65] Section 22 (1) (a)

omit

refusing or

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines *fail* to include refuse.

[3.66] Section 22 (1), new note

insert

Note The Legislation Act, dict, pt 1 defines *fail* to include refuse.

Explanatory note

This amendment inserts a note to remind readers about the extended meaning of *fail*.

[3.67] Section 22 (2) (b)

omit

refusing or

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines *fail* to include refuse.

[3.68] Sections 24 and 25

substitute

24 Domestic duties

Section 10 (1) (a) or (b) or section 13 (b) does not make it unlawful for a person (the *first person*) to discriminate against someone else in relation to a position as an employee or contract worker if the duties of the position involve doing domestic duties on the premises where the first person lives.

25 Residential care of children

Section 10 (1) (a) or (b) or section 13 (b) does not make it unlawful for a person to discriminate against someone else in relation to a position as an employee or contract worker if the duties of the position involve the care of a child where the child lives.

Explanatory note

This amendment updates language.

[3.69] Section 25A

omit

Nothing in this Act prevents

substitute

This Act does not prevent

Explanatory note

This amendment updates language.

[3.70] Section 26A

substitute

26A Preselection by employment agencies

Part 3 or 4 does not make unlawful discrimination by an employment agency in the selection of people as suitable for a job vacancy if, had the proposed employer discriminated against the person in the same way, the discrimination would not have been unlawful.

Explanatory note

This amendment updates language.

[3.71] Section 27 (1)

omit

Nothing in part 3 renders

substitute

Part 3 does not make

Explanatory note

This amendment updates language.

[3.72] Section 28

substitute

28 Insurance

Part 3 does not make it unlawful for a person (the *first person*) to discriminate against someone else (the *second person*) in relation to the terms on which an annuity or policy of insurance is offered to, or may be obtained by, the second person, if the discrimination is reasonable in the circumstances, having regard to any actuarial or statistical data on which it is reasonable for the first person to rely.

Explanatory note

This amendment updates language.

[3.73] Section 29 (1)

omit

Nothing in part 3 renders

substitute

Part 3 does not make

Explanatory note

This amendment updates language.

[3.74] Section 29 (2)

omit everything before paragraph (a), substitute

- (2) For discrimination on the ground of age, subsection (1) applies only if—

Explanatory note

This amendment updates language.

[3.75] Section 29 (3) (a) and (4)

omit

the commencement date

substitute

4 March 1994

Explanatory note

This amendment replaces a reference to the commencement date with the actual date to assist readers.

[3.76] Section 29 (5), definition of *commencement date*

omit

Explanatory note

This amendment omits the definition consequential on the substitution of the actual date by other amendments.

[3.77] Section 29 (5), definitions of *existing superannuation fund condition* and *new superannuation fund condition*

omit

the commencement date

substitute

4 March 1994

Explanatory note

This amendment replaces references to the commencement date with the actual date to assist readers.

[3.78] Section 30 (1)

omit

Nothing in this Act renders

substitute

This Act does not make

Explanatory note

This amendment updates language.

[3.79] Section 31

substitute

31 Voluntary bodies

Part 3 does not make it unlawful for a voluntary body to discriminate against a person in relation to—

- (a) the admission of people as members of the body; or
- (b) the provision of benefits, facilities or services to people, whether the people are members of the body or otherwise.

Explanatory note

This amendment updates language.

[3.80] Section 32

omit

Nothing in part 3 applies

substitute

Part 3 does not apply

Explanatory note

This amendment updates language.

[3.81] Section 33 (1)

omit everything before paragraph (a), substitute

- (1) Section 10 or 13 does not make it unlawful for a person (the ***first person***) to discriminate against someone else in relation to—

Explanatory note

This amendment updates language and allows a later amendment to replace ‘firstmentioned’ with the tag term ‘first person’.

[3.82] Section 33 (1) (b)

omit

the doing of work

substitute

doing work

Explanatory note

This amendment simplifies language as a result of the new definition of ***doing*** an act (see proposed new section 4A (Meaning of ***doing*** an act)) inserted by an earlier amendment.

[3.83] Section 33 (1)

omit

firstmentioned

substitute

first

Explanatory note

This amendment updates language.

[3.84] Section 33 (2)

omit everything before

the provision

substitute

- (2) Section 18 does not make it unlawful for a person (the *first person*) to discriminate against someone else in relation to

Explanatory note

This amendment updates language.

[3.85] Section 33 (2)

omit

firstmentioned

substitute

first

Explanatory note

This amendment updates language.

[3.86] Section 34 heading

substitute

34 Genuine occupational qualifications—sex

Explanatory note

This amendment distinguishes the section heading from other section headings in the Act.

[3.87] Section 34 (1)

substitute

- (1) Section 10 (1) (a) or (b), section 12 (1) (a) or (b), section 13 (b) or section 14 (1) (a) or (2) (a) does not make it unlawful for a person to discriminate against someone else (the *relevant person*) on the ground of sex in relation to a position as an employee, commission

agent, contract worker or partner if it is a genuine occupational qualification for the position that the position be filled by a person of the opposite sex to the relevant person.

Explanatory note

This amendment updates language.

[3.88] Section 34 (2)

omit

the generality of

Explanatory note

This amendment omits unnecessary words.

[3.89] Section 36

omit

Nothing in section 18 renders

substitute

Section 18 does not make

Explanatory note

This amendment updates language.

[3.90] Section 36

omit

refusal or

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines *fail* to include refuse.

[3.91] Section 36, new note

insert

Note The Legislation Act, dict, pt 1 defines *fail* to include refuse.

Explanatory note

This amendment inserts a note to remind readers about the extended meaning of *fail*.

[3.92] Section 37

substitute

37 Pregnancy, childbirth or breastfeeding

Part 3 does not make it unlawful for a person to discriminate against a man on the ground of sex only because the person gives a woman rights or privileges in relation to pregnancy, childbirth or breastfeeding.

Explanatory note

This amendment updates language.

[3.93] Section 38

omit

Nothing in part 3 renders

substitute

Part 3 does not make

Explanatory note

This amendment updates language.

[3.94] Section 39 (1) (a)

omit

determined

substitute

decided

Explanatory note

This amendment updates language.

[3.95] Section 39 (2)

substitute

- (2) Part 3 does not make unlawful discrimination on the ground of sex in relation to the provision of accommodation if the accommodation is provided solely for people of one sex who are students at an educational institution.

Explanatory note

This amendment updates language.

[3.96] Section 40 (1)

omit

Nothing in section 22 renders

substitute

Section 22 does not make

Explanatory note

This amendment updates language.

[3.97] Section 40 (2)

omit

Nothing in section 22 (1) (b) or 22 (2) renders

substitute

Section 22 (1) (b) or 22 (2) does not make

Explanatory note

This amendment updates language.

[3.98] Section 40 (3)

omit everything before paragraph (a), substitute

- (3) In deciding any matter relating to the application of subsection (2), the following must be taken into account:

Explanatory note

This amendment updates language.

[3.99] Section 40 (3) (a) to (c)

omit

and

Explanatory note

This amendment is consequential on another amendment of section 40 (3).

[3.100] Section 40 (3) (d)

omit

women; and

substitute

women;

Explanatory note

This amendment is consequential on another amendment of section 40 (3).

[3.101] Section 41 (1)

omit

Nothing in part 3 renders

substitute

Part 3 does not make

Explanatory note

This amendment updates language.

[3.102] Section 42 heading

substitute

42 Genuine occupational qualifications—race

Explanatory note

This amendment distinguishes the section heading from other section headings in the Act.

[3.103] Section 42 (1)

substitute

- (1) Section 10 (1) (a) or (b), section 12 (1) (a) or (b), section 13 (b) or section 14 (1) (a) or (2) (a) does not make it unlawful for a person to discriminate against someone else (the *relevant person*) on the ground of race in relation to a position as an employee, commission agent, contract worker or partner if it is a genuine occupational qualification for the position that the position be filled by a person of a different race to the relevant person.

Explanatory note

This amendment updates language.

[3.104] Section 42 (2)

omit

the generality of

Explanatory note

This amendment omits unnecessary words.

[3.105] Section 43 (1) and (2)

substitute

- (1) Section 22 does not make unlawful discrimination on the ground of race in relation to a club that has as its principal object providing benefits for people of a stated race if those people are described other than—
- (a) by reference to colour; or

- (b) in a way that has the effect of excluding some members of that race on the basis of colour.
- (2) In deciding what the principal object of the club is for subsection (1), the following must be taken into account:
 - (a) the essential character of the club;
 - (b) if the people mainly enjoying the benefits of membership are of the race stated in the principal object;
 - (c) any other relevant circumstance.

Explanatory note

This amendment updates language.

[3.106] Section 44

omit everything before paragraph (a), substitute

44 Religious workers

Section 10 (1) (a) or (b), section 12 (1) (a) or (b), section 13 (b) or section 14 (1) (a) or (2) (a) does not make unlawful—

Explanatory note

This amendment updates language.

[3.107] Section 45

omit everything before paragraph (a), substitute

45 Political workers etc

Section 10 (1) (a) or (b), section 12 (1) (a) or (b), section 13 (b) or section 14 (1) (a) or (2) (a) does not make unlawful discrimination on the ground of political conviction in relation to employment or work—

Explanatory note

This amendment updates language.

[3.108] Section 46

omit

Nothing in section 18 renders

substitute

Section 18 does not make

Explanatory note

This amendment updates language.

[3.109] Section 46

omit

refusal or

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines *fail* to include refuse.

[3.110] Section 46, new note

insert

Note The Legislation Act, dict, pt 1 defines *fail* to include refuse.

Explanatory note

This amendment inserts a note to remind readers about the extended meaning of *fail*.

[3.111] Section 47

substitute

47 Unjustifiable hardship

In deciding what is unjustifiable hardship for this division, all the relevant circumstances of the particular case must be taken into account, including the following:

- (a) the nature of the benefit or detriment likely to accrue or be suffered by all people concerned;

- (b) the nature of the disability of the person concerned;
- (c) the financial circumstances of, and the estimated amount of expenditure by, the person claiming unjustifiable hardship.

Explanatory note

This amendment updates language.

[3.112] Section 48

omit everything before paragraph (a), substitute

48 Genuine occupational qualifications—disability

Section 10 (1) (a) or (b), section 12 (1) (a) or (b), section 13 (b) or section 14 (1) (a) or (2) (a) does not make it unlawful to discriminate against a person on the ground of disability in relation to employment or work that involves any of the following activities:

Explanatory note

This amendment distinguishes the section heading from other section headings in the Act and updates language.

[3.113] Section 48 (c)

substitute

- (c) providing people who have a particular disability with services for the purpose of promoting their welfare, if the services can most effectively be provided by a person with a similar disability;

Explanatory note

This amendment updates language.

[3.114] Section 49 (2)

omit everything before paragraph (a), substitute

- (2) Section 10 (1) (c) or (2) (a) or (b), section 12 (1) (c) or (2) (a) or (b), section 13 (a) or (c) or section 14 (1) (b), (2) (b) or (3) (a) does not make it unlawful for a person (the ***first person***) to discriminate

against someone else on the ground of disability in relation to any setting by the first person of terms or conditions for the performance of work that is essential to the position concerned, if the terms or conditions are reasonable having regard to either or both of the following:

Explanatory note

This amendment updates language.

[3.115] Section 49 (3)

substitute

(3) In this section:

disability, of a person, includes a disability that the person has.

Note ***Disability*** is defined for the Act in s 5AA.

Explanatory note

This amendment amends what was the definition of ***impairment*** for the section to make it a definition of ***disability***. The term ‘disability’ is to be used in the Act instead of ‘impairment’.

This is a textual change that brings terminology used in the Act into line with other legislation (including the *Disability Services Act 1991* (ACT) and the *Disability Discrimination Act 1992* (Cwlth)) and common usage.

[3.116] Section 50 (2)

substitute

(2) In this section:

disability, of a person, includes a disability that the person has.

Note ***Disability*** is defined for the Act in s 5AA.

Explanatory note

This amendment amends what was the definition of ***impairment*** for the section to make it a definition of ***disability***. The term ‘disability’ is to be used in the Act instead of ‘impairment’.

This is a textual change that brings terminology used in the Act into line with other legislation (including the *Disability Services Act 1991* (ACT) and the *Disability Discrimination Act 1992* (Cwlth)) and common usage.

[3.117] Section 51 (1)

omit

Nothing in section 18 renders

substitute

Section 18 does not make

Explanatory note

This amendment updates language.

[3.118] Section 51 (1)

omit

refusal or

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines *fail* to include refuse.

[3.119] Section 51 (1), new note

insert

Note The Legislation Act, dict, pt 1 defines *fail* to include refuse.

Explanatory note

This amendment inserts a note to remind readers about the extended meaning of *fail*.

[3.120] Section 51 (2)

omit

Nothing in section 18 renders

substitute

Section 18 does not make

Explanatory note

This amendment updates language.

[3.121] Section 51 (2)

omit

refusal or

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines *fail* to include refuse.

[3.122] Section 52 (1)

omit

Nothing in section 19 renders

substitute

Section 19 does not make

Explanatory note

This amendment updates language.

[3.123] Section 53

substitute

53 Discrimination in the provision of goods and services

- (1) Section 20 does not make unlawful discrimination on the ground of disability in relation to the provision of goods, services or facilities if—
 - (a) because of a person's disability, the goods, services or facilities would have to be provided in a special way; and
 - (b) their provision in that way would impose unjustifiable hardship on the person providing, or proposing to provide, the goods, services or facilities.

(2) In this section:

services includes services provided by an employment agency.

Explanatory note

This amendment updates language and brings the provision into line with current drafting practice.

[3.124] Section 54

omit

Nothing in section 21 renders

substitute

Section 21 does not make

Explanatory note

This amendment updates language.

[3.125] Section 55 (1)

omit

Nothing in section 22 renders

substitute

Section 22 does not make

Explanatory note

This amendment updates language.

[3.126] Section 55 (2)

substitute

(2) In deciding what the principal object of a club is for subsection (1), the following must be taken into account:

- (a) the essential character of the club;
- (b) if the people mainly enjoying the benefits of membership have the particular disability;

- (c) any other relevant circumstance.

Explanatory note

This amendment updates language.

[3.127] Section 55 (3)

substitute

- (3) Section 22 does not make it unlawful to discriminate against a person on the ground of disability if the discrimination is in relation to the enjoyment of any benefit provided by a club if—
- (a) because of the person's disability, the benefit would have to be provided to the person in a special way; and
 - (b) the provision of the benefit in that way would impose unjustifiable hardship on the club.

Explanatory note

This amendment updates language.

[3.128] Sections 56 and 57 (1)

omit

Nothing in part 3 renders

substitute

Part 3 does not make

Explanatory note

This amendment updates language.

[3.129] Section 57 (1) (b)

substitute

- (b) if the activity is conducted for, or mainly for, people who have a particular kind of disability—the person does not have a disability of that kind.

Explanatory note

This amendment updates language.

