

2002

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Attorney-General)

## Statute Law Amendment Bill 2002

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2002

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(As presented)

(Attorney-General)

## Statute Law Amendment Bill 2002

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### A Bill for

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

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

1   **1    Name of Act**

2           This Act is the *Statute Law Amendment Act 2002*.

3   **2    Commencement**

4       (1) This Act commences on the day after its notification day.

5       (2) However, a date or time provided by a special commencement  
6           provision for an amendment made by this Act has effect, or is taken  
7           to have had effect, as the commencement date or time of the  
8           amendment.

9       (3) In this section:

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

13       **Example**

14           An amendment followed by ‘(commencement: 12 July 2001)’ means that the  
15           amendment is taken to have commenced on 12 July 2001.

16   **3    Purpose**

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

20   **4    Notes**

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

22           *Note*        See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of  
23           notes.

24   **5    Acts and regulations amended—schs 1-3**

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



1 **6 Acts repealed—sch 4**

2 (1) Schedule 4 repeals the Acts mentioned in it.

3 (2) The *Financial Sector Reform (ACT) Act 1999* and the *University of*  
4 *Canberra (Transfer) Act 1997* are declared to be laws to which the  
5 *Legislation Act 2001*, section 88 (Repeal does not end transitional or  
6 validating effect etc) applies.

1 **Schedule 1** **Minor amendments**

2 (see s 5)

3 **Part 1.1** **Evidence (Miscellaneous**  
4 **Provisions) Act 1991**

5 **[1.1] Section 4 (b)**

6 *substitute*

- 7 (b) for proceedings of a kind mentioned in section 5 (a), (b), (c)  
8 or (e) that relate to the alleged commission of a sexual  
9 offence—the complainant.

10 **Explanatory note**

11 This amendment brings the language of the paragraph into line with current drafting  
12 practice and updates a cross-reference that was inadvertently missed when the Act was  
13 amended by the *Protection Orders (Consequential Amendments) Act 2001*. The  
14 amendment will ensure that the provisions of the *Evidence (Miscellaneous Provisions) Act*  
15 *1991*, part 2 (which is about the giving of evidence of sexual offences by children) apply to  
16 proceedings under the *Protection Orders Act 2001*. The provisions of the part previously  
17 applied to proceedings under the *Domestic Violence Act 1986*, now named the *Domestic*  
18 *Violence Agencies Act 1986*, which was largely replaced by the *Protection Orders Act*  
19 *2001*. The amendment is explained further in the explanatory memorandum.

20 **Part 1.2** **Health and Community Care**  
21 **Services Act 1996**

22 **[1.2] New section 32 (3) and (4)**

23 *insert*

- 24 (3) For subsection (1), a determination may adopt a health benefits  
25 agreement (or a provision of a health benefits agreement) as in force  
26 from time to time.

27 *Note 1* The text of an applied, adopted or incorporated law or instrument,  
28 whether applied as in force from time to time or as at a particular time,

1 is taken to be a notifiable instrument if the operation of the *Legislation*  
2 *Act 2001*, s 47 (5) or (6) is not disappplied (see s 47 (7)).

3 *Note 2* A notifiable instrument must be notified under the *Legislation Act 2001*.

4 (4) In this section:

5 *health benefits agreement* means an agreement between the service  
6 or the Territory and an entity that provides health benefits to  
7 contributors of a health benefits fund conducted by the entity.

8 **Explanatory note**

9 This amendment provides for a determination of fees and charges to adopt the charges set  
10 out in agreements, as in force from time to time, with health benefits organisations. This  
11 approach removes the need for a determination to set out a voluminous number of charges  
12 that have been agreed with health benefits organisations and for the determination to be  
13 revised each time a charge is altered.

## 1      **Schedule 2                      Structural amendments**

2      (see s 5)

### 3      **Part 2.1                              Legislation Act 2001**

#### 4      **[2.1]      Section 36 (1) (g)**

5                      *substitute*

- 6                      (g) a matter arising under a Territory law that is part of a uniform  
7                                      scheme of legislation or complementary with legislation of the  
8                                      Commonwealth, a State or New Zealand;

#### 9      **Explanatory note**

10      This amendment makes 2 minor changes to the paragraph that provides that a regulatory  
11      impact statement is not required for uniform or complementary legislation. First, this  
12      amendment adds New Zealand to the jurisdictions that can be involved. Many uniform or  
13      complementary legislative schemes now involve New Zealand as well as the  
14      Commonwealth, States and other Territories. Second, this amendment clarifies the nature  
15      of uniform legislation to which the paragraph applies. Under the existing paragraph the  
16      Territory law must be substantially uniform with legislation of another jurisdiction. This  
17      amendment changes this to require that the Territory law be part of a uniform scheme of  
18      legislation. This amendment more accurately reflects the nature of uniform legislative  
19      schemes and recognises that uniform legislative schemes do not always require a Territory  
20      law that is substantially uniform with the law of another jurisdiction. For example, the  
21      scheme may provide for a Territory law to give legislative force in the ACT to legislation  
22      enacted in another jurisdiction. The uniform credit scheme is an example of such a  
23      uniform legislative scheme.

#### 24      **[2.2]      Section 54 (1), new note**

25                      *insert*

26                      *Note*      The *Statutory Declarations Act 1959* (Cwlth) applies to the making of  
27                                      statutory declarations under ACT laws (see that Act, s 5).

#### 28      **Explanatory note**

29      This amendment adds a note about the legislation under which statutory declarations for  
30      ACT laws are made.

---

1 **[2.3] Section 89 (3) and (4)**

2 *omit*

3 on the day

4 *substitute*

5 immediately

6 (commencement: 12 September 2001)

7 **Explanatory note**

8 The Parliamentary Counsel's Office endeavours to republish all new laws on the  
9 legislation register on the day they commence. The office also republishes a new version  
10 of republished laws every time the law is affected by an amendment, modification or  
11 expiry. Section 89 (3) and (4) presently provides for the automatic repeal of amendment  
12 and commencement provisions *on the day after* they have commenced. Under this  
13 amendment the repeal will happen *immediately after* the provisions have fully operated.  
14 This amendment will allow the Parliamentary Counsel's Office to maintain its existing  
15 republication practices without the need to prepare an additional version of every new law  
16 on the day after the day of its commencement. This amendment is backdated to the  
17 establishment of the legislation register.

18 **[2.4] Section 91 (9), example 4**

19 *omit*

20 new section 7A, division 2.2

21 *substitute*

22 Division 2.2, new section 7A

23 **Explanatory note**

24 This amendment brings the example into line with current drafting practice relating to  
25 amendments.

26 **[2.5] Section 91 (9), example 5**

27 *omit*

28 new section 7A, division 2.3

29 *substitute*

30 Division 2.3, new section 7A

1    **Explanatory note**

2    This amendment brings the example into line with current drafting practice relating to  
3    amendments.

4    **[2.6]      Section 106 (1), example**

5        *substitute*

6        **Example**

7        A reference to the ‘XYZ Act 2000 (repealed)’ is a reference to the XYZ Act 2000  
8        immediately before it was repealed.