[3.130] Section 57A

omit everything before paragraph (a), substitute

57A Genuine occupational qualifications—age

Section 10 (1) (a) or (b), section 12 (1) (a) or (b), section 13 (b) or section 14 (1) (a) or (2) (a) does not make it unlawful to discriminate against a person on the ground of age in relation to employment or work that involves any of the following activities:

Explanatory note

This amendment distinguishes the section heading from other section headings in the Act and updates language.

[3.131] Section 57A (c)

substitute

- (c) providing people belonging to a particular age group with services for the purpose of promoting their welfare, if the services can most effectively be provided by a person belonging to a particular age group.

Explanatory note

This amendment updates language.

[3.132] Section 57B (1) and (2)

substitute

- (1) This section applies if an award provides for the payment of reduced wages to employees under 21 years old.
- (2) If this section applies, section 10 (1) or 10 (2) (a) or (b) does not make it unlawful for an employer to discriminate against a person on the ground of age—
 - (a) if the person is 21 years old or older—in relation to the offer of employment to a person under 21 years old; or
 - (b) if the person is under 21 years old—in relation to the payment of reduced wages to the person in accordance with the award.

Explanatory note

This amendment updates language.

[3.133] Section 57C

substitute

57C Employment and work—health and safety

- (1) Section 10 (1) (c) or (2) (a) or (b), section 12 (1) (c) or (2) (a) or (b), section 13 (a) or (c) or section 14 (1) (b), (2) (b) or (3) (a) does not make it unlawful to discriminate against a person on the ground of age in relation to employment or work, or qualifications for employment or work, if the discrimination is practised in order to comply with reasonable health and safety requirements relevant to the employment or work.
- (2) In deciding what health and safety requirements are reasonable for subsection (1), all the relevant circumstances of the particular case must be taken into account, including the effects of the discrimination on the person discriminated against.

Explanatory note

This amendment updates language.

[3.134] Section 57E (1)

substitute

- (1) Section 18 does not make it unlawful to discriminate against a person on the ground of age in relation to the admission of the person to an educational institution if the level of education or training sought is provided only for students older than a particular age.

Explanatory note

This amendment updates language.

[3.135] Section 57E (2)

omit

Nothing in section 18 renders it unlawful to refuse or fail

substitute

Section 18 does not make it unlawful to fail

Explanatory note

This amendment updates language and omits unnecessary words. The Legislation Act, dictionary, part 1 defines *fail* to include refuse.

[3.136] Section 57E (2), new note

insert

Note The Legislation Act, dict, pt 1 defines *fail* to include refuse.

Explanatory note

This amendment inserts a note to remind readers about the extended meaning of *fail*.

[3.137] Section 57G

substitute

57G Legal incapacity

Part 3 does not make it unlawful to discriminate against a person on the ground of age in relation to a transaction if the person is subject to a legal incapacity because of his or her age and the incapacity is relevant to the transaction.

Explanatory note

This amendment updates language.

[3.138] Section 57H

substitute

57H Benefits and concessions

Division 3.2 does not make it unlawful to discriminate against a person in relation to the provision of genuine benefits, including concessions, to someone else because of his or her age.

Explanatory note

This amendment updates language.

[3.139] Section 57J (1)

omit

Nothing in section 19 or 20 renders

substitute

Section 19 or 20 does not make

Explanatory note

This amendment updates language.

[3.140] Section 57J (2)

substitute

- (2) In deciding what health and safety requirements are reasonable for subsection (1), all the relevant circumstances of the particular case must be taken into account, including the effects of the discrimination on the person discriminated against.

Explanatory note

This amendment updates language.

[3.141] Section 57K

omit

Nothing in section 20 or 21 renders

substitute

Section 20 or 21 does not make

Explanatory note

This amendment updates language.

[3.142] Section 57L

substitute

57L Clubs

- (1) Section 20 or 22 does not make it unlawful for a club to discriminate against a person on the ground of age if the club's principal object is providing benefits for people belonging to a particular age group.
- (2) In deciding what the principal object of a club is for subsection (1), the following must be taken into account:
- (a) the essential character of the club;
 - (b) if the people mainly enjoying the benefits of membership belong to the particular age group stated in the club's objects;

- (c) any other relevant circumstances.

Explanatory note

This amendment updates language.

[3.143] Section 57M

substitute

57M Sport

- (1) Part 3 does not make it unlawful to discriminate against a person on the ground of age by his or her exclusion from participation in any competitive sport if competition is only allowed between people belonging to a particular age group.
- (2) This section does not apply in relation to the exclusion of people from participation in—
 - (a) coaching people doing any sporting activity; or
 - (b) umpiring or refereeing any sporting activity; or
 - (c) administering any sporting activity; or
 - (d) any sporting activity prescribed under the regulations.

Explanatory note

This amendment updates language.

[3.144] Section 57N

omit

Nothing in part 3 renders

substitute

Part 3 does not make

Explanatory note

This amendment updates language.

[3.145] Section 58

substitute

58 Meaning of *sexual harassment* for pt 5

(1) In this part:

sexual harassment—a person subjects someone else to *sexual harassment* if the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person or engages in other unwelcome conduct of a sexual nature in circumstances in which the other person reasonably feels offended, humiliated or intimidated.

(2) In this section:

conduct, of a sexual nature, includes the making of a statement of a sexual nature to, or in the presence of, a person, whether the statement is made orally or in writing.

Explanatory note

This amendment brings the form of the provision into line with current drafting practice.

[3.146] Section 65 heading

substitute

65 Meaning of *public act* for pt 6

Explanatory note

This amendment brings the heading into line with current drafting practice.

[3.147] Section 65, definition of *public act*, paragraph (b)

omit

not being

substitute

other than

Explanatory note

This amendment updates language.

[3.148] Section 66 (2)

omit everything before paragraph (a), substitute

- (2) This section does not make unlawful—

Explanatory note

This amendment updates language.

[3.149] Section 68 (1)

omit everything before paragraph (a), substitute

- (1) It is unlawful for a person (the ***first person***) to subject someone else to any detriment on the ground that the other person has—

Explanatory note

This amendment updates language and allows a later amendment to update language by replacing ‘firstmentioned’ with the tag term ‘***first person***’.

[3.150] Section 68 (1) (c)

substitute

- (c) given information or produced a document to a person exercising a function under or for this Act; or

Explanatory note

This amendment omits unnecessary words and updates language. ***Function*** is defined in the Legislation Act, dictionary, to include authority, duty and power.

[3.151] Section 68 (1)

omit

firstmentioned

substitute

first

Explanatory note

This amendment updates language.

[3.152] Section 70 heading

substitute

70 Meaning of *party* for pt 8

Explanatory note

This amendment brings the heading into line with current drafting practice.

[3.153] Section 71 (2)

omit everything before

conduct

substitute

- (2) If, apart from an exception, excuse, qualification or exemption under this Act,

Explanatory note

This amendment updates language and omits unnecessary words. The Legislation Act, dict, pt 1 defines *under* to include ‘by virtue of’.

[3.154] Section 72 (2)

omit everything before paragraph (b), substitute

- (2) A person must not act as an agent unless the person is—
- (a) authorised in writing to act on behalf of the aggrieved person or people concerned; or

Explanatory note

This amendment updates language.

[3.155] Section 73

omit everything before paragraph (a), substitute

73 Investigation

The commissioner must investigate a complaint made in accordance with section 72 to decide—

Explanatory note

This amendment updates language.

[3.156] Section 74

substitute

74 Notice of investigation

Before beginning an investigation in relation to a complaint, the commissioner must give each party written notice that the complaint is to be investigated.

Explanatory note

This amendment updates language.

[3.157] Section 75 (1)

substitute

- (1) Subject to this part, an investigation is to be conducted in the way the commissioner considers appropriate.

Explanatory note

This amendment updates language.

[3.158] Section 79 heading

omit

precluded

substitute

prevented

Explanatory note

This amendment updates language.

[3.159] Section 79

omit

Nothing in section 78 prevents

substitute

Section 78 does not prevent

Explanatory note

This amendment updates language.

[3.160] Section 80 (1)

omit

of his or her own motion

substitute

on his or her own initiative

Explanatory note

This amendment updates language.

[3.161] Section 81 (1)

substitute

- (1) If, because of the investigation of a complaint lodged under section 72, the commissioner decides that a relevant ground exists in relation to the complaint, the commissioner must decline the complaint.

Explanatory note

This amendment updates language.

[3.162] Section 81 (2)

omit

the purposes of

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines *for*, in relation to an Act, to include for the purposes of the Act.

[3.163] Section 82 (3)

substitute

- (3) A conference must be held in private and is to be conducted in the way the commissioner considers appropriate.

Explanatory note

This amendment updates language.

[3.164] Section 82 (4) (a)

substitute

- (a) an individual is not entitled to be represented at a conference by someone else; and

Explanatory note

This amendment updates language and replaces ‘natural person’ with ‘individual’. *Individual* is defined in the Legislation Act, dictionary, part 1 to mean a natural person.

[3.165] Section 82 (4) (b)

omit

of persons (whether incorporated or unincorporated)

Explanatory note

This amendment omits an unnecessary reference to body ‘of persons (whether incorporated or unincorporated)’. *Body* is defined in the Legislation Act, dictionary, part 1 to include any group of people joined together for a common purpose, whether incorporated or unincorporated.

[3.166] Section 83 (2)

omit

determined

substitute

decided

Explanatory note

This amendment updates language.

[3.167] Section 84

substitute

84 Conduct of conciliation

Conciliation is to be conducted in the way the commissioner considers appropriate.

Explanatory note

This amendment updates language.

[3.168] Section 91 (1) (c) and (d)

omit

determine

substitute

decide

Explanatory note

This amendment updates language.

[3.169] Section 92 (2)

substitute

- (2) The tribunal may, on application or its own initiative, direct that a hearing or part of a hearing take place in private and give directions about the people who may be present.

Explanatory note

This amendment updates language.

[3.170] Section 93 (1)

substitute

- (1) The tribunal may sit in the places in the ACT that the president decides.

Explanatory note

This amendment updates language. In particular, when ‘the Territory’ is used in the geographical sense, current drafting practice is to use ‘ACT’ instead. *ACT* is defined in the Legislation Act, dictionary, part 1.

[3.171] Section 95 (2)

substitute

- (2) Subsection (1) does not prevent the representation of a party that is a body by a member, officer or employee of the party.

Explanatory note

This amendment updates language and omits an unnecessary reference to body ‘of persons’. **Body** is defined in the Legislation Act, dictionary, part 1 to include any group of people joined together for a common purpose, whether incorporated or unincorporated.

[3.172] Section 102 (3) (b) and (4) (b)

omit

determined

substitute

decided

Explanatory note

This amendment updates language.

[3.173] Section 105

omit

Nothing in this division permits

substitute

This division does not permit

Explanatory note

This amendment updates language.

[3.174] Section 106

omit

commencement

substitute

beginning

Explanatory note

This amendment updates language.

[3.175] Section 108 (1)

omit everything after paragraph (c), substitute

must not be published, or must not be published except in the way,
or to the people, the commissioner or tribunal specifies.

Explanatory note

This amendment updates language.

[3.176] Section 108C (4) (c)

substitute

- (c) must permit a person who would be entitled to inspect the document (if it was not in the possession of the commissioner or tribunal) to inspect the document at any reasonable time during the period.

Explanatory note

This amendment updates language.

[3.177] Section 108G

omit

nothing in this Act confers on

substitute

this Act does not give

Explanatory note

This amendment updates language.

[3.178] Section 108H

omit

shall, for the purposes of this Act, be taken

substitute

is taken, for this Act,

Explanatory note

This amendment updates language. The Legislation Act, dictionary, part 1 defines *for*, in relation to an Act, to include for the purposes of the Act.

[3.179] Section 108K (b)

omit

determines

substitute

decides

Explanatory note

This amendment updates language.

[3.180] Section 110A, new note

insert

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

Explanatory note

This amendment inserts a new note, consequent on the omission of section 110B (2) by the next amendment. Section 110B (2) stated that the tribunal has the powers necessary and convenient to exercise the tribunal's function.

[3.181] Section 110B

omit

Explanatory note

This amendment omits an unnecessary provision. Section 110B (1) states that the tribunal has the functions and powers given to it under the Act. It is not necessary to state that.

Section 110B (2) is not necessary, because the Legislation Act, section 196 provides that a provision of a law that gives a function to an entity (including a person) also gives the entity powers necessary and convenient to exercise the function.

[3.182] Section 110C (2), new notes

insert

Note 1 For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Explanatory note

This amendment inserts standard notes.

[3.183] Section 110E heading

substitute

110E Conditions of appointment generally

Explanatory note

This amendment updates language (replacing ‘terms’ with ‘conditions’) in line with current drafting practice.

[3.184] Section 110E (2)

omit

terms

substitute

conditions

Explanatory note

This amendment updates language in line with current drafting practice.

[3.185] Section 110F (b)

omit

Explanatory note

This amendment removes a provision that requires the instrument of appointment to state the period of appointment. The Legislation Act, section 206 (2) provides that, if a law provides for a maximum period of appointment (see section 110G (1)), the period of appointment must be stated in the instrument of appointment.

[3.186] Section 110F (c)

renumber as section 110F (b)

Explanatory note

This amendment provides for the consequential renumbering of a provision.

[3.187] Section 110G (2), new note

insert

Note A person's appointment also ends if the person resigns (see Legislation Act, s 210).

Explanatory note

This amendment inserts a standard note about the ending of an appointment.

[3.188] Section 110H (3)

omit

powers

substitute

functions

Explanatory note

The reference to 'powers' is replaced with 'functions' because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now.

[3.189] Section 110H (4)

substitute

- (4) The registrar may delegate the registrar's functions under this Act to a public servant.

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

Explanatory note

This amendment updates the delegation provision, as follows:

- the words 'in writing' have been omitted because the Legislation Act, section 232 provides that a delegation must be made, or evidenced, in writing;
- the word 'powers' is omitted because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now;
- the words 'all or any' (of the registrar's functions) have been omitted because the Legislation Act, section 234 provides that the delegation instrument may provide that the delegation has effect in stated circumstances or subject to stated conditions, limitations or directions or that all of the function, or a stated part of the function, is delegated.

This amendment also inserts a standard note about delegations.

[3.190] Section 110K (1), new note

insert

Note For other provisions about forms, see Legislation Act, s 255.

Explanatory note

This amendment inserts a standard note about approved forms.

[3.191] Section 111

omit everything before subsection (1) (a), substitute

111 The Discrimination Commissioner

There is to be a Discrimination Commissioner.

112 Functions of commissioner

The commissioner has the following functions:

Explanatory note

This amendment updates language and is consequential on other amendments of the section and existing section 112. Existing section 111 is also renumbered as section 112 by the amendment.

[3.192] Section 111 (1) (f) and (g)

substitute

- (f) to exercise any other function given to the commissioner under this Act or another Territory law;
- (g) to exercise any functions of the Commonwealth commission given to the commissioner under an arrangement made under the *Human Rights and Equal Opportunity Commission Act 1986* (Cwlth);

Explanatory note

This amendment updates language and brings the paragraphs into line with current drafting practice.

[3.193] Section 111 (1), new note

insert

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

Explanatory note

This amendment inserts a new note, consequent on the omission of section 111 (2) by the next amendment. Section 111 (2) stated that the commissioner has the powers necessary and convenient to exercise the commissioner's function.

[3.194] Section 111 (2)

omit

Explanatory note

This provision is not necessary, because the Legislation Act, section 196 provides that a provision of a law that gives a function to an entity (including a person) also gives the entity powers necessary and convenient to exercise the function.

[3.195] Sections 112 and 114

substitute

113 Appointment of commissioner

The discrimination commissioner is appointed by the Executive.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

114 Term of appointment of commissioner

The commissioner must be appointed for a term of not longer than 7 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict , pt 1, def *appoint*).

Explanatory note

Existing section 112 (1) is remade, in an updated form, as new section 113. Standard notes about appointments are also inserted.

The part of section 112 setting up the office of Discrimination Commissioner has been moved to a separate section in accordance with current drafting practice (see new section 111).

Existing section 112 (2) is remade, in an updated form, as new section 114. The existing subsection included an unnecessary reference to the commissioner holding office for the period stated in the instrument of appointment. The Legislation Act, section 206 (2) provides that, if a law provides for a maximum period of appointment (which this provision does), the instrument of appointment must state the period for which the appointment is made.

Existing section 112 (2) also included an unnecessary reference to reappointment. The Legislation Act, section 208 provides that a person may be reappointed to a position if the person is eligible to be appointed to the position. A standard note about section 208 is also inserted.

Existing section 114 dealt with resignation. This is unnecessary, because the Legislation Act, section 210 provides that a person's appointment also ends if the person resigns. A note to this effect is inserted in section 115 by the next amendment.

[3.196] Sections 115 to 117

substitute

115 Ending of appointment of commissioner

The Executive may end the appointment of the commissioner for misbehaviour or physical or mental incapacity.

Note A person's appointment also ends if the person resigns (see Legislation Act, s 210).

116 Conditions of appointment of commissioner

The commissioner holds the position on the conditions (if any) about matters not provided for by this Act that are decided by the Minister in writing.

Explanatory note

This amendment updates language and inserts a standard note about the ending of an appointment.

Existing section 117 (about acting appointments) is no longer necessary, for the following reasons:

- the Legislation Act, section 209 provides that a power to make an appointment includes the power to make an acting appointment during vacancies and when the holder of the position is not available; and

- the bar on acting for longer than 1 year is contained in the Legislation Act, section 221 (1); and
- the Legislation Act, section 225 states that an acting appointment is not affected by a defect etc.

[3.197] Section 120

substitute

120 Delegation

The commissioner may delegate the commissioner's functions under section 80 or 82 to a member of the commissioner's staff.

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

Explanatory note

This amendment updates the delegation provision, as follows:

- the words 'in writing' have been omitted because the Legislation Act, section 232 provides that a delegation must be made, or evidenced, in writing;
- the word 'powers' is omitted because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now;
- the word 'any' (of the commissioner's functions) has been omitted because the Legislation Act, section 234 provides that the delegation instrument may provide that the delegation has effect in stated circumstances or subject to stated conditions, limitations or directions or that all of the function, or a stated part of the function, is delegated.

This amendment also inserts a standard note about delegations.

[3.198] Section 121 (a)

omit

or an acting president

Explanatory note

This amendment omits unnecessary words. The Legislation Act, section 220 (b) states that where a person is acting in a position, all Territory laws apply in relation to the person as if the person were the occupant of the position.

[3.199] Section 121 (f)

omit

or power

Explanatory note

This amendment omits unnecessary words. *Function* is defined in the Legislation Act, dictionary, to include authority, duty and power.

[3.200] Section 122 (1), definition of *person to whom this section applies*, paragraph (a)

omit

or an acting president

Explanatory note

This amendment omits unnecessary words. The Legislation Act, section 220 (b) states that where a person is acting in a position, all Territory laws apply in relation to the person as if the person were the occupant of the position.

[3.201] Section 122 (1), definition of *person to whom this section applies*, paragraph (e) and definition of *protected information*, paragraph (b)

omit

or power

Explanatory note

This amendment omits unnecessary words. *Function* is defined in the Legislation Act, dictionary, to include authority, duty and power.

[3.202] Section 124 (2)

omit

think

substitute

consider

Explanatory note

This amendment updates language.

[3.203] Section 125

omit

shall be deemed, for the purposes of this Act

substitute

is taken, for this Act

Explanatory note

This amendment updates language and omits unnecessary words. The Legislation Act, dictionary, part 1 defines *for*, in relation to an Act, to include for the purposes of the Act.

[3.204] Section 126A (1), new note

insert

Note For other provisions about forms, see Legislation Act, s 255.

Explanatory note

This amendment inserts a standard note about approved forms.

[3.205] New dictionary

insert

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- body
- chief executive
- corporation
- domestic partner (see s 169)
- domestic partnership (see s 169)

- external Territory
- fail
- for
- individual
- in relation to
- State
- Territory authority
- the Territory
- under.

complainant—see section 5.

doing an act—see section 4A.

party, for part 8 (Complaints)—see section 70.

public act, for part 6 (Racial vilification)—see section 65.

respondent—see section 5.

sexual harassment, for part 5 (Sexual harassment)—see section 58.

Explanatory note

This amendment inserts a new dictionary and standard dictionary notes. The amendment also includes signpost definitions in the dictionary in line with current drafting practice. The signpost definitions help readers locate terms defined elsewhere in the Act.

[3.206] Further amendments, mentions of persons

omit

persons

substitute

people

in

- section 3 (d)
- section 4 (1), definition of *committee of management*
- section 4 (1), definition of *employment agency*
- section 7 (2) (a) and (b)

- section 8 (1) (b)
- section 9 (1)
- section 11 (a)
- section 14 (1)
- section 25A (a)
- section 26
- section 27 (1) (a) and (b)
- section 32 (b) and (c)
- section 34 (2)
- section 39 (1) (a)
- section 40 (1)
- section 41
- section 42 (2) (c) and (d)
- section 49 (2) (b)
- section 55 (1)
- section 57 (2)
- section 59 (6)
- section 66 (1)
- section 72 (1) (b)
- section 72 (3)
- section 78 (a)
- section 127 (2)

Explanatory note

These amendments update language.

[3.207] Further amendments, mentions of *impairment* etc

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
1	section 9 heading	Impairment	Disability
2	section 9 (1) to (3)	impairment	disability
3	division 4.5 heading	impairment	disability
4	section 48 (a) and (b)	impairment	disability
5	section 49 (1) (1st mention)	impairment	disability
6	section 49 (1)	an impairment	a disability
7	section 49 (1) (b)	impairment	disability
8	section 49 (2) (a)	impairment	disability
9	section 49 (2) (b)	an impairment	a disability
10	section 50 (1) (1st mention)	impairment	disability
11	section 50 (1)	an impairment	a disability
12	section 51 (1) (1st mention)	impairment	disability
13	section 51 (1)	an impairment	a disability
14	section 51 (2) (1st mention)	impairment	disability
15	section 51 (2)	an impairment	a disability
16	section 52 (1) (1st mention)	impairment	disability
17	section 52 (1) (a)	an impairment	a disability
18	section 54 (1st mention)	impairment	disability
19	section 54	an impairment	a disability
20	section 55 (1)	impairment	disability
21	section 56	impairment	disability

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
22	section 57 (1) (1st mention)	impairment	disability
23	section 57 (1) (a)	an impairment	a disability

Explanatory note

This amendment replaces references to ‘impairment’ with ‘disability’. The term ‘disability’ is to be used in the Act instead of ‘impairment’, and earlier amendments replaced definitions of *impairment* with definitions of *disability* (see the amendments of sections 5AA, 49 and 50).

This is a textual change that brings terminology used in the Act into line with other legislation (including the *Disability Services Act 1991* (ACT) and the *Disability Discrimination Act 1992* (Cwlth)) and common usage.

[3.208] Further amendments, mentions of *shall* etc

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
1	section 75 (2) and (3)	shall	must
2	section 76 (1) and (2)	shall	must
3	section 80 (2)	shall	must
4	section 81 (3) and (4)	shall	must
5	section 82 (2)	shall	must
6	section 83 (1)	shall	must
7	sections 86, 87, 88 and 90	shall	must
8	section 91 (1)	shall	is to
9	section 91 (2) and (3)	shall	must
10	section 93 (2)	The tribunal shall	However, the tribunal must
11	section 96 (3)	shall be	is
12	section 96 (4)	shall	must

Schedule 3 Technical amendments
Part 3.7 Discrimination Act 1991

Amendment [3.209]

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
13	section 96A (3)	shall be	is
14	sections 99 (3) and 100 (4)	shall cause a copy of the order to be served	must serve a copy of the order
15	section 101	shall remit	must remit
16	section 101	shall be	is
17	section 102 (2) and (5)	shall	must
18	section 108 (2) and (4)	shall	must
19	section 108C (2)	shall	must
20	section 108D (2)	shall	must
21	section 109 (3), (5) and (6)	shall	must
22	section 118 (1)	shall be	are
23	section 124 (4)	shall	must

Explanatory note

These amendments update language.

[3.209] Further amendments, mentions of *where* etc

column 1 item	column 2 provision	column 3 <i>omit</i>	column 4 <i>substitute</i>
1	section 29 (4)	where	if
2	section 34 (2) (i)	where	if
3	section 40 (2)	where	if
4	section 42 (2) (d)	where	if
5	section 51 (2)	where	if
6	section 57E (2)	where	if

column 1 item	column 2 provision	column 3 omit	column 4 substitute
7	section 57J (1)	where	if
8	section 57N	where	if
9	section 76 (1)	Where	If
10	section 80 (3)	Where	If
11	section 81 (3)	Where	If
12	section 83 (1)	Where	If
13	section 86 (1) and (2)	Where	If
14	sections 87 and 88	Where	If
15	section 96A (1)	where	if
16	section 96A (2)	Where	If
17	section 99 (1) and (3)	Where	If
18	section 100 (1) and (4)	Where	If
19	section 101	Where	If
20	section 102 (4) and (5)	Where	If
21	section 106	Where	If
22	section 108C (1), (3) and (4)	Where	If
23	section 109 (3) (b)	where	if
24	section 109 (5)	Where	If
25	section 122 (4)	where	if

Explanatory note

These amendments update language.

Part 3.8 Duties Act 1999

[3.210] Section 145 (2)

omit

consumer price index last issued

substitute

CPI number last published

Explanatory note

This amendment clarifies a reference to an increase in the consumer price index number.

[3.211] Section 145 (4)

omit

consumer price index last issued

substitute

CPI number last published

Explanatory note

This amendment clarifies a reference to a decrease in the consumer price index number.

[3.212] Section 145 (4)

omit

index.

substitute

CPI number.

Explanatory note

This amendment is consequential on the previous amendment.

[3.213] Section 145 (7)

substitute

(7) In this section:

CPI number means the number appearing for Canberra in the Consumer Price Index (All Groups Index) published by the Australian Statistician.

Explanatory note

This amendment clarifies a reference to the consumer price index number and replaces an incorrect reference to the Australian Bureau of Statistics with a reference to the ‘Australian Statistician’.

Part 3.9 Environment Protection Act 1997

[3.214] Section 4 (1), definition of *development*

substitute

development—see the Land Act, section 222.

Explanatory note

This amendment updates a cross-reference.

[3.215] Section 49 (6)

omit

part 4

substitute

part 6 (Approvals and orders)

Explanatory note

This amendment updates a cross-reference.

[3.216] Section 149 (2) (a)

substitute

- (a) the application under the Land Act, division 6.2 (Approvals) for approval to undertake the relevant development; or

Explanatory note

This amendment updates a cross-reference and replaces the incorrect reference to controlled activity with 'development'. An approval under the *Land (Planning and Environment) Act 1991*, division 6.2 is for a development, not for a controlled activity.

Part 3.10 Fire Brigade (Administration) Act 1974

[3.217] Section 19B

substitute

19B Equal employment opportunity program

- (1) For section 19A (1) (b), the commissioner must—
- (a) develop an equal employment opportunity program for the brigade; and
 - (b) review the program.
- (2) The commissioner must consult with the staff organisation, and other people the commissioner considers appropriate, before developing or reviewing the equal employment opportunity program.
- (3) As soon as practicable after the development or review of the equal employment opportunity program, the commissioner must give the commissioner for public administration written particulars of the program.

- (4) The commissioner for public administration may give written guidelines to the commissioner about—
 - (a) the matters to be included in the equal employment opportunity program; and
 - (b) the development, implementation or review of the program.
- (5) The commissioner must take any action necessary to give effect to the equal employment opportunity program and to comply with any guidelines given under subsection (4).
- (6) A report presented by the commissioner, or information given by the commissioner, under the *Annual Reports (Government Agencies) Act 1995*, section 8 must include particulars of the operation of this section during the period to which the report or information relates.

Explanatory note

This amendment updates language and replaces an obsolete reference to the ‘Head of Administration’ with the ‘commissioner for public administration’.

The amendment also removes—

- a spent provision that required the commissioner to do a thing within 12 months of the commencement of the section; and
- a reference to reviewing a program ‘from time to time’. The Legislation Act, section 197 provides that if a law gives a function to a person, the function may be exercised from time to time.

Part 3.11 First Home Owner Grant Act 2000

[3.218] Section 3

substitute

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition ‘*identity card*—see the *Taxation Administration Act 1999*, section 3.’ means that the expression ‘identity card’ is defined in that section and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment renumbers the dictionary provision as section 2 and updates the example to note 1. The amendment also inserts a standard notes provision in line with current drafting practice.

[3.219] Section 5 (3)

omit

relevant interest

substitute

relevant interest

Explanatory note

This amendment makes it clear that the use of the term ‘relevant interest’ in the subsection is part of the defined meaning of the term in line with the signpost definition of it in the dictionary: ‘***relevant interest*** in land—see section 5 (2), (3) and (4).’.

[3.220] Section 5 (4)

omit

section (2) and (3)

substitute

subsections (2) and (3)

Explanatory note

This amendment corrects a minor misdescription.

[3.221] Section 5 (4)

omit

relevant interest

substitute

relevant interest

Explanatory note

This amendment makes it clear that the use of the term ‘relevant interest’ in the subsection is part of the defined meaning of the term in line with the signpost definition of it in the dictionary: ‘***relevant interest*** in land—see section 5 (2), (3) and (4).’.

[3.222] Division 2.2 heading

substitute

Division 2.2 Eligibility criteria for applicants

Explanatory note

This amendment brings the heading into line with current drafting practice.

[3.223] New section 11 (4)

insert

(4) In this section:

residential property—land in Australia is *residential property* at a particular time if there is, at that time, a building on the land lawfully occupied as a place of residence or suitable for occupation as a place of residence.

Explanatory note

This amendment reproduces the dictionary definition of an expression that is used only in this section. The dictionary definition is omitted by a later amendment.

[3.224] Section 13 heading

substitute

13 Meaning of *eligible transaction etc*

Explanatory note

This amendment brings the heading into line with current drafting practice.