9    **Explanatory note**

10   This amendment brings the example into line with current drafting practice relating to  
11   references to repealed laws.

12   **[2.7]      Section 126 (2) (b)**

13        *omit*

14        another Act

15        *substitute*

16        the Act

17   **Explanatory note**

18   This amendment clarifies the operation of the section.

19   **[2.8]      Section 146 (6), new definition of *inserted***

20        *insert*

21        *inserted*, for a provision, includes inserted in substitution for another  
22        provision.

23   **Explanatory note**

24   This amendment makes it clear that the rules in section 146 about the meaning of *may* and  
25   *must* apply to provisions inserted in substitution for other provisions.

---

1 **[2.9] Section 246, definition of *home address***

2 *omit*

3 under the law

4 *substitute*

5 under a law

6 **Explanatory note**

7 This amendment corrects a minor typographical error.

8 **[2.10] Dictionary, part 1, new definitions**

9 *insert*

10 *custodial escort* means a person appointed as an escort under the  
11 *Custodial Escorts Act 1998*, section 4.

12 *director of corrective services* means the Director of Corrective  
13 Services under the *Periodic Detention Act 1995*.

14 *quarter* means a period of 3 months beginning on 1 January,  
15 1 April, 1 July or 1 October in any year.

16 *remand centre* means an area declared under the *Remand Centres*  
17 *Act 1976* to be a remand centre or a temporary remand centre.

18 *remand centre administrator* means the Administrator under the  
19 *Remand Centres Act 1976*, section 6.

20 *sentence administration board* means the Sentence Administration  
21 Board under the *Rehabilitation of Offenders (Interim) Act 2001*.

22 **Explanatory note**

23 The dictionary, part 1 contains definitions of entities, officials, things and concepts that are  
24 used from time to time in ACT laws. Once a term is defined in the dictionary, part 1 it  
25 applies to all ACT laws and does not need to be repeated in individual laws.

- 1    **[2.11]    Dictionary, part 1, definition of *under***
- 2        *substitute*
- 3        ***under***, in relation to an Act or statutory instrument or a provision of
- 4        an Act or statutory instrument, includes the following:
- 5        (a) by;
- 6        (b) by virtue of;
- 7        (c) for or for the purposes of;
- 8        (d) in accordance with;
- 9        (e) in pursuance of;
- 10       (f) pursuant to;
- 11       (g) within the meaning of.

12    **Explanatory note**

13    This amendment adds paragraphs (b), (e) and (f) to cover other phrases that are equivalent

14    to the word ***under*** in most legislative contexts and brings the definition into line with

15    current drafting practice.



1 **Schedule 3**      **Technical amendments**

2 (see s 5)

3 **Part 3.1**                      **ACTEW/AGL Partnership**  
4                                      **Facilitation Act 2000**

5 **[3.1] Section 25 (2) (a)**

6            *omit*

7            the discharge by ACTEW of any of its powers or functions as  
8            employer, other than a power or function

9            *substitute*

10           the exercise by ACTEW of any of its functions as employer, other  
11           than a function

12 **Explanatory note**

13 This amendment updates language. *Exercise* a function is defined in the *Legislation Act*  
14 *2001*, dictionary, part 1 to include perform the function and *function* is defined to include  
15 power. These are the drafting terms that are now used in relation to functions and powers.

16 **[3.2] Section 32 (2)**

17            *omit*

18            is guilty of

19            *insert*

20            commits

21 **Explanatory note**

22 This amendment brings language into line with current drafting practice.

1 **[3.3] Section 34 (1)**

2 *omit*

3 perform

4 *substitute*

5 exercise

6 **Explanatory note**

7 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
8 perform the function. It is the drafting term that is now used in relation to functions.

9 **Part 3.2 ACTION Authority Act 2001**

10 **[3.4] Section 3**

11 *substitute*

12 **2 Dictionary**

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

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

18 For example, the signpost definition ‘*relevant person*, for division 5.1  
19 (Conduct of persons associated with the authority—see section 30.’  
20 means that the term ‘relevant person’ is defined in that section and the  
21 definition applies to that division.

22 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
23 the entire Act unless the definition, or another provision of the Act,  
24 provides otherwise or the contrary intention otherwise appears (see  
25 *Legislation Act 2001*, s 155 and s 156 (1)).

26 **3 Notes**

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

28 *Note* See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of  
29 notes.

1 **Explanatory note**

2 This amendment adds standard dictionary and notes provisions. A new dictionary is  
3 inserted by another amendment.

4 **[3.5] Section 5 (g) and (h)**

5 *substitute*

6 (g) to exercise any other function given to it under this Act or  
7 another Territory law; and

8 (h) to carry out activities incidental to its other functions.

9 *Note* A provision of a law that gives an entity (including a person) a function  
10 also gives the entity powers necessary and convenient to exercise the  
11 function (see *Legislation Act 2001*, s 196 and dict, pt 1, def of *entity*).

12 **Explanatory note**

13 This amendment brings the paragraphs into line with current drafting practice and adds a  
14 standard note about necessary and convenient powers related to a function. This  
15 amendment is consequential on the omission of section 6 by another amendment.

16 **[3.6] Section 6**

17 *omit*

18 **Explanatory note**

19 This section is no longer necessary because of the *Legislation Act 2001*, section 196 (1).  
20 That subsection provides that a provision of a law that gives a function to an entity also  
21 gives the entity the powers necessary and convenient to exercise the function.

22 **[3.7] Section 9 (2) (b)**

23 *omit*

24 performs

25 *substitute*

26 exercises

27 **Explanatory note**

28 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
29 perform the function. It is the drafting term that is now used in relation to functions.

1 **[3.8] Section 10**

2 *substitute*

3 **10 Constitution of board**

4 (1) The board consists of the directors.

5 (2) The directors of the authority are—

6 (a) the appointed directors; and

7 (b) the chief executive.

8 (3) However, the board consists of only the appointed directors when it  
9 is considering or deciding—

10 (a) the appointment, or the ending of the appointment, of the chief  
11 executive; or

12 (b) the chief executive's conditions of appointment.

13 **Explanatory note**

14 This amendment brings the section into line with current drafting practice and omits  
15 section 10 (4) which is no longer necessary because of the *Legislation Act 2001*,  
16 section 199 (4). That subsection provides that the exercise of a function of a body is not  
17 affected only because of vacancies in the body's membership.

18 **[3.9] Section 11 (1), new notes**

19 *insert*

20 *Note 1* For the making of appointments (including acting appointments), see  
21 *Legislation Act 2001*, pt 19.3.

22 *Note 2* Certain Ministerial appointments require consultation with an Assembly  
23 committee and are disallowable (see *Legislation Act 2001*, div 19.3.3).

24 **Explanatory note**

25 This amendment adds a standard note about appointments.

1 **[3.10] Section 11 (3)**

2 *substitute*

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

4 *Note* A person may be reappointed to a position if the person is eligible to be  
5 appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1,  
6 def of *appoint*).

7 **Explanatory note**

8 This amendment brings the subsection into line with current drafting practice and adds a  
9 standard note about reappointment.

10 **[3.11] Section 13**

11 *omit*

12 discharge of his or her functions

13 *substitute*

14 exercise of a function

15 **Explanatory note**

16 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
17 perform the function. It is the drafting term that is now used in relation to functions.

18 **[3.12] Section 14, heading**

19 *substitute*

20 **14 Ending of appointment of director**

21 **Explanatory note**

22 This amendment brings the section's heading into line with current drafting practice.

23 **[3.13] Section 14 (1)**

24 *omit*

25 terminate

26 *substitute*

27 end

1    **Explanatory note**

2    *End* is the drafting term that is now used in relation to appointments.

3    **[3.14]    Section 14 (1) (f) (i)**

4                    *substitute*

5                    (i) punishable by imprisonment for 1 year or more; or

6    **Explanatory note**

7    This amendment brings the language of the subparagraph into line with current drafting  
8    practice.

9    **[3.15]    Section 14 (1), new note**

10                   *insert*

11                   *Note*      An appointed director's appointment also ends if the director resigns  
12                   (see *Legislation Act 2001*, s 210).

13    **Explanatory note**

14    This amendment adds a standard note about resignation from an appointment.

15    **[3.16]    Section 14 (2)**

16                   *substitute*

17                   (2) The Minister may end the appointment of an appointed director if  
18                   the board tells the Minister in writing that it has resolved, by a  
19                   majority of at least  $\frac{2}{3}$  of the directors, to recommend to the Minister  
20                   that the director's appointment be ended.

21    **Explanatory note**

22    This amendment updates language by changing the references to the termination of an  
23    appointment to the ending of an appointment. *End* is the drafting term that is now used in  
24    relation to appointments.

1 **[3.17] Section 15 (1)**

2 *omit*

3 pecuniary

4 *substitute*

5 financial

6 **Explanatory note**

7 This amendment updates language.

8 **[3.18] Section 16**

9 *substitute*

10 **16 Calling meetings of board**

11 (1) The chairperson or, if the chairperson cannot do so, the deputy  
12 chairperson—

13 (a) may at any time call a meeting of the board; and

14 (b) must call a meeting of the board if asked by the Minister or, in  
15 writing, by at least 2 directors.

16 (2) A person who calls a meeting of the board must give the other  
17 directors reasonable notice of the time and place of the meeting.

18 **Explanatory note**

19 This amendment updates language and simplifies the section in accordance with current  
20 drafting practice.

21 **[3.19] Division 3.1, heading**

22 *omit*

23 **Explanatory note**

24 This amendment simplifies the structure of part 3 consequential on the relocation of  
25 section 22 by another amendment.

1    **[3.20]    Section 19**

2            *substitute*

3    **19    Appointment of chief executive**

4        (1) The authority must appoint a person as the chief executive of the  
5        authority.

6            *Note*    For the making of appointments (including acting appointments), see  
7            *Legislation Act 2001*, pt 19.3.

8        (2) The chief executive's conditions of appointment are the conditions  
9        agreed to between the authority and the chief executive.

10       (3) However, the authority may enter into an agreement mentioned in  
11       subsection (2) only after consultation between the Minister and the  
12       board.

13       (4) Despite any agreement under subsection (2), the authority may end  
14       the appointment of a chief executive without compensation if the  
15       chief executive contravenes section 20 (2) or division 5.1 (Conduct  
16       of persons associated with the authority).

17            *Note*    The chief executive's appointment also ends if the chief executive  
18            resigns (see *Legislation Act 2001*, s 210).

19    **Explanatory note**

20    This amendment brings the section into line with current drafting practice and omits  
21    section 19 (2) which is no longer necessary because of the *Legislation Act 2001*,  
22    section 209 (1). That subsection provides that a power of appointment includes the power  
23    to make acting appointments during vacancies and when the person holding the position  
24    cannot exercise the functions of the position.

25    **[3.21]    Section 20, heading**

26            *substitute*

27    **20    Functions of chief executive**

28    **Explanatory note**

29    This amendment is consequential on the omission of the division headings of part 3 by  
30    other amendments.



1 **[3.22] Section 20 (2)**

2 *omit*

3 performing

4 *substitute*

5 exercising

6 **Explanatory note**

7 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
8 perform the function. It is the drafting term that is now used in relation to functions.

9 **[3.23] Division 3.2, heading**

10 *omit*

11 **Explanatory note**

12 This amendment simplifies the structure of part 3 consequential on the relocation of  
13 section 22 by another amendment.

14 **[3.24] Section 22 (3)**

15 *omit*

16 on account

17 *substitute*

18 because

19 **Explanatory note**

20 This amendment updates language.

21 **[3.25] Section 22 (as amended)**

22 *renumber as section 36AA and relocate after section 36*

23 **Explanatory note**

24 This amendment relocates the section to a more appropriate place in the Act (the part that  
25 deals with transitional matters). The section will expire on 31 December 2003 when the  
26 transitional part expires but section 40 will preserve any ongoing operation of the section.

1    **[3.26]    Section 25 (1)**

2            *substitute*

- 3            (1) The Minister may give written directions to the authority in relation  
4            to the exercise of its functions.

5    **Explanatory note**

6    This amendment brings the subsection into line with current drafting practice by updating  
7    language. *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to  
8    include perform the function. It is the drafting term that is now used in relation to  
9    functions.

10   **[3.27]    Section 25 (3)**

11           *substitute*

- 12           (3) The Minister must present a copy of a direction to the Legislative  
13           Assembly within 6 sitting days after the day the Minister makes it.

14   **Explanatory note**

15   This amendment brings the subsection into line with current drafting practice by updating  
16   language. *Present* is the drafting term that is now used in relation to the tabling of  
17   documents in the Legislative Assembly.

18   **[3.28]    Section 26 (3)**

19           *substitute*

- 20           (3) The Minister must present a copy of each business plan given to the  
21           Minister under subsection (2) to the Legislative Assembly within  
22           6 sitting days after the day the Minister receives it.

23   **Explanatory note**

24   This amendment brings the subsection into line with current drafting practice by updating  
25   language. *Present* is the drafting term that is now used in relation to the tabling of  
26   documents in the Legislative Assembly.

1 **[3.29] Part 6, heading**

2 *substitute*

3 **Part 6 Transitional provisions**

4 **Explanatory note**

5 This amendment retitles the part in accordance with current drafting practice.

6 **[3.30] Section 40 (1)**

7 *substitute*

8 (1) This part, and the definition of *commencement day* in the  
9 dictionary, expire on 31 December 2003.

10 **Explanatory note**

11 This amendment provides for the omission of a definition that will become spent on the  
12 omission of the transitional provisions.

13 **[3.31] New dictionary**

14 *insert*

15 **Dictionary**

16 (see s 2)

17 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
18 relevant to this Act.

19 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
20 terms:

- 21 • appoint
- 22 • chief executive
- 23 • contravene
- 24 • exercise
- 25 • function.

26 *appointed director* means a person appointed to be a director of the  
27 authority under section 11 (1).

- 1 *authority* means the ACTION Authority established under  
2 section 4 (1).
- 3 *board* means the board of management of the authority established  
4 under section 8.
- 5 *chief executive* means a person appointed as the chief executive  
6 under section 19.
- 7 *commencement day* means 1 January 2002.
- 8 *director* means a director of the authority.
- 9 *relevant person*, for division 5.1 (Conduct of persons associated  
10 with the authority)—see section 30.