[3.225] Section 13 (2)

omit

eligible transaction

substitute

eligible transaction

Explanatory note

This amendment makes it clear that the use of the term ‘eligible transaction’ in the subsection is part of the defined meaning of the term in line with the signpost definition of it in the dictionary: ‘***eligible transaction***—see section 13 (1) and (2).’.

[3.226] Section 13 (3)

omit

Explanatory note

This amendment omits the definition of *contract for the purchase of a home* consequent on the insertion of new section 13 (7) by a later amendment.

[3.227] Section 13 (4) to (7)

renumber as section 13 (3) to (6)

Explanatory note

This amendment is consequential on the omission of subsection (3) by an earlier amendment.

[3.228] Section 13 (5), new note

insert

Note For when certain transactions related to moveable buildings are completed, see s (5).

Explanatory note

This amendment inserts a note to draw a reader’s attention to a related provision.

[3.229] New section 13 (7)

insert

(7) In this section:

comprehensive home building contract means a contract under which a builder undertakes to build a home on land from the inception of the building work to the point where the home is ready for occupation and if, for any reason, the work to be carried out under such a contract is not completed, includes any further contract under which the work is to be completed.

contract for the purchase of a home means a contract for the acquisition of a relevant interest in land on which a home is built.

option to purchase includes a right of pre-emption or a right of first refusal.

owner-builder means an owner of land who builds a home, or has a home built, on the land without entering into a comprehensive home building contract.

Note For when a person is taken to be an owner-builder in relation to a moveable building, see s (5).

Explanatory note

This amendment reproduces the dictionary definitions of expressions that will be used only in this section after the expiry of section 13A. The dictionary definitions are omitted by later amendments.

[3.230] Section 13A (12)

renumber as section 13A (13)

Explanatory note

This amendment is consequential on the next amendment.

[3.231] New section 13A (12)

insert

(12) In this section:

comprehensive home building contract—see section 13 (7).

contract for the purchase of a home—see section 13 (7).

owner-builder—see section 13 (7).

Explanatory note

The defined terms are used only in sections 13 and 13A. Section 13A expires on 1 July 2004. When the section expires the inclusion of the definitions in the dictionary will not be in accordance with current drafting practice. This amendment removes the need for further technical amendments after the expiry of section 13A.

[3.232] Section 14 (1), note 2

substitute

Note 2 For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment removes a non-standard note and substitutes a standard note about service of documents.

[3.233] Section 25 (1), note

substitute

Note 1 For how documents may be given, see Legislation Act, pt 19.5.

Note 2 A fee may be determined under s 54 (Determination of fees) for this section.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.234] Section 36 (1) (a)

after

first home owner

insert

grant

Explanatory note

This amendment corrects an error in a reference to the first home owner grant scheme.

[3.235] Section 39 (1), new note

insert

Note For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.236] Section 41 (2)

omit

conferred

substitute

given

Explanatory note

This amendment updates language.

[3.237] New section 50 (3) (b) (iii)

substitute

(iii) a Commonwealth or State law for the assessment or imposition of a tax; or

Explanatory note

This amendment incorporates the substance of the dictionary definition of *taxation law*. The expression is used only in this section. The dictionary definition is omitted by a later amendment.

[3.238] Section 52 (2)

omit

performance

substitute

exercise

Explanatory note

This amendment brings the subsection into line with current drafting practice. The Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function, and is the drafting term used now.

[3.239] Section 55 (1), new note

insert

Note For other provisions about forms, see Legislation Act, s 255.

Explanatory note

This amendment inserts a standard note about approved forms.

[3.240] Dictionary

omit

(see s 3)

substitute

(see s 2)

Explanatory note

This amendment is consequential on the renumbering of section 3 by an earlier amendment.

[3.241] Dictionary, new notes

insert

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- administrative unit
- commissioner for revenue
- contravene
- corporation
- exercise

- fail
- function
- penalty unit
- State
- writing.

Explanatory note

This amendment inserts standard dictionary notes.

[3.242] Dictionary, definition of *Australian citizen*

substitute

Australian citizen means a person who is an Australian citizen under the *Australian Citizenship Act 1948* (Cwlth).

Explanatory note

This amendment updates the definition.

[3.243] Dictionary, definition of *commencement date*

omit

section 13 (4) and (6)

substitute

section 13 (3) and (5)

Explanatory note

This amendment is consequential on the renumbering of section 13 by an earlier amendment.

[3.244] Dictionary, definition of *commissioner*, note

omit

Explanatory note

This amendment omits a note that is made redundant by the standard dictionary notes inserted by an earlier amendment.

[3.245] Dictionary, definition of *completed*

omit

section 13 (5) and (6)

substitute

section 13 (4)

Explanatory note

This amendment omits the reference to existing subsection (6) which does not define the term but states when a particular transaction is taken to be completed and is consequential on the renumbering of section 13 by an earlier amendment.

[3.246] Dictionary, definition of *comprehensive home building contract*

omit

This amendment is consequential on the incorporation of the definition into section 13 by an earlier amendment.

[3.247] Dictionary, definition of *consideration*

omit

section 13 (7)

substitute

section 13 (6)

Explanatory note

This amendment is consequential on the renumbering of section 13 by an earlier amendment.

[3.248] Dictionary, definition of *contract for the purchase of a home*

omit

Explanatory note

This amendment is consequential on the incorporation of the definition into section 13 by an earlier amendment

[3.249] Dictionary, definition of *corresponding law, note*

omit

Explanatory note

This amendment omits a note that is made redundant by the standard dictionary notes inserted by an earlier amendment.

[3.250] Dictionary, definition of *function*

omit

Explanatory note

This amendment omits an unnecessary definition. *Function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power.

[3.251] Dictionary, definition of *home owner*

substitute

home owner—see section 5 (1).

Explanatory note

This amendment updates the reference to the relevant provision.

[3.252] Dictionary, definition of *identity card*

omit

section 3 (1)

substitute

section 3

Explanatory note

This amendment updates the reference to the relevant provision.

[3.253] Dictionary, definition of *option*

omit

Explanatory note

This amendment is consequential on the incorporation of the definition into section 13 by an earlier amendment.

[3.254] Dictionary, definition of *owner*, paragraph (b)

substitute

(b) of a home—see section 5 (1).

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.255] Dictionary, definition of *owner-builder*

omit

Explanatory note

This amendment is consequential on the incorporation of the definition into section 13 by an earlier amendment

[3.256] Dictionary, definition of *partner*

substitute

partner, of an applicant—see section 6.

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.257] Dictionary, definition of *residential property*

omit

Explanatory note

This amendment is consequential on the incorporation of the definition into section 11 by an earlier amendment

[3.258] Dictionary, definition of *taxation law*

omit

Explanatory note

This amendment is consequential on the incorporation of the definition into section 50 by an earlier amendment

[3.259] Dictionary, definition of *tribunal*

omit

Explanatory note

This amendment omits an unnecessary definition. In each relevant use of the term it is clear that the reference is to the administrative appeals tribunal.

Part 3.12 Fisheries Act 2000

[3.260] Section 7 (1) (c), new note

insert

Note For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.261] Section 23, new note

insert

Note 3 For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.262] Sections 24 (1), 31 (2), 33 (1) and 34 (2), new note

insert

Note For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.263] Section 38, new note

insert

Note 3 For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.264] Sections 41 and 49 (1), new note

insert

Note For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.265] Sections 60 (c) and 61 (1) (e)

omit

persons

substitute

people

Explanatory note

This amendment updates language.

[3.266] Part 9

omit

(commencement: the 90th day after this Act's notification day)

Explanatory note

This amendment omits a part that deals with infringement notices. The *Magistrates Court Act 1930*, part 8 (Infringement notices for certain offences) provides a system of infringement notices for offences against various Acts. Regulations are made under the *Magistrates Court Act 1930* that contain the detail for the infringement notice scheme for a particular Act.

The commencement of this amendment is delayed in order to allow the *Fisheries Regulations 2001* to be amended and to allow new Magistrates Court (Fisheries Infringement Notices) Regulations 2003 to be prepared.

[3.267] Section 109

substitute

109 Delegation

The conservator may delegate the conservator's functions under this Act to a conservation officer.

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

Explanatory note

This amendment updates the delegation provision by omitting the words 'in writing' because the Legislation Act, section 232 provides that a delegation must be made, or evidenced, in writing.

The reference to the conservator's 'powers' is replaced with 'functions', because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now.

This amendment also inserts a standard note about delegations.

[3.268] Section 115 (1), new note

insert

Note For other provisions about forms, see Legislation Act, s 255.

Explanatory note

This amendment inserts a standard note about forms.

[3.269] Section 117

omit

(commencement: the 90th day after this Act's notification day)

Explanatory note

This amendment is consequential on the omission of part 9 by an earlier amendment. The commencement of this amendment is delayed because the omission of part 9 is delayed.

[3.270] Dictionary, new notes

insert

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- administrative appeals tribunal
- conservator of flora and fauna
- contravene
- disallowable instrument
- document
- function
- magistrate
- Magistrates Court
- penalty unit (see s 133)
- power.

Explanatory note

This amendment inserts standard dictionary notes.

[3.271] Dictionary, new definition of *commercial fishing licence*

insert

commercial fishing licence means a licence mentioned in section 20.

Explanatory note

This amendment inserts a definition of a term used in the Act.

[3.272] Dictionary, definition of *conservator*

substitute

conservator means the conservator of flora and fauna.

Explanatory note

This amendment updates the definition consequent on the insertion of a definition of conservator of flora and fauna into the Legislation Act, dictionary, part 1 by earlier legislation.

[3.273] Dictionary, new definition of *import and export licence*

insert

import and export licence means a licence mentioned in section 22.

Explanatory note

This amendment inserts a definition of a term used in the Act.

[3.274] Dictionary, definition of *licence*

substitute

licence means any of the following licences issued under section 25:

- (a) a commercial fishing licence;
- (b) a scientific licence;
- (c) an import and export licence.

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.275] Dictionary, new definition of *occupier*

insert

occupier, of a place, for division 7.1 (Powers for places)—see section 53.

Explanatory note

This amendment inserts a signpost definition in line with current drafting practice.

[3.276] Dictionary, new definition of *scientific licence*

insert

scientific licence means a licence mentioned in section 21.

Explanatory note

This amendment inserts a definition of a term used in the Act.

Part 3.13 Gas Safety Act 2000

[3.277] Section 22 (2), new note

insert

Note For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.278] Section 29 (2) (a)

omit

manner specified

substitute

way stated

Explanatory note

This amendment updates language.

[3.279] Section 29 (2), new note

insert

Note For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.280] Section 30 (3)

substitute

- (3) A person is not personally liable for an honest act or omission in relation to the exercise or purported exercise of a function under this section.

Explanatory note

This amendment updates language. In particular, *exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term that is used now.

[3.281] Section 35 (2)

substitute

- (2) A person is not personally liable for an honest act or omission in relation to the exercise or purported exercise of a function under this section.

Explanatory note

This amendment updates language. In particular, *exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform the function. It is the drafting term that is now used in relation to functions.

[3.282] Section 36, new definition of *connected*

insert

connected—a thing is *connected* with an offence if—

- (a) the offence has been committed in relation to it; or
- (b) it will provide evidence of the commission of the offence; or
- (c) it was used, or is intended to be used, to commit the offence.

Explanatory note

This amendment brings the form of the definition of this term in section 37 more closely into line with current drafting practice and updates language.

[3.283] Section 37

omit

Explanatory note

This amendment is consequential on the insertion of a revised definition of *connected* into section 36 by the previous amendment.

[3.284] Section 38 (1), new note

insert

Note For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.285] Section 40 (1)

substitute

- (1) The chief executive may appoint a person as an inspector for the gas safety legislation.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Explanatory note

This amendment omits the reference to the appointment being ‘in writing’ and brings the provision into line with current drafting practice. The Legislation Act, section 206 provides that an appointment must be made, or evidenced, in writing.

The amendment also inserts standard notes about appointments.

[3.286] Section 40 (2)

omit

perform his or her

substitute

exercise the inspector's

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.287] Section 40 (3) (c)

omit

powers

substitute

functions

Explanatory note

The reference to 'powers' is replaced with 'functions' because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now.

[3.288] Section 49 (1)

omit

ascertain

substitute

find out

Explanatory note

This amendment updates language.

[3.289] Section 51 (2)

substitute

- (2) Unless the appliance is made safe and compliant with the gas safety legislation, the inspector may give the person a written direction—
- (a) not to use the appliance; or
 - (b) to arrange for it to be disconnected from the consumer piping system; or
 - (c) not to sell the appliance.

Note For how documents may be served, see Legislation Act, pt 19.5.

Explanatory note

This amendment brings the structure of the section into line with current drafting practice and inserts a standard note about the service of documents.

[3.290] Section 53 (2) (a)

omit

inform

substitute

tell

Explanatory note

This amendment updates language.

[3.291] Section 53 (2) (b)

omit

thereafter

substitute

after telling the person

Explanatory note

This amendment updates archaic language.

[3.292] Section 63 (1)

omit

performance, or purported performance,

substitute

exercise or purported exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.293] Section 63 (2)

omit

performance or purported performance

substitute

exercise or purported exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.294] Section 63 (3), new note

insert

Note For other ways documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.295] Section 64 (1)

omit

performance, or purported performance

substitute

exercise, or purported exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.296] Section 68 (1), new note

insert

Note For other provisions about forms, see Legislation Act, s 255.

Explanatory note

This amendment inserts a standard note about forms.

[3.297] Dictionary, new notes

insert

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- administrative appeals tribunal
- chief executive
- contravene
- disallowable instrument
- document
- magistrate
- notifiable instrument
- penalty unit (see s 133)
- State
- the Territory.

Explanatory note

This amendment inserts standard dictionary notes.

[3.298] Dictionary, new definition of *business premises*

insert

business premises, for part 6 (Enforcement)—see section 36.

Explanatory note

This amendment inserts a signpost definition in line with current drafting practice.

[3.299] Dictionary, definition of *code*

omit

varied and

Explanatory note

This amendment omits redundant text.

[3.300] Dictionary, new definition of *connected*

insert

connected, with an offence, for part 6 (Enforcement)—see section 36.

Explanatory note

This amendment inserts a signpost definition in line with current drafting practice.

[3.301] Dictionary, definition of *daily newspaper*

omit

Territory

substitute

ACT

Explanatory note

This amendment is in line with current drafting practice. When ‘the Territory’ is used in the geographical sense, current drafting practice is to use ‘ACT’ instead. *ACT* is defined in the Legislation Act, dictionary, part 1.

[3.302] Dictionary, new definition of *offence*

insert

offence, for part 6 (Enforcement)—see section 36.

Explanatory note

This amendment inserts a signpost definition in line with current drafting practice.

[3.303] Dictionary, definition of *owner*

substitute

owner, of premises, means the lessor.

Explanatory note

This amendment omits a reference to land held in fee simple. Freehold land does not exist in the ACT.

[3.304] Dictionary, new definitions

insert

relevant utility, in relation to a serious gas accident, for part 5 (Serious gas accidents)—see section 31.

sell, for part 4 (Regulation of appliances)—see section 18.

trader, for part 4 (Regulation of appliances)—see section 18.