11 **Explanatory note**

12 This amendment adds a dictionary consequential on the omission of the definition section  
13 (section 3) by another amendment. The definitions have been updated, and a new  
14 signpost definition of *relevant person* added, in accordance with current drafting practice.

15 **Part 3.3 Animal Welfare Regulations**  
16 **2001**

17 **[3.32] Regulation 8 (5)**

- 18 *omit*
- 19 regulation
- 20 *substitute*
- 21 subregulation

22 **Explanatory note**

23 This amendment corrects a reference to a provision name.

---

## 1 Part 3.4 Architects Act 1959

### 2 [3.33] Section 17 (6) and (7)

3 *omit*

#### 4 Explanatory note

5 Section 17 (6) vests jurisdiction in the Supreme Court to hear appeals under the section.  
6 This provision is unnecessary because the *Legislation Act 2001*, section 176 provides that,  
7 if a law authorises a proceeding to be brought in a court for a matter, the law vests the  
8 court with jurisdiction in the matter.

9 Section 17 (7) seeks to remove the Supreme Court's power to review a decision of the  
10 board under section 26 in relation to an application for registration by a person who has  
11 been removed from the register for disciplinary reasons. It conflicts with the  
12 Self-Government Act, section 48A which gives the Supreme Court all original and  
13 appellate jurisdiction that is necessary for the administration of justice in the Territory.

14 The omission of section 17 (7) will apply the right under section 17 (2) to seek a statement  
15 of reasons to a decision made under section 26. However, this is no more than the right  
16 given by the *Administrative Decisions (Judicial Review) Act 1989*, section 13.

### 17 [3.34] Section 25 (5)

18 *omit*

#### 19 Explanatory note

20 This amendment omits a provision that vests jurisdiction in the Supreme Court to hear  
21 appeals under the section. It is unnecessary because the *Legislation Act 2001*, section 176  
22 provides that, if a law authorises a proceeding to be brought in a court for a matter, the law  
23 vests the court with jurisdiction in the matter.

### 24 [3.35] Section 37

25 *substitute*

#### 26 37 Witness fees and travelling expenses

27 (1) This section applies to a person (the *witness*) who attends a hearing  
28 of the board to give evidence (whether voluntarily or under a  
29 summons).

30 (2) The witness is entitled to receive the fees and travelling expenses  
31 that the presiding member directs in accordance with the scale and

1 conditions applying to people who attend as witnesses before the  
2 Supreme Court.

3 *Note* For the Supreme Court scale, see *Supreme Court Rules*, sch 4, pt 4.8.

4 (3) The fees and expenses are payable by—

5 (a) if the witness attended at the request of the chairperson or  
6 deputy chairperson or a public servant—the Territory; or

7 (b) in any other case—the person who requested the attendance of  
8 the witness.

9 **Explanatory note**

10 This amendment does not make a substantive change in the entitlements of a witness. The  
11 existing section adopts the scale in the *Public Works Committee Regulations 1969* (Cwlth),  
12 schedule 2 which applies the High Court scale. The *Supreme Court Rules* (see schedule  
13 4, part 4.8) is, in substance, the same as the High Court scale. The linking of the  
14 entitlements to the Supreme Court reflects the Territory's self-governing status.

15 **Part 3.5 Auditor-General Act 1996**

16 **[3.36] Section 1**

17 *substitute*

18 **1 Name of Act**

19 This Act is the *Auditor-General Act 1996*.

20 **Explanatory note**

21 This amendment brings the naming provision of the Act into line with current drafting  
22 practice.

1 **[3.37] Section 3 (1), definitions of *subsidiary* and *Territory***  
2 ***owned corporation***

3 *omit*

4 **Explanatory note**

5 The definition of *Territory owned corporation* is unnecessary because the term is defined  
6 in the *Legislation Act 2001*, dictionary, part 1. The definition of *subsidiary* is included as  
7 a signpost definition in a new dictionary inserted made by another amendment.

8 **[3.38] Section 3 (1), remaining definitions**

9 *relocate to the dictionary*

10 **Explanatory note**

11 This amendment relocates the remaining definitions to a new dictionary inserted by  
12 another amendment.

13 **[3.39] Section 3, remainder**

14 *substitute*

15 **2 Dictionary**

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

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

21 For example, the signpost definition '*subsidiary*, of a Territory owned  
22 corporation—see the *Territory Owned Corporations Act 1990*,  
23 section 3 (1).' means that the term 'subsidiary' is defined in that  
24 subsection and the definition applies to this Act.

25 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
26 the entire Act unless the definition, or another provision of the Act,  
27 provides otherwise or the contrary intention otherwise appears (see  
28 *Legislation Act 2001*, s 155 and s 156 (1)).

1    **3      Application of words and expressions used in Financial**  
2            **Management Act**

3            A word or expression defined in the Financial Management Act has  
4            the same meaning in this Act.

5    **3A     Notes**

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

7            *Note*      See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of  
8            notes.

9    **Explanatory note**

10          This amendment adds standard dictionary and notes provisions in accordance with current  
11          drafting practice and adds the substance of section 3 (2) as new section 3. A new  
12          dictionary is inserted by another amendment.

13    **[3.40]   Section 10**

14            *omit*

15            conferred on

16            *substitute*

17            given to

18    **Explanatory note**

19          *Given* is the drafting term that is now used in relation to functions.

20    **[3.41]   Section 12 (3)**

21            *substitute*

22          (3) In this section:

23            *ecologically sustainable development* means the effective  
24            integration of economic and environmental considerations in  
25            decision-making processes achievable through implementation of  
26            the following principles:

27            (a) the precautionary principle;

28            (b) the inter-generational equity principle;



1 (c) conservation of biological diversity and ecological integrity;

2 (d) improved valuation and pricing of environmental resources.

3 *the inter-generational equity principle* means that the present  
4 generation should ensure that the health, diversity and productivity  
5 of the environment is maintained or enhanced for the benefit of  
6 future generations.

7 *the precautionary principle* means that, if there is a threat of serious  
8 or irreversible environmental damage, a lack of full scientific  
9 certainty should not be used as a reason for postponing measures to  
10 prevent environmental degradation.

11 **Explanatory note**

12 This amendment breaks a definition up into several definitions in line with current drafting  
13 practice.

14 **[3.42] Section 17 (7)**

15 *substitute*

16 (7) In this section:

17 *Speaker*, for a report given to the Deputy Speaker or clerk under  
18 section 4 (Reports to be given to Speaker), means the Deputy  
19 Speaker or clerk, as the case requires.

20 **Explanatory note**

21 This amendment recasts the definition to bring the form of the definition into line with  
22 current drafting practice.

23 **[3.43] Section 21**

24 *omit*

25 Unless the contrary intention appears, the provisions of the

26 *substitute*

27 The

1    **Explanatory note**

2    This amendment omits words that are no longer necessary because of the *Legislation Act*  
3    *2001*, section 155 (see also s 130, especially example 4).

4    **[3.44]    Section 26**

5        *substitute*

6    **26    Delegation**

7        The auditor-general may delegate the auditor-general's functions  
8        under this Act to—

9        (a) a member of the staff assisting the auditor-general; or

10       (b) a person engaged by the auditor-general under section 24  
11       (Contractors).

12       *Note*      For the making of delegations and the exercise of delegated functions,  
13       see *Legislation Act 2001*, pt 19.4.

14    **Explanatory note**

15    This amendment updates the delegation provision, as follows:

- 16    • the words 'in writing' have been omitted because the *Legislation Act 2001*,  
17    section 232 provides that a delegation must be made, or evidenced, in writing;
- 18    • the words 'all or any' (of the auditor-general's functions) have been omitted because  
19    the *Legislation Act 2001*, section 234 provides that the delegation instrument may  
20    provide that the delegation has effect in stated circumstances or subject to stated  
21    conditions, limitations or directions or that all of the function, or a stated part of the  
22    function, is delegated.

23    This amendment also adds a standard note about delegations.

24    **[3.45]    Schedule 1, clause 1 (1), new note**

25        *insert*

26       *Note*      For the making of appointments (including acting appointments), see  
27       *Legislation Act 2001*, pt 19.3.

28    **Explanatory note**

29    This amendment adds a standard note about appointments.

1 **[3.46] Schedule 1, clause 2**

2 *omit*

3 **Explanatory note**

4 This amendment omits provisions giving the auditor-general an entitlement to  
5 remuneration etc under the *Remuneration Tribunal Act 1995*. This is specifically  
6 provided for in that Act, section 10 (1) (h).

7 **[3.47] Schedule 1, clause 6**

8 *substitute*

9 **6 Acting auditor-general**

10 Before the Executive appoints a person to act as auditor-general, the  
11 Minister must consult the presiding member of the public accounts  
12 committee about the proposed appointment.

13 **Explanatory note**

14 This amendment recasts clause 6 (2) in accordance with current drafting practice and omits  
15 the following unnecessary provisions:

- 16 • clause 6 (1) because the *Legislation Act 2001*, section 209 (1) provides that a power  
17 to make an appointment includes the power to appoint a person to act in the position  
18 during a vacancy, whether or not an appointment had previously been made and  
19 during any periods when the person holding the position cannot exercise the  
20 functions of the position;
- 21 • clause 6 (3) because the *Legislation Act 2001*, section 221 (1) provides that, if a  
22 person acts in a position because it is vacant, the person may not act in the position  
23 for more than 1 year after the position became vacant;
- 24 • clause 6 (4) because the *Legislation Act 2001*, section 225 provides that an acting  
25 appointment, or anything done under an acting appointment, is not invalid only  
26 because of a defect or irregularity in the appointment.



- 1 • section 24 (1)
- 2 • sections 32 and 33
- 3 • section 34 (1).

4 **Explanatory note**

5 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
6 perform the function. It is the drafting term that is now used in relation to functions.

7 **Part 3.6** **Building Regulations**  
8 **Amendment SL 2001 No 21**

9 **[3.50] Regulation 1**

10 *substitute*

11 **1 Commencement**

12 These regulations commence on the day they are notified in the  
13 Gazette.

14 (commencement: 12 July 2001)

15 **Explanatory note**

16 The commencement provision of these regulations provided that the regulations  
17 ‘commence on the commencement of the *Building Amendment Act 2001*’. That Act  
18 commenced on 1 July 2001 (that is, the day that Act was notified in the Gazette).  
19 However, the regulations were not notified in the Gazette until 12 July 2001.

20 The backdating of this amendment makes it clear that the regulations validly commenced  
21 on the day they were notified in the Gazette. This result is consistent with the provision  
22 now made by the *Legislation Act 2001*, section 73 (3) (which is about the commencement  
23 of laws).

24 **Part 3.7** **Community Title Act 2001**

25 **[3.51] Section 13 (2) (a)**

26 *omit*

1            development statement

2            *substitute*

3            management statement

4      **Explanatory note**

5      This amendment brings the language of the paragraph into line with language used  
6      elsewhere in the Act (see especially section 7).

7      **[3.52]      Section 27 (1) and (2)**

8            *substitute*

9      (1) In this section:

10            *interested person* means each of the following:

11            (a) the developer of the community title scheme;

12            (b) the body corporate;

13            (c) an owner or prospective owner of a lot of scheme land;

14            (d) the registrar-general;

15            (e) anyone else who has, in the Supreme Court's opinion, a proper  
16            interest in the scheme.

17      (2) The Supreme Court may, on application by an interested person,  
18      order that a community title scheme be amended if satisfied that it is  
19      impossible or impracticable to finish the scheme as proposed in the  
20      master plan and management statement.

21      **Explanatory note**

22      This amendment brings the location and form of the definition into line with current  
23      drafting practice.

24      **[3.53]      Section 28 (2)**

25            *omit everything before paragraph (a), substitute*

26      (2) In this section:

27            *interested person* means each of the following:

---

1 **Explanatory note**

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

3 **[3.54] Division 8.2, heading**

4 *substitute*

5 **Division 8.2 Functions of bodies corporate**

6 **Explanatory note**

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

8 **[3.55] Section 35, heading**

9 *substitute*

10 **35 Functions of body corporate**

11 **Explanatory note**

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

13 **[3.56] Section 35 (1)**

14 *omit*

15 and duties

16 **Explanatory note**

17 *Function* is defined in the *Legislation Act 2001*, dictionary, part 1 to include authority,  
18 duty and power.

19 **[3.57] Section 44 (1), new notes**

20 *insert*

21 *Note 1* For the making of appointments (including acting appointments), see  
22 *Legislation Act 2001*, pt 19.3.

23 *Note 2* In particular, a person may be appointed for a particular provision of a  
24 law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
25 by naming a person or nominating the occupant of a position (see s 207).

26 *Note 3* For the making of delegations and the exercise of delegated functions,  
27 see *Legislation Act 2001*, pt 19.4.

1    **Explanatory note**

2    This amendment adds standard notes about appointments and delegations.

3    **[3.58]    Section 53 (1), new note**

4        *insert*

5        *Note*      For how documents may be served, see *Legislation Act 2001*, pt 19.5.

6    **Explanatory note**

7    This amendment adds a standard note about service of documents.

8    **[3.59]    Section 61 (5), new note**

9        *insert*

10       *Note*      For the making of delegations and the exercise of delegated functions,  
11       see *Legislation Act 2001*, pt 19.4.

12   **Explanatory note**

13   This amendment adds a standard note about delegations.

14   **[3.60]    Section 97 (2), new note**

15       *insert*

16       *Note*      For other provisions about forms, see *Legislation Act 2001*, s 255.

17   **Explanatory note**

18   This amendment adds a standard note about approved forms.

19   **[3.61]    Dictionary, new notes**

20       *insert*

21       *Note 1*     The *Legislation Act 2001* contains definitions and other provisions  
22       relevant to this Act.

23       *Note 2*     In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
24       terms:

- 25                    • administrative appeals tribunal  
26                    • function  
27                    • Supreme Court  
28                    • Territory owned corporation



- 1                                   • the Territory.