Explanatory note

This amendment inserts signpost definitions in line with current drafting practice.

Part 3.14 Insurance Authority Act 2000

[3.305] Section 6 (2), definition of *Territory owned corporation*

substitute

Note *Territory owned corporation* is defined in the Legislation Act, dict, pt 1.

Explanatory note

This amendment omits the definition of an expression that is now defined in the Legislation Act, dictionary, part 1 and substitutes a note to explain the omission.

[3.306] Section 13 (2)

omit

, (if any)

substitute

(if any),

Explanatory note

This amendment corrects a typographical error.

[3.307] Section 19 (1), notes

substitute

Note 1 For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

Explanatory note

This amendment updates standard notes about appointments.

[3.308] Section 20 (2)

substitute

- (2) The instrument appointing, or evidencing the appointment of, an appointed director must state that the appointed director is the government member, a client member or a specialist member.

Explanatory note

This amendment removes a requirement that the instrument of appointment state the period of appointment. The Legislation Act, section 206 (2) provides that, if a law provides for a maximum period of appointment (which this Act does, see section 20 (1)), the period of appointment must be stated in the instrument of appointment.

[3.309] Section 29 (1), note

substitute

Note For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Explanatory note

This amendment updates the standard note about appointments.

[3.310] Dictionary, new notes

insert

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- administrative unit
- Minister
- Territory authority
- Territory owned corporation
- the Territory.

Explanatory note

This amendment inserts standard dictionary notes.

[3.311] Dictionary, new definitions

insert

client members—see section 19 (2) (Appointment of appointed directors).

government member—see section 19 (2) (Appointment of appointed directors).

specialist members—see section 19 (2) (Appointment of appointed directors).

Explanatory note

This amendment inserts signpost definitions in line with current drafting practice.

Part 3.15 Legal Aid Act 1977

[3.312] Section 68

substitute

68 Conditions of employment of staff

- (1) The commission may determine the conditions of employment of the commission's staff.
- (2) The commissioner for public administration must approve the conditions before the commission determines them.
- (3) The conditions of employment of the commission's staff are as determined under this section.

Explanatory note

This amendment brings the provision into line with current drafting practice and replaces an obsolete reference to the 'head of administration' with the 'commissioner for public administration'.

The amendment also removes a reference to determining terms and conditions 'from time to time'. The Legislation Act, section 197 provides that if a law gives a function to a person, the function may be exercised from time to time.

[3.313] Section 68A

substitute

68A Personnel management

- (1) The commission's powers in relation to employment matters must be exercised—
 - (a) without patronage, favouritism or unjustified discrimination; and
 - (b) with regard to the equal employment opportunity program for the commission.
- (2) For the selection of a person for employment for longer than 3 months or for promotion, the commission's powers must also be exercised in accordance with procedures that ensure that—
 - (a) all people who are eligible have, as far as practicable, a reasonable opportunity to apply for selection; and
 - (b) the selection is made on the basis of an assessment of the relative suitability of the applicants having regard to—
 - (i) the type of duties to be exercised; and
 - (ii) the abilities, qualifications, experience, personal qualities and potential for development of each applicant that are relevant to the exercise of the duties.
- (3) For subsection (1) (b), the commission must—
 - (a) develop an equal employment opportunity program for the commission; and
 - (b) review the program.
- (4) The commission must consult with each relevant staff organisation and other people the commission considers appropriate before developing or reviewing the equal employment opportunity program.

- (5) As soon as practicable after the development or review of the equal employment opportunity program, the commission must give the commissioner for public administration written particulars of the program.
- (6) The commissioner for public administration may give written guidelines to the commission about—
 - (a) the matters to be included in the equal employment opportunity program; and
 - (b) the development, implementation or review of the program.
- (7) The commission must take any action necessary to give effect to the equal employment opportunity program and to comply with any guidelines given under subsection (6).
- (8) The commission must give the Minister a written report about the operation of this section during each financial year.
- (9) In this section:

designated group means any of the following classes of people:

- (a) members of the Aboriginal race of Australia or people who are descendants of indigenous inhabitants of the Torres Strait Islands;
- (b) people who have migrated to Australia and whose first language is a language other than English, and their children;
- (c) people with physical or mental disabilities;
- (d) any other class of people declared by the regulations to be a designated group for this definition.

employment means—

- (a) appointment as a statutory officer of the commission under section 17; or
- (b) employment as a member of the staff of the commission under section 20.

employment matter, in relation to the commission, means—

- (a) the selection of people by the commission for employment or promotion; or
- (b) the transfer of employees; or
- (c) training and staff development for employees; or
- (d) the conditions of service of employees; or
- (e) any other matter related to the employment of people.

equal employment opportunity program, in relation to the commission, means a program designed to ensure that—

- (a) appropriate action is taken to eliminate unjustified discrimination against women and people in designated groups in relation to employment matters; and
- (b) measures are taken to enable employees who are women or people in designated groups to do the following as effectively as other people and to have equal opportunities with others in relation to other employment matters:
 - (i) to compete for employment, transfer or promotion;
 - (ii) to pursue careers.

exercise, of a power, includes making a report or recommendation in relation to the exercise of the power.

promotion means movement within the commission resulting in an employee doing work, and being paid, at a higher level than previously.

relevant staff organisation means an organisation—

- (a) within the meaning of the *Workplace Relations Act 1996* (Cwlth); and
- (b) that people employed by the commission are eligible to join; and

- (c) that is a party to an industrial award that applies in relation to the salary payable for that employment.

unjustified discrimination includes—

- (a) discrimination that is unlawful under the *Discrimination Act 1991*; and
- (b) unjustified discrimination on the ground of age or social origin; but does not include—
- (c) discrimination that is essential for the effective exercise of the relevant duties, is not unlawful under the *Discrimination Act 1991* and is prescribed under the regulations; or
- (d) discrimination that is not unlawful under the *Discrimination Act 1991* and is in accordance with the equal employment opportunity program for the commission or with a program prescribed under the regulations.

Explanatory note

This amendment updates language, brings the provision into line with current drafting practice and replaces an obsolete reference to the ‘head of administration’ with the ‘commissioner for public administration’.

The amendment also removes—

- a spent provision that required the commission to do a thing within 12 months of the commencement of the section; and
- a reference to reviewing a program ‘from time to time’. The Legislation Act, section 197 provides that if a law gives a function to a person, the function may be exercised from time to time.

Part 3.16 Occupational Health and Safety (Certification of Plant Users and Operators) Regulations 2000

[3.314] Regulation 3, note 1

substitute

Note 1 The dictionary at the end of these regulations defines certain words and expressions used in these regulations, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in these regulations.

For example, the signpost definition ‘*backhoe*—see schedule 1, part 1, clause 7.’ means that the expression ‘backhoe’ is defined in that clause.

Explanatory note

This amendment is consequential on the amendment of the definition of *backhoe* by another amendment in this part.

[3.315] Regulation 4, note

substitute

Note A fee may be determined under the Act, s 96A (Determination of fees) for an application under this regulation for assessment by an assessor who is a public employee.

Explanatory note

This amendment limits the operation of the standard fees note to applications to assessors who are public employees.

[3.316] Regulation 6 (2) (b)

after

guidelines

insert

under regulation 10

Explanatory note

This amendment makes it clear which guidelines are referred to in the provision and is related to the omission of the definition of *guidelines* by a later amendment in this part.

[3.317] Regulation 7, new note

insert

Note For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.318] Regulation 8

substitute

8 Non-public employee assessor—notice of refusal to issue satisfactory assessment

- (1) This regulation applies if an assessor who is not a public employee makes a decision to refuse to issue a notice of satisfactory assessment to a person.

Note For notice of a decision made by an assessor who is a public employee, see pt 5.

- (2) The assessor must give the person written notice of the decision.

Note For how documents may be given, see Legislation Act, pt 19.5.

- (3) The notice must include a statement telling the person that the person may apply to an assessor, who is a public employee, for another assessment.

Explanatory note

This amendment brings the regulation into line with current drafting practice. In particular, the regulation's heading is made more descriptive of its contents and the note to new subregulation (1) is included to assist users to locate relevant provisions about a related concept.

[3.319] Regulation 20 (1) (b)

omit

certificate

substitute

person's certificate of accreditation

Explanatory note

This amendment removes any doubts about which certificate the paragraph refers to.

[3.320] Regulation 26, note

omit

Crimes Act 1900, s 345

substitute

Criminal Code, s 45

Explanatory note

This amendment updates a cross-reference.

[3.321] Regulation 26, note

omit

deemed

substitute

taken

Explanatory note

This amendment updates the language to bring it into line with the language of the Criminal Code, section 45.

[3.322] Regulation 27 (2) (c) (i)

substitute

- (i) otherwise than in accordance with the guidelines under regulation 10; or

Explanatory note

This amendment brings the provision into line with current drafting practice and is related to the omission of the definition of *guidelines* by a later amendment in this part.

[3.323] Regulation 27 (3) (b)

omit

after the notice

substitute

after the day the notice

Explanatory note

This amendment brings the paragraph more closely into line with current drafting practice by including a specific reference to the day when the period begins.

[3.324] Regulation 27 (6)

omit

after the notice

substitute

after the day the notice

Explanatory note

This amendment brings the provision more closely into line with current drafting practice by including a specific reference to the day when the period begins.

[3.325] Regulation 28 (1)

omit

suspend a certificate or an endorsement immediately

substitute

suspend immediately a certificate of accreditation or competency, or
an endorsement on a certificate,

Explanatory note

This amendment makes it clear which certificates and endorsements are referred to in the provision.

[3.326] Regulation 28 (2) (c)

omit

notice under subregulation (4)

substitute

suspension notice

Explanatory note

This amendment brings the paragraph into line with current drafting practice by using a defined expression instead of a cross-reference.

[3.327] Part 5

substitute

Part 5 Review of decisions

29 Meaning of *reviewable decision* for pt 5

In this part:

reviewable decision means—

- (a) a decision of the commissioner mentioned in schedule 3, column 3 under a provision of these regulations mentioned in schedule 3, column 2 in relation to the decision; and
- (b) a decision of an assessor who is a public employee to refuse to issue a notice of satisfactory assessment.

Note For a decision mentioned in par (b) made by an assessor who is not a public employee, see reg 8.

29A Notice of decisions

- (1) The commissioner must give written notice of a reviewable decision mentioned in schedule 3 to the person mentioned in schedule 3, column 4 in relation to the decision.

Note For how documents may be given, see Legislation Act, pt 19.5.

- (2) The commissioner must also give written notice of a decision of an assessor who is a public employee to refuse to issue a notice of satisfactory assessment.
- (3) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

30 Review by administrative appeals tribunal of reviewable decisions

A person may apply in writing to the administrative appeals tribunal for review of a reviewable decision within 28 days after the day the person receives notice of the decision.

Explanatory note

This amendment brings the review provisions into line with current drafting practice. In particular, the commissioner is required to give notice in accordance with the code of practice under the *Administrative Appeals Tribunal Act 1989* and the period for making an application for review is increased from 14 days to 28 days. Also, the note to regulation 29 is included to assist users to locate a relevant provision about a related concept.

[3.328] Regulation 31, new note

insert

Note For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.329] Regulation 32 (1)

omit

persons from the operation of any of the provisions of

substitute

people from

Explanatory note

This amendment brings the subregulation more closely into line with current drafting practice.

[3.330] Regulation 32 (1), new note

insert

Note A reference to a subordinate law includes a reference to a provision of the subordinate law (see Legislation Act, s 8).

Explanatory note

This amendment inserts a note to assist in the interpretation of the subregulation.

[3.331] Regulation 34 (2) (b), new note

insert

Note For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

Schedule 3 Technical amendments
Part 3.16 Occupational Health and Safety (Certification of Plant Users and Operators) Regulations 2000

Amendment [3.332]

[3.332] Schedule 1, part 1, clause 2 (1)

omit

is capable of

substitute

is a crane capable of

Explanatory note

This amendment brings the definition of *bridge crane* into line with current drafting practice.

[3.333] Schedule 2

omit

New South Wales

Occupational Health and Safety Act 1983

Occupational Health and Safety (Certificates of Competency) Regulation 1996

substitute

New South Wales

Occupational Health and Safety Act 2000

Occupational Health and Safety Regulation 2001

Explanatory note

This amendment updates the references to corresponding laws.

[3.334] New schedule 3

insert

Schedule 3 Reviewable decisions made by commissioner

(see reg 29)

Note For decisions of assessors to refuse to issue a notice of satisfactory assessment, see reg 8 and reg 29.

column 1 item	column 2 regulation provision	column 3 reviewable decision	column 4 person to be notified
1	12 (1) (c)	refusing to issue certificate of competency	applicant for certificate
2	12 (1) (c)	refusing to vary certificate of competency to include an endorsement	applicant for endorsement
3	13	including condition in certificate of competency	applicant for certificate / certificate holder
4	21 (1) (c)	refusing to accredit person as an assessor	applicant for accreditation

Schedule 3
Part 3.16

Technical amendments
Occupational Health and Safety (Certification of Plant Users and
Operators) Regulations 2000

Amendment [3.334]

column 1 item	column 2 regulation provision	column 3 reviewable decision	column 4 person to be notified
5	21 (1) (b)	refusing to vary certificate of accreditation to include an endorsement	applicant for endorsement
6	22	including condition in certificate of accreditation	applicant for certificate / certificate holder
7	27 (1)	suspending or cancelling certificate of competency/ endorsement	certificate holder
8	27 (2)	suspending or cancelling certificate of accreditation/ endorsement	certificate holder
9	28 (1)	immediately suspending certificate of accreditation / endorsement	certificate holder
10	28 (1)	immediately suspending certificate of competency/ endorsement	certificate holder

column 1 item	column 2 regulation provision	column 3 reviewable decision	column 4 person to be notified
11	32 (2) (b)	refusing to give exemption	applicant for exemption

Explanatory note

This amendment restates the reviewable decisions mentioned in existing regulation 29 (1) in accordance with current drafting practice. In particular, the list of reviewable decisions includes the provision under which the relevant decision is made.

[3.335] Dictionary, new notes

insert

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- administrative appeals tribunal
- found guilty
- public employee.

Note 3 Words and expressions used in these regulations have the same meaning that they have in the *Occupational Health and Safety Act 1989* (see Legislation Act, s 148). In particular, the following term is defined in the *Occupational Health and Safety Act 1989*, s 5:

- commissioner.

Explanatory note

This amendment inserts standard dictionary notes.

This amendment also inserts a standard note into the dictionary about terms defined in the Act under which the regulations are made.

[3.336] Dictionary, definition of assessor

omit

appointed

substitute

accredited

Explanatory note

This amendment revises the definition to bring it into line with regulation 19, which deals with the accreditation of assessors.

[3.337] Dictionary, definition of *backhoe*

substitute

backhoe—see schedule 1, part 1, clause 7.

Explanatory note

This amendment brings the definition into line with current drafting practice by defining it for the purposes of the regulations as a whole, rather than only for schedule 1.

[3.338] Dictionary, definition of *boom-type elevating work platform*

substitute

boom-type elevating work platform, for schedule 1 (Scheduled work)—see schedule 1, part 1, clause 8.

Explanatory note

This amendment brings the definition into line with other definitions in the dictionary.

[3.339] Dictionary, new definition of *certificate of accreditation*

insert

certificate of accreditation means a certificate issued under regulation 21.

Explanatory note

This amendment inserts the definition of an expression used in the regulations.

[3.340] Dictionary, definitions of *forklift truck, front-end loader and front-end loader of the skid-steer type*

substitute

forklift truck, for schedule 1 (Scheduled work)—see schedule 1, part 1, clause 13.

front-end loader—see schedule 1, part 1, clause 14 (1).

front-end loader of the skid-steer type, for schedule 1 (Scheduled work)—see schedule 1, part 1, clause 14 (2).

Explanatory note

This amendment brings the definitions into line with other definitions in the dictionary.

[3.341] Dictionary, definition of *guidelines*

omit

Explanatory note

This amendment omits a redundant definition.

[3.342] Dictionary, definition of *mobile crane*

substitute

mobile crane, for schedule 1 (Scheduled work)—see schedule 1, part 1, clause 16.

Explanatory note

This amendment brings the definition into line with other definitions in the dictionary.

[3.343] Dictionary, definition of *record of training*

omit

Explanatory note

This amendment omits a redundant definition.

[3.344] Dictionary, new definition of *reviewable decision*

insert

reviewable decision, for part 5—see regulation 29.

Schedule 3 Technical amendments
Part 3.16 Occupational Health and Safety (Certification of Plant Users and Operators) Regulations 2000

Amendment [3.345]

Explanatory note

This amendment is consequential on the substitution of a new part 5 by another amendment.

[3.345] Dictionary, definitions of *scaffold* and *scaffolding*

substitute

scaffold, for schedule 1 (Scheduled work)—see schedule 1, part 1, clause 22 (1).

scaffolding—see schedule 1, part 1, clause 22 (2).

Explanatory note

This amendment brings the definitions into line with other definitions in the dictionary.

[3.346] Dictionary, definition of *supervisor*

substitute

supervisor, for a trainee doing scheduled work, for division 2.3 (Trainees)—see regulation 16.

Explanatory note

This amendment brings the signpost definition into line with current drafting practice.

[3.347] Dictionary, definition of *the Act*

omit

Explanatory note

This amendment omits an unnecessary definition. The Legislation Act, section 105 provides that in a statutory instrument, a reference to *the Act* is a reference to the Act under which the instrument is made.

Part 3.17 Public Health Regulations 2000

[3.348] Regulation 3

substitute

2 Dictionary

The dictionary at the end of these regulations is part of these regulations.

Note 1 The dictionary at the end of these regulations defines certain words and expressions used in these regulations, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in these regulations or in other legislation.

For example, the signpost definition ‘*child-care centre*—see the *Children and Young People Act 1999*, section 328.’ means that the expression ‘child care centre’ is defined in that section and the definition applies to these regulations.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire regulations unless the definition, or another provision of the regulations, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

3 Notes

A note included in these regulations is explanatory and is not part of these regulations.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment renumbers the regulation, brings the regulation heading into line with current drafting practice and updates the standard notes.

This amendment also inserts a standard notes provision in line with current drafting practice.

[3.349] Regulation 13 (2), new note

insert

Note For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.350] Regulation 22

omit everything before paragraph (a), substitute

22 Meaning of *registrable information* for div 3.1

In this division:

registrable information means the following information about a woman and her cervical smear or cervical tissue:

Explanatory note

This amendment brings the provision into line with current drafting practice.

[3.351] Regulation 23 (4)

omit

Territory

substitute

ACT

Explanatory note

This amendment is in line with current drafting practice. When ‘the Territory’ is used in the geographical sense, current drafting practice is to use ‘ACT’ instead. *ACT* is defined in the Legislation Act, dictionary, part 1.

[3.352] Regulation 25 (1)

substitute

(1) The chief health officer must maintain a cervical cytology register.

Explanatory note

This amendment brings the provision into line with current drafting practice.

[3.353] Regulation 31

substitute

31 Establishment

The chief health officer must maintain a management committee in accordance with this division.

Explanatory note

This amendment brings the provision into line with current drafting practice.

[3.354] Regulation 35 (1), new note

insert

Note For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Explanatory note

This amendment inserts a standard note about appointments.

[3.355] Regulation 37

substitute

37 Ending of appointment

The chief health officer may end the appointment of a member—

(a) for misbehaviour or physical or mental incapacity; or

- (b) on written notice from the organisation who nominated the member.

Note A person's appointment also ends if the person resigns (see Legislation Act, s 210).

Explanatory note

This amendment updates language (replacing 'terminate' with 'end'). 'End' is the drafting term that is now used in relation to appointments. It also inserts a standard note about the ending of an appointment.

[3.356] Regulation 42 (1)

omit

Territory

substitute

ACT

Explanatory note

This amendment is in line with current drafting practice. When 'the Territory' is used in the geographical sense, current drafting practice is to use 'ACT' instead. *ACT* is defined in the Legislation Act, dictionary, part 1.

[3.357] Regulation 42 (1), note

substitute

Note 1 If a form is approved under the Act, s 137A (Approved forms) for a notice, the form must be used.

Note 2 For how documents may be given, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.358] Regulations 43 (1) and 55 (4) (a)

omit

Territory

substitute

ACT

Explanatory note

This amendment is in line with current drafting practice. When ‘the Territory’ is used in the geographical sense, current drafting practice is to use ‘ACT’ instead. *ACT* is defined in the Legislation Act, dictionary, part 1.

[3.359] Dictionary

omit

(see reg 3)

substitute

(see reg 2)

Explanatory note

This amendment is consequential on the renumbering of regulation 3 by an earlier amendment.

[3.360] Dictionary, note 2

substitute

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- ACT
- administrative appeals tribunal
- appoint
- chief health officer
- disallowable instrument
- doctor
- document
- function
- nurse
- State

- the Territory.

Note 3 Words and expressions used in these regulations have the same meaning that they have in the *Public Health Act 1997* (see Legislation Act, s 148). In particular, the following terms are defined in the *Public Health Act 1997*, dict:

- authorised officer
- authorised medical officer
- insanitary condition
- transmissible notifiable condition.

Explanatory note

This amendment inserts standard dictionary notes.

This amendment also inserts a standard note into the dictionary about terms defined in the Act under which the regulations are made.

[3.361] Dictionary, definitions of *authorised officer* and *authorised medical officer*

omit

Explanatory note

This amendment omits signpost definitions of terms defined in the *Public Health Act 1997*, dictionary. It is not legally necessary to include the signpost definitions (see the Legislation Act, section 148), but they were included to help readers find the meaning of the terms. Instead of including signpost definitions, current drafting practice is to include a note that states that terms used in the regulations are defined in the Act, dictionary under which the regulation is made, and to list some of those terms.

[3.362] Dictionary, definition of *cancer register*

substitute

cancer register means the register maintained by the chief health officer under regulation 46.

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.363] Dictionary, definition of *Cervical Cytology Register*

substitute

cervical cytology register means the register maintained by the chief health officer under regulation 25.

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.364] Dictionary, definition of *immunisation*

substitute

immunised—see regulation 4.

Explanatory note

This amendment replaces the definition with the actual term used in regulation 4. The Legislation Act, section 157 provides that if a word is defined in an Act or regulations, other parts of speech and grammatical forms of the word have corresponding meanings eg immunisation.

[3.365] Dictionary, definition of *insanitary condition*

omit

Explanatory note

This amendment omits a signpost definition of a term defined in the *Public Health Act 1997*, dictionary. It is not legally necessary to include the signpost definition (see the Legislation Act, section 148), but it was included to help readers find the meaning of the term. Instead of including a signpost definition, current drafting practice is to include a note that states that terms used in the regulations are defined in the Act, dictionary under which the regulation is made, and to list some of those terms.

[3.366] Dictionary, definition of *laboratory*

omit

Territory

substitute

ACT

Explanatory note

This amendment is in line with current drafting practice. When ‘the Territory’ is used in the geographical sense, current drafting practice is to use ‘ACT’ instead. *ACT* is defined in the Legislation Act, dictionary, part 1.

[3.367] Dictionary, definition of *management committee*

substitute

management committee means the committee maintained by the chief health officer under regulation 31.

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.368] Dictionary, definition of *occupier*

substitute

occupier—see the Act, section 75.

Explanatory note

This amendment corrects a mistake by inserting ‘the Act’ into the definition. This signpost definition is retained because it is still necessary. The definition is defined in the Act only for part 5 of the Act. The signpost definition in the regulations has the effect of applying the definition to the whole regulations.

[3.369] Dictionary, definition of *registrable information*

substitute

registrable information, for division 3.1 (Cervical cytology register)—see regulation 22.

Explanatory note

This amendment is consequent on the earlier amendment of regulation 22 and brings the definition into line with current drafting practice.

[3.370] Dictionary, definition of *sewerage system*

omit

Territory

substitute

ACT

Explanatory note

This amendment is in line with current drafting practice. When ‘the Territory’ is used in the geographical sense, current drafting practice is to use ‘ACT’ instead. *ACT* is defined in the Legislation Act, dictionary, part 1.

[3.371] Dictionary, definition of *store*

substitute

store a drug means store the drug for supply.

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.372] Dictionary, definition of *transmissible notifiable condition*

omit

Explanatory note

This amendment omits a signpost definition of a term defined in the *Public Health Act 1997*, dictionary. It is not legally necessary to include the signpost definition (see the Legislation Act, section 148), but it was included to help readers find the meaning of the term. Instead of including signpost definitions, current drafting practice is to include a

note that states that terms used in the regulations are defined in the Act, dictionary under which the regulation is made, and to list some of those terms.

Part 3.18 Road Transport (Alcohol and Drugs) Regulations 2000

[3.373] Regulation 4 heading

omit

s 12 (5)

substitute

s 12 (6)

Explanatory note

This amendment is consequential on the renumbering of a subsection of the *Road Transport (Alcohol and Drugs) Act 1977*, section 12.

[3.374] Regulation 4

omit

subsection 12 (5)

substitute

section 12 (6) (Breath analysis)

Explanatory note

This amendment is consequential on the renumbering of a subsection of the *Road Transport (Alcohol and Drugs) Act 1977*, section 12 and brings the reference into line with current drafting practice.

Part 3.19 **Territory Superannuation Provision Protection Act 2000**

[3.375] Section 15

omit

the commencement of this Act

substitute

1 July 2000

Explanatory note

This amendment replaces references to the commencement of the Act with the actual date to assist readers.

[3.376] Section 15, new note

insert

Note 1 July 2000 was the day the Act commenced.

Explanatory note

This amendment inserts a note to explain the significance of the date to assist readers.

[3.377] Dictionary, new notes

insert

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- authorised deposit-taking institution
- chief executive
- Commonwealth
- disallowable instrument
- Legislative Assembly
- State
- Territory owned corporation
- the Territory

- Treasurer.

Explanatory note

This amendment inserts standard dictionary notes.

[3.378] Dictionary, definition of *superannuation appropriation*, paragraph (a)

omit

the commencement of this Act

substitute

1 July 2000

Explanatory note

This amendment replaces references to the commencement of the Act with the actual date of commencement to assist readers.

[3.379] Dictionary, definition of *superannuation appropriation*, new note

insert

Note 1 July 2000 was the day the Act commenced.

Explanatory note

This amendment inserts a note to explain the significance of the date to assist readers.

[3.380] Dictionary, definition of *superannuation provision account*

omit

the commencement of this Act

substitute

1 July 2000

Explanatory note

This amendment replaces references to the commencement of the Act with the actual date of commencement to assist readers.

[3.381] Dictionary, definition of *superannuation provision account*, new note

insert

Note 1 July 2000 was the day the Act commenced.

Explanatory note

This amendment inserts a note to explain the significance of the date to assist readers.

[3.382] Dictionary, definition of *Treasurer*

omit

Explanatory note

This amendment omits the definition because *Treasurer* is defined in the Legislation Act, dictionary, part 1.

Part 3.20 Utilities Act 2000

[3.383] Section 20 (2)

omit

performance

substitute

exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.384] Section 20 (2) (e)

substitute

(e) the *Gas Safety Act 2000*;

Explanatory note

This amendment corrects a reference to an Act's name.

[3.385] Section 23 (b)

substitute

(b) for 1 or more classes of people.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Explanatory note

This amendment updates language and inserts a standard note about examples.

[3.386] Section 25 (2) (d) (i)

omit

performance

substitute

exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.387] Section 30 (2)

omit

In subsection (1):

substitute

In this section:

Explanatory note

This amendment brings the provision into line with current drafting practice.

[3.388] Section 36 (2) (c) (ii)

omit

after the notice

substitute

after the day the notice

Explanatory note

This amendment brings the provision more closely into line with current drafting practice by including a specific reference to the day when the period begins.

[3.389] Section 41 (2) (a)

omit

after the written notice

substitute

after the day the written notice

Explanatory note

This amendment brings the provision more closely into line with current drafting practice by including a specific reference to the day when the period begins.

[3.390] Section 45 (2)

omit

in the performance of functions under this Act or the regulations in relation to the relevant utility service.

substitute

in the exercise of functions under this Act in relation to the relevant utility service.

Explanatory note

This amendment replaces ‘performance’ with ‘exercise’ and omits ‘or the regulations’. *Exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now. The Legislation Act, section 104 provides

that a reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations.

[3.391] Section 45 (3), new note

insert

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Explanatory note

This amendment inserts a standard note about examples.

[3.392] Section 45 (4) (b)

omit

manner in which

substitute

way

Explanatory note

This amendment updates language.

[3.393] Section 45 (6)

omit

after the notice

substitute

after the day the notice

Explanatory note

This amendment brings the provision more closely into line with current drafting practice by including a specific reference to the day when the period begins.

[3.394] Section 49 (1)

omit

performance

substitute

exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.395] Section 49 (2) (c), (d) and (f)

omit

manner

substitute

way

Explanatory note

This amendment updates language.

[3.396] Sections 49 (2), 55 (2) and 59 (2), new note

insert

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Explanatory note

This amendment inserts a standard note about examples.

[3.397] Section 67 (1)

substitute

- (1) The chief executive may appoint a person holding the qualifications mentioned in subsection (2) as a technical inspector.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Explanatory note

This amendment omits the reference to the appointment being made in writing. The Legislation Act, section 206 provides that an appointment must be made, or evidenced, in writing. The amendment also inserts standard notes about appointments.

[3.398] Section 67 (4)

omit

perform

substitute

exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.399] Section 69

substitute

69 Inspectors—functions

For this Act, a technical inspector may exercise the functions given to the inspector under part 10 (Enforcement).

Explanatory note

The reference to ‘powers’ is replaced with ‘functions’ because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now.

[3.400] Section 103, definition of *network operations*

omit

performance

substitute

exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.401] Section 104 (1)

omit

performing

substitute

exercising

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.402] Section 105 (2)

insert

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Explanatory note

This amendment inserts a standard note about examples.