2   **Explanatory note**

3   This amendment adds standard dictionary notes.

4   **Part 3.8                                   Compensation (Fatal Injuries)**  
5   **Act 1968**

6   **[3.62]   Section 2**

7                   *substitute*

8   **2       Dictionary**

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

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

14                                   For example, the signpost definition '*member*, of a deceased person's  
15                                   family—see section 3.' means that the term 'member' is defined in that  
16                                   section.

17       *Note 2*   A definition in the dictionary (including a signpost definition) applies to  
18                   the entire Act unless the definition, or another provision of the Act,  
19                   provides otherwise or the contrary intention otherwise appears (see  
20                   *Legislation Act 2001*, s 155 and s 156 (1)).

21   **2A   Notes**

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

23       *Note*       See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of  
24                   notes.

25   **Explanatory note**

26   This amendment adds standard dictionary and notes provisions. A new dictionary is  
27   inserted by another amendment.

1    **[3.63]    Section 3 (d)**

2            *substitute*

3            (d) a person who, immediately before the death, was acting in  
4            place of a parent of the deceased person;

5    **Explanatory note**

6    This amendment updates language.

7    **[3.64]    Section 3 (h)**

8            *substitute*

9            (h) a person who, although not legally married to the deceased  
10            person, was immediately before the death of the deceased  
11            person living with the deceased person as wife or husband on a  
12            genuine domestic basis.

13   **Explanatory note**

14   This amendment updates language.

15   **[3.65]    Section 7**

16            *omit*

17            notwithstanding the death of the person injured and irrespective of  
18            whether

19            *substitute*

20            despite the death of the person injured and whether or not

21   **Explanatory note**

22   This amendment updates language.

23   **[3.66]    Section 10 (4)**

24            *omit*

25            prior to

26            *substitute*

27            before

1 **Explanatory note**

2 This amendment updates language.

3 **[3.67] Section 10 (6) (c) (i)**

4 *omit*

5 in lieu of

6 *substitute*

7 instead of

8 **Explanatory note**

9 This amendment updates language.

10 **[3.68] Section 13 (2)**

11 *substitute*

12 (2) A person other than the personal representative of the deceased  
13 person may bring an action under this Act only if the action is for  
14 the benefit of the members of the deceased person's family who  
15 sustained damage because of the deceased person's death.

16 (3) This Act applies to the action, with any necessary changes, as if it  
17 were an action by the deceased person's personal representative.

18 **Explanatory note**

19 This amendment modernises the language of the provision and recasts it in accordance  
20 with current drafting practice.

21 **[3.69] Section 15 (1)**

22 *omit*

23 motion

24 *substitute*

25 initiative

26 **Explanatory note**

27 This amendment updates language.

---

1    **[3.70]    Section 15 (2)**

2            *omit*

3            barrister or solicitor, or both

4            *substitute*

5            lawyer

6    **Explanatory note**

7    This amendment updates language. *Lawyer* is defined in the *Legislation Act 2001*,  
8    dictionary, part 1 to mean any kind of legal practitioner.

9    **[3.71]    Section 15 (4)**

10          *omit*

11          , and not in derogation of,

12          *substitute*

13          , and do not limit,

14    **Explanatory note**

15    This amendment updates language.

16    **[3.72]    New dictionary**

17          *insert*

18    **Dictionary**

19    (see s 2)

20          *Note 1*    The *Legislation Act 2001* contains definitions and other provisions  
21          relevant to this Act.

22          *Note 2*    In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
23          terms:

- 24                    • public trustee  
25                    • State  
26                    • the Territory.

1 *child*, of a deceased person, includes a grandchild and a stepchild of  
2 the deceased person.

3 *member*, of a deceased person's family—see section 3.

4 *parent*, of a deceased person, includes a stepfather, a stepmother, a  
5 grandfather and a grandmother of the deceased person.

6 *personal representative*, of a deceased person, means the person to  
7 whom any grant of probate of the will or administration of the estate  
8 of the deceased person has been made in the Territory or a State,  
9 and includes an executor by representation or the public trustee.

10 **Explanatory note**

11 This amendment adds a dictionary consequential on the omission of the definition section  
12 (section 3) by another amendment. A new signpost definition of *member* is inserted in  
13 accordance with current drafting practice and the definitions of *child* and *parent* have been  
14 updated.

15 **Part 3.9 Conveyancing Act 1919**

16 **[3.73] Section 39**

17 *omit*

18 is discharge

19 *substitute*

20 is a discharge

21 **Explanatory note**

22 This amendment improves sentence structure.

23 **[3.74] Section 51A (1)**

24 *omit*

25 a purchaser in good faith

26 *substitute*

27 an honest purchaser

1    **Explanatory note**

2    This amendment updates language.

3    **[3.75]    Section 51A (1) (a) and (b)**

4        *omit*

5        shall be deemed

6        *substitute*

7        is taken

8    **Explanatory note**

9    This amendment updates language.

10   **[3.76]    Section 51A (1) (a) and (b)**

11        *omit*

12        affixed

13        *substitute*

14        attached

15   **Explanatory note**

16   This amendment updates language.

17   **[3.77]    Section 51A (7)**

18        *omit*

19        mode

20        *substitute*

21        method

22   **Explanatory note**

23   This amendment updates language.

24   **[3.78]    Section 51A (7)**

25        *omit*

1           thereof  
2           *substitute*  
3           of the corporation

4   **Explanatory note**

5   This amendment updates archaic language.

6   **[3.79]   Section 51A (7)**

7           *omit*  
8           modes  
9           *substitute*  
10          methods

11   **Explanatory note**

12   This amendment updates language.

13   **[3.80]   Section 51A (7)**

14          *omit*  
15          effectual  
16          *substitute*  
17          effective

18   **Explanatory note**

19   This amendment updates language.

20   **[3.81]   Section 66A (1)**

21          *omit*  
22          made requisite to  
23          *substitute*  
24          required for

1    **Explanatory note**

2    This amendment updates language.

3    **[3.82]    Section 66A (1)**

4        *omit*

5        shall be deemed

6        *substitute*

7        is

8    **Explanatory note**

9    This amendment updates language.

10   **[3.83]    Section 66A (2)**

11        *omit*

12        shall not, in favour of a purchaser, be deemed to be requisite

13        *substitute*

14        is not, in favour of a purchaser, taken to be a requirement

15   **Explanatory note**

16   This amendment updates language.

17   **[3.84]    Section 66D (3)**

18        *omit*

19        thereto by convey

20        *substitute*

21        to the partition by conveying

22   **Explanatory note**

23   This amendment updates archaic language.



1 **[3.85] Section 66F**

2 *substitute*

3 **66F Definitions for div 4.6**

4 In this division:

5 *action*, for the partition of property—see section 66G (4) (Power of  
6 Supreme Court to order sale instead of partition).

7 *interested person*, in relation to property, means a person with an  
8 interest in the property.

9 **Explanatory note**

10 This amendment adds a signpost definition of *action* to the section and consequentially  
11 brings the section's heading into line with current drafting practice.