[3.403] Section 106 (1)

insert

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Explanatory note

This amendment inserts a standard note about examples.

[3.404] Section 111 (4) (a)

omit

manner in which

substitute

way

Explanatory note

This amendment updates language.

[3.405] Division 7.4 heading

substitute

Division 7.4 Authorised people

Explanatory note

This amendment updates language (replacing ‘persons’ with ‘people’).

[3.406] Section 114 (1)

substitute

- (1) A utility may appoint a person as an authorised person for the utility for this Act.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Explanatory note

This amendment omits the reference to the appointment being made in writing and replaces ‘for the purposes of’ with ‘for’. The Legislation Act, section 206 provides that an appointment must be made, or evidenced, in writing. The Legislation Act, dictionary, part 1 defines *for*, in relation to an Act, to include for the purposes of the Act.

The amendment also inserts standard notes about appointments.

[3.407] Section 114 (2)

omit

perform

substitute

exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.408] Section 119 heading

omit

powers

substitute

functions

Explanatory note

The reference to ‘powers’ is replaced with ‘functions’ because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now.

[3.409] Section 119 (1) (a)

omit

perform

substitute

exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.410] Section 119 (1) (b)

omit

performance

substitute

exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.411] Section 119 (1)

omit

performed

substitute

exercised

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.412] Section 133

substitute

133 Extended meaning of *network*

(1) In sections 130, 131 and 132:

network includes related infrastructure between the network boundary and a customer meter.

(2) In this section:

customer meter, in relation to the supply of electricity, gas or water, means a meter used to measure the supply to a customer's premises.

Explanatory note

This amendment brings the structure of the section into line with current drafting practice.

[3.413] Section 135 (2), new notes

insert

Note 1 For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

Explanatory note

This amendment inserts standard notes about appointments.

[3.414] Section 135 (4)

substitute

- (4) A controller holds the position on the conditions stated in the instrument of appointment.

Explanatory note

This amendment brings the provision into line with current drafting practice.

[3.415] Section 135 (5), new note

insert

Note A person's appointment also ends if the person resigns (see Legislation Act, s 210).

Explanatory note

This amendment inserts a standard note about the ending of an appointment.

[3.416] Section 136 heading

substitute

136 Controller's functions

Explanatory note

This amendment updates the section heading to more accurately reflect the section's contents.

[3.417] Section 136 (2), new note

insert

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

Explanatory note

This amendment inserts a new note, consequent on the omission of section 136 (3) by the next amendment. Section 136 (3) stated that the controller has the powers necessary and convenient to exercise the controller's function.

[3.418] Section 136 (3)

omit

Explanatory note

This amendment omits an unnecessary provision. The Legislation Act, section 196 provides that a provision of a law that gives a function to an entity (including a person) also gives the entity powers necessary and convenient to exercise the function.

[3.419] Sections 139 (1), 142 (1) and 149 (c)

omit

performance

substitute

exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.420] Section 152 (1)

substitute

(1) ICRC may appoint a person as an ICRC inspector for this Act.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Explanatory note

This amendment omits the reference to the appointment being made in writing and replaces ‘for the purposes of’ with ‘for’. The Legislation Act, section 206 provides that an appointment must be made, or evidenced, in writing. The Legislation Act, dictionary, part 1 defines *for*, in relation to an Act, to include for the purposes of the Act.

The amendment also inserts standard notes about appointments.

[3.421] Section 152 (2)

omit

perform

substitute

exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.422] Section 152 (3)

omit

powers

substitute

functions

Explanatory note

The reference to ‘powers’ is replaced with ‘functions’ because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now.

[3.423] Division 10.4 heading

substitute

Division 10.4 Authorised people for utility

Explanatory note

This amendment updates language (replacing ‘persons’ with ‘people’).

[3.424] Section 170, note

substitute

Note 1 The Legislation Act, s 196 (1) provides that a provision of an Act that gives an entity (including the council) a function also gives the entity the powers necessary and convenient to exercise the function.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Explanatory note

This amendment inserts a standard note about examples.

[3.425] Section 172 (1)

omit

performance

substitute

exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.426] Section 174 (1)

omit

in writing

Explanatory note

This amendment omits the reference to an appointment being made in writing. The Legislation Act, section 206 provides that an appointment must be made, or evidenced, in writing.

[3.427] Section 174 (1), new notes

insert

Note 1 For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

Explanatory note

This amendment inserts standard notes about appointments.

[3.428] Section 174 (2), note

substitute

Note The Legislation Act, s 199 (4) provides that if an Act gives a function to a body (including the council), the exercise of the function is not affected only because of vacancies in the body's membership.

Explanatory note

This amendment updates a note.

[3.429] Section 175 (1)

substitute

- (1) A member of the council holds office on the conditions (if any) stated in the member's appointment about matters not provided for in this Act.

Explanatory note

This amendment removes an unnecessary reference to a member holding office for the period stated in the member's appointment. The Legislation Act, section 206 (2) provides that if a law provides for a maximum period of appointment (which this provision does, see section 175 (2) and (3)), the instrument of appointment must state the period for which the appointment is made.

[3.430] Section 175 (3), note

substitute

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict , pt 1, def *appoint*).

Explanatory note

This amendment updates a note.

[3.431] Section 178

substitute

178 Registrar

The chief executive may appoint a public servant as the registrar of the council.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Explanatory note

This amendment removes the requirement that the chief executive must create and maintain an office for the registrar etc in the public service. The Legislation Act, section 207 provides that an appointment may be made by naming the person appointed or by nominating the occupant of a position (however described), at a particular time or from time to time.

Standard notes about appointments are also inserted.

[3.432] Section 179 (1)

omit

performance

substitute

exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.433] Section 180

substitute

180 Immunity from personal liability

- (1) The following are not personally liable for an honest act or omission in relation to the exercise or purported exercise of a function of the council under this Act:
 - (a) a person who is, or has been, a member of the council;
 - (b) a person who is, or has been, the registrar;
 - (c) a person who is, or has been, a public servant acting under an arrangement mentioned in section 179.
- (2) Subsection (1) does not affect any liability that the Territory would have in relation to the act or omission apart from that subsection.

Explanatory note

This amendment updates language. In particular, *exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.434] Section 181 (3)

omit

perform

substitute

exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.435] Section 182 heading

omit

powers

substitute

functions

Explanatory note

The reference to ‘powers’ is replaced with ‘functions’ because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now.

[3.436] Section 182 (1)

omit

powers

substitute

functions

Explanatory note

The reference to ‘powers’ is replaced with ‘functions’ because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now.

[3.437] Section 189 (1) (b), new note

insert

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Explanatory note

This amendment inserts a standard note about examples.

[3.438] Section 191 (1) (b)

substitute

(b) may conduct its consideration of a complaint in the way it considers appropriate.

Explanatory note

This amendment updates language.

[3.439] Section 198 (1) (a)

omit

body politic or corporate, by an officer of the body

substitute

corporation, by a proper officer of the corporation

Explanatory note

This amendment updates language. *Corporation* is defined in the Legislation Act, dictionary, part 1 to include a body politic or corporate.

[3.440] Section 203 (1)

omit

manner, or to the persons

substitute

way, or to the people

Explanatory note

This amendment updates language.

[3.441] Section 205 (3) (b)

omit

manner

substitute

way

Explanatory note

This amendment updates language.

[3.442] Section 207 (3), new note

insert

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Explanatory note

This amendment inserts a standard note about examples.

[3.443] Section 209 (4) (b)

omit

performance

substitute

exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.444] Section 219, new note

insert

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Explanatory note

This amendment inserts a standard note about examples.

[3.445] Section 221 (2), new note

insert

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Explanatory note

This amendment inserts a standard note about examples.

[3.446] Sections 229A (1) and 229B (1), new note

insert

Note For other provisions about forms, see Legislation Act, s 255.

Explanatory note

This amendment inserts a standard note about approved forms.

[3.447] Dictionary, new notes

insert

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- administrative appeals tribunal
- corporation
- disallowable instrument
- exercise
- function
- magistrate

- Magistrates Court
- Minister
- national land
- notifiable instrument
- public servant
- State
- Supreme Court
- the Territory.

Explanatory note

This amendment inserts standard dictionary notes.

[3.448] Dictionary, definition of *data storage device*

insert

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Explanatory note

This amendment inserts a standard note about examples.

[3.449] Dictionary, definitions of *installation* and *interference*

substitute

installation, of a network facility, for part 7 (Network operations)—see section 103.

interference, with a network or network facility, for part 8 (Protection of networks)—see section 123.

Explanatory note

This amendment brings the definitions into line with current drafting practice.

[3.450] Dictionary, definition of *party*

substitute

party, to a complaint, for part 12 (Complaints)—see section 184.

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.451] Dictionary, definition of *respondent*

substitute

respondent, to a complaint, for part 12 (Complaints)—see section 184.

Explanatory note

This amendment brings the definition into line with current drafting practice.

**[3.452] Dictionary, definition of *utility service*,
paragraph (e)**

substitute

(e) a service prescribed to be a utility service under section 15 (Prescribed utility services).

Explanatory note

This amendment corrects an incorrect reference to prescribed services in the existing definition.

[3.453] Dictionary, definition of *withdrawal*

substitute

withdrawal, of a utility service, for part 12 (Complaints)—see section 184.

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.454] Further amendments, mentions of *persons*

omit

persons

substitute

people

in

- section 33 (5), definition of ***group***, paragraph (b)
- section 60 (1) (a) (iii)
- section 64 (1) (b) and (2)
- section 105 (4)
- section 109 (5) (b)
- section 110 (8) (b)
- section 111 (6) (b)
- section 115 (1)
- section 116 (1) (a)
- section 125 (9), definition of ***urgent circumstances***, paragraph (b)
- section 159 (1) (d)
- section 170 (c)
- section 221 (2)
- dictionary, definition of ***owner***

Explanatory note

These amendments update language.

Part 3.21 Victims of Crime Act 1994

[3.455] Section 1

substitute

1 Name of Act

This Act is the *Victims of Crime Act 1994*.

Explanatory note

This amendment revises the section providing for the Act's name to bring it into line with current drafting practice.

[3.456] Section 3 (1), definition of *coordinator*

substitute

coordinator means the Victims of Crime Coordinator.

Explanatory note

This amendment brings the definition into line with current drafting practice.

[3.457] Section 3 (1), definition of *offence*

omit

Territory

substitute

ACT

Explanatory note

This amendment is in line with current drafting practice. When 'the Territory' is used in the geographical sense, current drafting practice is to use 'ACT' instead. *ACT* is defined in the Legislation Act, dictionary, part 1.

[3.458] Section 3 (1), definitions (as amended)

relocate to dictionary

Explanatory note

This amendment relocates the definitions to a new dictionary inserted by another amendment.

[3.459] Section 3, remainder

substitute

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain words and expressions used in this Act.

Note 2 A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment inserts standard dictionary and notes provisions in line with current drafting practice.

[3.460] Section 4

omit

shall

substitute

are to

Explanatory note

This amendment updates language.

[3.461] Section 4 (a)

omit

manner

substitute

way

Explanatory note

This amendment updates language.

[3.462] Section 4 (a)

omit

due

substitute

appropriate

Explanatory note

This amendment updates language.

[3.463] Section 4 (b)

substitute

- (b) a victim should be told at reasonable intervals (generally not more than 1 month) of the progress of police investigations about the relevant offence, except if the disclosure might jeopardise the investigation, and, in that case, the victim should be told accordingly;

Explanatory note

This amendment updates language.

[3.464] Section 4 (c), (d) and (e)

omit

informed of

substitute

told about

Explanatory note

This amendment updates language.

[3.465] Section 4 (f)

substitute

- (f) if any victim's property is held by the Territory for the purposes of investigation or evidence—inconvenience to the victim should be minimised and the property returned promptly;

Explanatory note

This amendment updates language.

[3.466] Section 4 (g)

omit

informed

substitute

told

Explanatory note

This amendment updates language.

[3.467] Section 4 (j)

substitute

- (j) a victim should not have to appear at preliminary hearings or committal proceedings unless the court directs the victim to appear;

Explanatory note

This amendment updates language.

[3.468] Section 4 (l)

omit

informed of

substitute

told about

Explanatory note

This amendment updates language.

[3.469] Sections 5 and 6

substitute

5 Compliance with principles

A person who exercises a function in the administration of justice must have regard to the governing principles mentioned in section 4, as well as other relevant matters.

6 Giving information to coordinator—legal immunity

- (1) This section applies—
- (a) to a person who exercises, or has exercised, a function in the administration of justice; and
 - (b) if the person—

- (i) gives information to the coordinator that the person believes on reasonable grounds is required by the coordinator for this Act; and
 - (ii) the information is given honestly.
- (2) A civil proceeding in relation to the information does not lie against the person.
- (3) Subsection (2) does not affect any liability that the Territory would have in relation to the giving of information apart from that subsection.

Explanatory note

This amendment brings the provisions into line with current drafting practice. ‘Perform’ a function is replaced with ‘exercise, because *exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and ‘exercise’ is the drafting term used now. The amendment also updates language.

[3.470] Section 7 (a)

omit

referred to

substitute

mentioned

Explanatory note

This amendment updates language.

[3.471] Section 7 (i)

omit

law of the Territory

substitute

Territory law

Explanatory note

This amendment brings the phrase into line with current drafting practice.

[3.472] Section 7, new note

insert

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

Explanatory note

This amendment inserts a new note, consequent on the omission of section 10 by a later amendment. Section 10 stated that the coordinator has the powers necessary and convenient to exercise the coordinator's function.

[3.473] Section 9 (1)

omit

referred to

substitute

mentioned

Explanatory note

This amendment updates language.

[3.474] Section 9 (2)

substitute

- (2) A person who exercises, or has exercised, a function in the administration of justice must, as far as practicable, give the coordinator the information asked for by the coordinator for an investigation.

Explanatory note

This amendment brings the provisions into line with current drafting practice. 'Perform' a function is replaced with 'exercise, because *exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and 'exercise' is the drafting term used now. The amendment also updates language.

[3.475] Section 9 (3)

omit

shall

substitute

must

Explanatory note

This amendment updates language.

[3.476] Section 10

omit

Explanatory note

This amendment omits an unnecessary provision. The Legislation Act, section 196 provides that a provision of a law that gives a function to an entity (including a person) also gives the entity powers necessary and convenient to exercise the function.

[3.477] Section 12 (1)

omit

performance of a function under or in relation to this Act or another law.

substitute

exercise of a function under this Act or another law in force in the ACT.

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now. This amendment also omits the unnecessary reference to ‘in relation to’ and makes it clear that the reference to another law means a law in force in the ACT.

[3.478] Section 12 (2)

omit everything before paragraph (a), substitute

- (2) In a disclosure mentioned in subsection (1), the coordinator must not—

Explanatory note

This amendment updates language.

[3.479] Section 13

substitute

13 Protection of coordinators etc

- (1) This section applies to a person who is, or has been—
- (a) the coordinator; or
 - (b) a person acting under the direction or authority of the coordinator.
- (2) A civil proceeding does not lie against the person in relation to loss, damage or injury of any kind to someone else because of an act done, or omitted to be done, honestly in the exercise (or purported exercise) of a function under this Act or another law.
- (3) Subsection (2) does not affect any liability that the Territory would have in relation to the giving of information apart from that subsection.

Explanatory note

This amendment brings the provisions into line with current drafting practice. ‘Performance’ of a function is replaced with ‘exercise, because *exercise* a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and ‘exercise’ is the drafting term used now. The amendment also updates language.

[3.480] Division 3.2

substitute

Division 3.2 The coordinator

14 The Victims of Crime Coordinator

There is to be a Victims of Crime Coordinator.

15 Appointment of coordinator

The coordinator is appointed by the Minister.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

16 Term of appointment of coordinator

The coordinator must be appointed for a term of not longer than 3 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict , pt 1, def *appoint*).

17 Conditions of appointment of coordinator

The coordinator holds the position on the conditions (if any) not provided for by this Act that are stated in the instrument of appointment.

18 Ending of appointment of coordinator

The Minister may end the coordinator's appointment—

(a) for misbehaviour or physical or mental incapacity; or

(b) under the instrument of appointment.

Note A person's appointment also ends if the person resigns (see Legislation Act, s 210).

Explanatory note

New section 14: This section restates existing section 14 (1).

New section 15: This section restates existing section 14 (2). The new section omits the reference to the appointment being made in writing. The Legislation Act, section 206 provides that an appointment must be made, or evidenced, in writing. The amendment also inserts standard notes about appointments.

New section 16: This section restates existing section 15 (a). The new section removes a provision that requires the instrument of appointment to state the period of appointment. The Legislation Act, section 206 (2) provides that, if a law provides for a maximum period of appointment, the period of appointment must be stated in the instrument of appointment. It also removes a reference to reappointment and a note about this is inserted. The Legislation Act, section 208 provides that a person may be reappointed to a position if the person is eligible to be appointed to the position.

Existing section 16: This section is unnecessary, because the Legislation Act, section 210 provides that a person's appointment also ends if the person resigns. A note to this effect is inserted in new section 18.

New section 17: This section restates existing section 15 (b) and brings it into line with current drafting practice.

New section 18: This section restates existing section 17 and brings the provision into line with current drafting practice. It also inserts a standard note about the ending of an appointment by resignation.

Existing section 18: This provision deals with acting coordinators. It is no longer necessary, for the following reasons:

- the Legislation Act, section 209 provides that a power to make an appointment includes the power to make an acting appointment during vacancies and when the holder of the position is not available; and
- the bar on acting for longer than 1 year is contained in the Legislation Act, section 221 (1); and
- the Legislation Act, section 225 states that an acting appointment is not affected by a defect etc.

[3.481] Section 19 (1)

omit

shall

substitute

must

Explanatory note

This amendment updates language.

[3.482] Section 19 (2)

omit

the purposes of

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines *for*, in relation to an Act, to include for the purposes of the Act.

[3.483] Section 19 (2) (e)

omit

performance

substitute

exercise

Explanatory note

Exercise a function is defined in the Legislation Act, dictionary, part 1 to include perform the function, and is the drafting term used now.

[3.484] Section 20

omit

the purposes of

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines *for*, in relation to an Act, to include for the purposes of the Act.

[3.485] Section 21 (a)

substitute

- (a) the annual reporting authority nominated in accordance with the regulations were a public authority under that Act; and

Explanatory note

This amendment updates language.

[3.486] Sections 21 (c) and 22 (a)

omit

the purposes of

Explanatory note

This amendment omits unnecessary words. The Legislation Act, dictionary, part 1 defines *for*, in relation to an Act, to include for the purposes of the Act.

[3.487] Section 22 (b)

omit

within the meaning of

substitute

under

Explanatory note

This amendment updates language.

[3.488] New dictionary

insert

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- ACT
- law, of the Territory
- Minister
- penalty unit (see s 133)
- police officer
- the Territory.

Explanatory note

This amendment inserts a dictionary and standard dictionary notes.

Part 3.22 **Victims of Crime Regulations 2000**

[3.489] Regulation 7 (2), new notes

insert

Note 1 For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

Explanatory note

This amendment inserts standard notes about appointments.

[3.490] Regulation 8 (3)

omit

Territory

substitute

ACT

Explanatory note

This amendment is in line with current drafting practice. When ‘the Territory’ is used in the geographical sense, current drafting practice is to use ‘ACT’ instead. *ACT* is defined in the Legislation Act, dictionary, part 1.

[3.491] Regulation 8 (4), notes

substitute

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict , pt 1, def *appoint*).

Explanatory note

This amendment omits note 2, which provided that a power to appoint a person to a position includes power to appoint a person to act in the position. The note about acting appointments is incorporated in the standard note about appointments (see the amendment of reg 7 (2), new note 1).

[3.492] Regulation 11 (1)

substitute

- (1) An appointed member must not be appointed for longer than 2 years.

Explanatory note

This amendment brings the provision into line with current drafting practice.

[3.493] Regulation 12

omit

Explanatory note

This amendment removes an unnecessary reference to the instrument of appointment stating the term for which an appointed member is appointed. The Legislation Act, section 206 (2) provides that if a law provides for a maximum period of appointment (which these regulations do, see reg 11 (1)), the instrument of appointment must state the period for which the appointment is made.

[3.494] Regulation 24 (5), definition of *found guilty*

omit

Explanatory note

This amendment omits an unnecessary definition. *Found guilty* is defined in the Legislation Act, dictionary, part 1.

[3.495] Regulation 37

omit

Territory

substitute

ACT

Explanatory note

This amendment is in line with current drafting practice. When ‘the Territory’ is used in the geographical sense, current drafting practice is to use ‘ACT’ instead. *ACT* is defined in the Legislation Act, dictionary, part 1.

[3.496] Regulation 51 (1), new note

insert

Note For other provisions about forms, see Legislation Act, s 255.

Explanatory note

This amendment inserts a standard note about approved forms.

[3.497] Dictionary, new notes

insert

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- administrative appeals tribunal
- chief executive
- chief police officer
- commissioner for health complaints
- dentist
- disallowable instrument
- doctor
- DPP
- entity
- found guilty
- lawyer

Schedule 3 Technical amendments
Part 3.23 Water and Sewerage Act 2000

Amendment [3.498]

- Magistrates Court
- Minister
- Supreme Court.

Note 3 Words and expressions used in these regulations have the same meaning that they have in the *Victims of Crime Act 1994* (see Legislation Act, s 148). In particular, the following terms are defined in the *Victims of Crime Act 1994*, dict:

- harm
- victim.

Explanatory note

This amendment inserts standard notes into the dictionary about terms defined in the Legislation Act and in the Act under which the regulations are made.

[3.498] Dictionary, definitions of *harm* and *victim*

omit

Explanatory note

This amendment omits signpost definitions of terms defined in the *Victims of Crime Act 1994*, section 3 (1). It is not legally necessary to include the signpost definitions (see the Legislation Act, section 148), but they were included to help readers find the meaning of the terms. Instead of including signpost definitions, current drafting practice is to include a note that states that terms used in the regulations are defined in the Act, dictionary under which the regulation is made, and to list some of those terms (see the above amendment).

Part 3.23 Water and Sewerage Act 2000

[3.499] Section 3

omit

the Act

substitute

this Act

Explanatory note

This amendment brings the dictionary provision into line with the standard dictionary provision.

[3.500] Sections 3 and 4

renumber as sections 2 and 3

Explanatory note

This amendment renumbers the sections.

[3.501] New section 4

insert

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

Explanatory note

This amendment inserts a standard notes provision in line with current drafting practice.

[3.502] Section 5 (1)

substitute

- (1) The owner of premises on which it is proposed to do plumbing or sanitary drainage work must appoint a certifier in relation to the work.

Note For the making of appointments, see Legislation Act, div 19.3.

Explanatory note

This amendment omits the reference to the appointment being made in writing. The Legislation Act, section 206 provides that an appointment must be made, or evidenced, in writing. The amendment also inserts a standard note about appointments.

[3.503] Section 5 (3) and (4)

substitute

- (3) A certifier's appointment ends if the certifier ceases to be entitled to be appointed as a certifier in relation to the relevant work.

Note 1 A person's power to make an appointment includes the power to end the appointment (see Legislation Act, s 208).

Note 2 A person's appointment also ends if the person resigns (see Legislation Act, s 210).

- (4) The Legislation Act, section 209 (Power of appointment includes power to make acting appointment) does not apply to the appointment of a certifier under this section.

Explanatory note

Existing section 5 (3) (a) is omitted because the Legislation Act, section 208 provides that a person's power to make an appointment includes the power to end the appointment.

Existing section 5 (3) (b) is omitted because the Legislation Act, section 210 provides that a person's appointment also ends if the person resigns. A note to this effect is inserted by this amendment.

Existing section 5 (4) is remade as section 5 (3). This amendment brings the subsection into line with current drafting practice.

New section 5 (4) displaces the Legislation Act, section 209, because it is not appropriate to appoint an acting certifier under this section. If a certifier appointed under this section cannot continue to be the certifier, the owner of the premises would appoint a new certifier.

[3.504] Section 10

omit

by virtue of section 5 (3) or (4) (Appointment of certifiers)

Explanatory note

This amendment is consequential on the amendment of section 5 (3) and (4) by an earlier amendment.

[3.505] Section 16 (3)

omit

AS1100

substitute

Australian Standard 1100

Explanatory note

This amendment makes it clear that the reference is to an Australian Standard.

[3.506] Section 18, new definitions

insert

connected—a thing is ***connected*** with an offence if—

- (a) the offence has been committed in relation to it; or
- (b) it will provide evidence of the commission of the offence; or
- (c) it was used, or is intended to be used, to commit the offence.

offence includes an offence that there are reasonable grounds for believing is being, has been or will be committed.

Explanatory note

This amendment brings the form of the definitions (previously contained in section 19) more closely into line with current drafting practice.

[3.507] Section 19

omit

Explanatory note

The definitions contained in section 19, a thing ***connected*** with an offence and ***offence***, have been relocated to section 18 by the previous amendment.

[3.508] Section 20 (1)

insert

Note For how documents may be served, see Legislation Act, pt 19.5.

Explanatory note

This amendment inserts a standard note about service of documents.

[3.509] Section 23 (1)

substitute

- (1) The chief executive may appoint a person as an inspector for this Act.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Explanatory note

This amendment omits the reference to the appointment being made in writing and ‘for a provision of this Act’. The Legislation Act, section 206 provides that an appointment must be made, or evidenced, in writing, and section 7 (3) provides that a reference to an Act includes a reference to a provision of an Act. The amendment also inserts standard notes about appointments.

[3.510] Section 26

substitute

26 Delegation—chief executive

The chief executive may delegate the chief executive’s functions under this part (other than section 23 (Appointment of inspectors)) to an inspector or public servant.

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

Explanatory note

This amendment updates the delegation provision by omitting the words ‘all or any’ (of the chief executive’s functions). This is because the Legislation Act, section 234 provides that the delegation instrument may provide that the delegation has effect in stated circumstances or subject to stated conditions, limitations or directions or that all of the function, or a stated part of the delegated functions, is delegated.

The reference to the chief executive’s ‘powers’ is replaced with ‘functions’, because *function* is defined in the Legislation Act, dictionary, part 1 to include authority, duty and power, and is the drafting term used now.

This amendment also inserts a standard note about delegations.

[3.511] Section 48 (1), new note

insert

Note For other provisions about forms, see Legislation Act, s 255.

Explanatory note

This amendment inserts a standard note about approved forms.

[3.512] Dictionary

omit

(see s 3)

substitute

(see s 2)

Explanatory note

This amendment is consequential on the renumbering of section 3 by an earlier amendment.

[3.513] Dictionary, new notes

insert

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- administrative appeals tribunal
- appoint

- chief executive
- disallowable instrument
- document
- function
- magistrate
- penalty unit (see s 133)
- the Territory.

Explanatory note

This amendment inserts standard dictionary notes.

[3.514] Dictionary, new definition of *connected*

insert

connected, with an offence, for part 4 (Enforcement)—see section 18.

Explanatory note

This amendment inserts a signpost definition in line with current drafting practice.

[3.515] Dictionary, definition of *function*

omit

Explanatory note

This amendment omits an unnecessary definition. *Function* is defined in the Legislation Act, dictionary, pt 1 to include authority, duty and power.

[3.516] Dictionary, new definitions

insert

occupier, of premises, for part 4 (Enforcement)—see section 18.

offence, for part 4 (Enforcement)—see section 18.

reasonably believes, for part 4 (Enforcement)—see section 18.

Explanatory note

This amendment inserts signpost definitions in line with current drafting practice.

[3.517] Dictionary, definition of *this Act*

omit

Explanatory note

This amendment omits an unnecessary definition. The Legislation Act, section 104 provides that a reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations.

**Part 3.24 Workers Compensation Act
1951**

[3.518] Section 20 (1), definition of *CPI*

omit

ABS

substitute

Australian Statistician

Explanatory note

This amendment replaces an incorrect reference to the ABS (the Australian Bureau of Statistics) with a reference to the ‘Australian Statistician’.

[3.519] Section 20 (1), note

substitute

Note *AWE* is defined in the dict.

Explanatory note

This amendment removes the reference to the *ABS*, and is consequential on the previous amendment.

[3.520] Dictionary, definition of *ABS*

omit

Explanatory note

This amendment omits an unnecessary definition. All of the references in the Act to the ABS are replaced with references to the Australian Statistician by amendments in this part.

[3.521] Dictionary, definition of *AWE*

substitute

AWE means—

- (a) the average weekly earnings, States and Territories, seasonally adjusted for the ACT (all males total earnings) contained in *Average Weekly Earnings, Australia* issued by the Australian Statistician; or
- (b) if the Australian Statistician issues a publication (however described) containing average weekly earnings in substitution for, or instead of, the average weekly earnings mentioned in paragraph (a)—the substituted average weekly earnings.

Explanatory note

This amendment replaces an incorrect reference to the ABS (the Australian Bureau of Statistics) with a reference to the ‘Australian Statistician’ and updates the reference to the publication issued by the Australian Statistician.

Schedule 4 Repeal of redundant Act

(see s 6)

Part 4.1 Companies (Commonwealth Brickworks (Canberra) Limited) Act 1979

Explanatory note

This part repeals an Act that is no longer needed.

The *Companies (Commonwealth Brickworks (Canberra) Limited) Act 1979* authorised the Commonwealth Brickworks (Canberra) Limited to pass a resolution about altering the company's memorandum of association. The Act required the company to lodge the resolution with the registrar of companies for registration. The alteration of the memorandum of association would take effect on registration.

The operation of the Act is spent. The resolution was passed on 10 August 1979, and was registered soon after.

*Companies (Commonwealth Brickworks (Canberra) Limited) Act
1979 No 22*

Endnote

Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

[Presentation speech made in Assembly on 8 May 2003]

I certify that the above is a true copy of the Statute Law Amendment Bill 2003 which was passed by the Legislative Assembly on 28 August 2003.

Acting Clerk of the Legislative Assembly

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