12 **[3.86] Section 78A**

13 *omit*

14 In a conveyance

15 *substitute*

16 (1) In a conveyance

17 **Explanatory note**

18 This amendment creates a subsection consequent on the insertion of a new subsection by  
19 another amendment.

20 **[3.87] Section 78A**

21 *omit*

22 whereto

23 *substitute*

24 to which

25 **Explanatory note**

26 This amendment updates archaic language.

1    **[3.88]    Section 78A**

2        *omit*

3        of them, shall be reasonably required;

4        (in which covenant a purchase for value shall not be deemed to  
5        include a conveyance in consideration of marriage).

6        *substitute*

7        of them, is reasonably required.

8    **Explanatory note**

9    This amendment updates language and omits the bracketed text consequent on the  
10    insertion of new section 78A (2) by another amendment.

11   **[3.89]    New section 78A (2)**

12        *insert*

13        (2) In this section:

14        *purchase for value* does not include a conveyance in consideration  
15        of marriage.

16   **Explanatory note**

17   This amendment recasts the qualification to section 78A as a new subsection in line with  
18   existing section 78B (2).

19   **[3.90]    Section 78B (1)**

20        *omit*

21        effectual

22        *substitute*

23        effective

24   **Explanatory note**

25   This amendment updates language.

26   **[3.91]    Section 78B (1)**

27        *omit*

---

1 in nowise become

2 *substitute*

3 is not

4 **Explanatory note**

5 This amendment updates archaic language.

6 **[3.92] Section 78B (1)**

7 *omit*

8 notwithstanding anything this as aforesaid

9 *substitute*

10 despite this

11 **Explanatory note**

12 This amendment updates archaic language.

13 **[3.93] Section 78C, heading 'Right to convey, quiet  
14 enjoyment'**

15 *substitute*

16 **Right to convey**

17 **Explanatory note**

18 This amendment is consequential on the insertion of a new heading by another  
19 amendment.

20 **[3.94] Section 78C, new heading**

21 *before*

22 AND also that,

23 *insert the following heading*

24 **Quiet enjoyment**

25 **Explanatory note**

26 This amendment adds a new heading to improve the structure of the section.

---

1    **[3.95]    Section 78C**

2        *omit*

3        thereon

4        *substitute*

5        on the money

6    **Explanatory note**

7    This amendment updates archaic language.

8    **[3.96]    Section 78C**

9        *omit*

10       thenceforth

11       *substitute*

12       from then on

13   **Explanatory note**

14   This amendment updates archaic language.

15   **[3.97]    Section 78C**

16        *omit*

17        thereof

18        *substitute*

19        of it

20   **Explanatory note**

21   This amendment updates archaic language.

22   **[3.98]    Section 78C**

23        *omit*

24        whereto

25        *substitute*

1 to which

2 **Explanatory note**

3 This amendment updates archaic language.

4 **[3.99] Section 78D**

5 *omit*

6 effectual

7 *substitute*

8 effective

9 **Explanatory note**

10 This amendment updates language.

11 **[3.100] Section 78D**

12 *omit*

13 in nowise become

14 *substitute*

15 is not

16 **Explanatory note**

17 This amendment updates archaic language.

18 **[3.101] Section 78E**

19 *omit*

20 title thereunder

21 *substitute*

22 the title under the conveyance

23 **Explanatory note**

24 This amendment updates archaic language.

1    **[3.102] Section 78F (1)**

2        *omit*

3        whereby or by means whereof

4        *substitute*

5        under or by means of which

6    **Explanatory note**

7    This amendment updates archaic language.

8    **[3.103] Section 78F (1)**

9        *omit*

10       thereof

11       *substitute*

12       of it

13   **Explanatory note**

14   This amendment updates archaic language.

15   **[3.104] Section 78F (3)**

16       *omit*

17       shall be deemed

18       *substitute*

19       is taken

20   **Explanatory note**

21   This amendment updates language.

22   **[3.105] Section 78F (3)**

23       *omit*

24       such

25       *substitute*

1 the

2 **Explanatory note**

3 This amendment updates language.

4 **[3.106] Section 151D (5)**

5 *omit*

6 such caveats as he or she deems

7 *substitute*

8 the caveats the registrar-general considers

9 **Explanatory note**

10 This amendment updates language.

11 **[3.107] Dictionary, new notes**

12 *insert*

13 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
14 relevant to this Act.

15 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
16 terms:

- 17 • corporation  
18 • instrument  
19 • person  
20 • provision  
21 • registrar-general.

22 **Explanatory note**

23 This amendment adds standard dictionary notes.

24 **[3.108] Dictionary, new definition of *action***

25 *insert*

26 ***action***, for the partition of property, for division 4.6 (Partition)—see  
27 section 66G (4) (Power of Supreme Court to order sale instead of  
28 partition).





1 **Explanatory note**

2 This amendment updates language.

3 **[3.112] Section 37 (1), definition of *settlement***

4 *omit*

5 or by virtue of

6 **Explanatory note**

7 This amendment omits unnecessary words (see the amendment of the *Legislation Act*  
8 *2001*, dictionary, definition of *under* by schedule 2 of this Act).

9 **[3.113] Section 37 (2)**

10 *omit*

11 shall be deemed

12 *substitute*

13 are taken

14 **Explanatory note**

15 This amendment updates language.

16 **[3.114] Section 37 (2)**

17 *omit*

18 and by virtue of

19 **Explanatory note**

20 This amendment omits unnecessary words (see the amendment of the *Legislation Act*  
21 *2001*, dictionary, definition of *under* by schedule 2 of this Act).

22 **[3.115] Section 37 (3)**

23 *omit*

24 said

25 **Explanatory note**

26 This amendment omits an unnecessary word.

1 **[3.116] Section 37 (4)**

2 *omit*

3 shall be deemed

4 *substitute*

5 is taken

6 **Explanatory note**

7 This amendment updates language.

8 **[3.117] Section 37 (4)**

9 *omit*

10 howsoever

11 **Explanatory note**

12 This amendment omits an unnecessary and archaic word.

13 **[3.118] Part 5, heading**

14 *substitute*

15 **Part 5 Renewable leaseholds of**  
16 **children**

17 **Explanatory note**

18 This amendment omits a reference to ‘persons under disability’ and revises the heading to  
19 refer to children in accordance with current drafting practice.

20 **[3.119] Section 89, heading**

21 *substitute*

22 **89 Validity of surrenders and leases**

23 **Explanatory note**

24 This amendment updates the language of the heading.

1 **[3.120] Section 99**

2 *omit*

3 effectual

4 *substitute*

5 effective

6 **Explanatory note**

7 This amendment updates language.

8 **[3.121] Section 101**

9 *omit*

10 him or her in lieu of all costs, charges, and expenses whatsoever,  
11 such

12 *substitute*

13 the receiver, instead of costs, charges, and expenses,

14 **Explanatory note**

15 This amendment updates and simplifies language.

16 **[3.122] Section 106**

17 *omit*

18 shall be deemed and taken

19 *substitute*

20 are taken

21 **Explanatory note**

22 This amendment updates language.

23 **[3.123] Section 106**

24 *omit*

25 therein

---

1            *substitute*  
2            in the mortgaged premises

3      **Explanatory note**

4      This amendment updates archaic language.

5      **[3.124] Section 106**

6            *omit*  
7            unto such  
8            *substitute*  
9            to the

10     **Explanatory note**

11     This amendment updates archaic language.

12     **[3.125] Section 108 (2)**

13            *omit*  
14            or such part thereof  
15            *substitute*  
16            or a part of it

17     **Explanatory note**

18     This amendment updates archaic language.

19     **[3.126] Section 115 (1)**

20            *omit*  
21            bona fide  
22            *substitute*  
23            genuine

24     **Explanatory note**

25     This amendment updates language.

1 **[3.127] Section 119**

2 *omit*

3 be deemed

4 *substitute*

5 is taken

6 **Explanatory note**

7 This amendment updates language.

8 **Part 3.11 Court Security Act 2001**

9 **[3.128] Section 16 (1)**

10 *omit*

11 , in writing,

12 **Explanatory note**

13 This amendment omits unnecessary words. The *Legislation Act 2001*, section 206  
14 provides that an appointment must be made, or evidenced, in writing.

15 **[3.129] Section 16 (1), note**

16 *substitute*

17 *Note 1* For the making of appointments (including acting appointments), see  
18 *Legislation Act 2001*, pt 19.3.

19 *Note 2* In particular, a person may be appointed for a particular provision of a  
20 law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
21 by naming a person or nominating the occupant of a position (see s 207).

22 *Note 3* Each police officer and sheriff's officer is a security officer (see the  
23 dict, def of *security officer*).

24 **Explanatory note**

25 This amendment adds notes 1 and 2 which are standard notes about appointments.

1    **[3.130] Section 16 (3)**

2            *omit*

3            , in writing, revoke

4            *substitute*

5            end

6    **Explanatory note**

7    This amendment omits unnecessary words. The *Legislation Act 2001*, section 208 (2)  
8    provides that the power to end an appointment is exercisable in the same way as the power  
9    to make the appointment.

10   **[3.131] Section 16 (3), new note**

11           *insert*

12           *Note*      A security officer's appointment also ends if the officer resigns (see  
13                      *Legislation Act 2001*, s 210).

14   **Explanatory note**

15   This amendment adds a standard note about resignation from an appointment.

16   **[3.132] Section 18**

17           *substitute*

18   **18 Delegation of chief executive's functions**

19           The chief executive may delegate the chief executive's functions  
20           under this Act to a public servant.

21           *Note*      For the making of delegations and the exercise of delegated functions,  
22                      see *Legislation Act 2001*, pt 19.4.

23   **Explanatory note**

24   This amendment updates the delegation provision, as follows:

- 25   • the words 'in writing' have been omitted because the *Legislation Act 2001*,  
26     section 232 provides that a delegation must be made, or evidenced, in writing;
- 27   • the words 'all or any' (of the chief executive's functions) have been omitted because  
28     the *Legislation Act 2001*, section 234 provides that the delegation instrument may  
29     provide that the delegation has effect in stated circumstances or subject to stated

1 conditions, limitations or directions or that all of the function, or a stated part of the  
2 function, is delegated.

3 This amendment also adds a standard note about delegations.

#### 4 **[3.133] Dictionary, new notes**

5 *insert*

6 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
7 relevant to this Act.

8 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
9 terms:

- 10 • chief executive
- 11 • contravene
- 12 • Executive
- 13 • function
- 14 • power
- 15 • public servant.

#### 16 **Explanatory note**

17 This amendment adds standard dictionary notes.

## 18 **Part 3.12 Crimes (Forensic Procedures)** 19 **Act 2000**

#### 20 **[3.134] Section 17 (4)**

21 *substitute*

22 (4) In this Act (other than subsection (1)):

23 *opposite sex*, for a transgender person, means the opposite sex to the  
24 sex with which the transgender person identifies.

25 *same sex*, for a transgender person, means the same sex as the sex  
26 with which the transgender person identifies.

#### 27 **Explanatory note**

28 This amendment remakes the definitions in accordance with current drafting practice to  
29 reflect the actual terms used in the Act.

1    **[3.135] Section 114**

2            *substitute*

3    **114 Delegation by chief police officer**

4            The chief police officer may delegate the chief police officer's  
5            functions under this Act to a police officer of the rank of sergeant or  
6            above.

7            *Note*      For the making of delegations and the exercise of delegated functions,  
8            see *Legislation Act 2001*, pt 19.4.

9    **Explanatory note**

10          This amendment updates the delegation provision by omitting the words 'in writing'. The  
11          *Legislation Act 2001*, section 232 provides that a delegation must be made, or evidenced,  
12          in writing. This amendment also adds a standard note about delegations.

13   **[3.136] Dictionary, note 2**

14            *insert*

- 15            • function

16   **Explanatory note**

17          This amendment is consequent on the omission of the definition of *function* by another  
18          amendment.

19   **[3.137] Dictionary, definition of *function***

20            *omit*

21   **Explanatory note**

22          This amendment omits an unnecessary definition. *Function* is defined in the *Legislation*  
23          *Act 2001*, dictionary, part 1 to include authority, duty and power.

24   **[3.138] Dictionary, definitions of *member of the opposite sex***  
25   **and *member of the same sex***

26            *omit*

27   **Explanatory note**

28          This amendment is consequential on the amendment of section 17 (4) by another  
29          amendment.



1 **[3.139] Dictionary, new definitions**

2 *insert*

3 *opposite sex*, for a transgender person—see section 17 (4).

4 *same sex*, for a transgender person—see section 17 (4).

5 **Explanatory note**

6 This amendment adds signpost definitions into the dictionary in accordance with current  
7 drafting practice consequentially on the amendment of section 17 (4) by another  
8 amendment.

9 **Part 3.13 Crown Proceedings Act 1992**

10 **[3.140] New section 3**

11 *insert*

12 **3 Notes**

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

14 *Note* See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of  
15 notes.

16 **Explanatory note**

17 This amendment adds a standard provision about the legal status of notes.

18 **[3.141] Section 5 (3)**

19 *substitute*

20 (3) In this section:

21 *proceedings*, against the Crown, includes proceedings to attach  
22 earnings or other debts due or accruing from the Territory Crown to  
23 someone else.

24 **Explanatory note**

25 This amendment recasts the definition in accordance with current drafting practice.

1    **[3.142] Section 11 (4)**

2      *substitute*

3      (4) In this section:

4      *Attorney-General* includes the Attorney-General for the  
5      Commonwealth, the Attorney-General for each State and the  
6      Attorney-General for each other Territory.

7      *Crown* includes the Crown in right of the Commonwealth, the  
8      Crown in right of each State and the Crown in right of each other  
9      Territory.

10    **Explanatory note**

11    This amendment recasts the definitions in accordance with current drafting practice.

12    **[3.143] Section 16**

13      *substitute*

14    **16 Service generally**

15      (1) Any process or document relating to proceedings must be served on  
16      the Territory Crown by serving the process or document on the chief  
17      solicitor.

18      (2) However—

19          (a) if this Act makes special provision about service of the process  
20          or document—the process or document must be served in  
21          accordance with the special provision; and

22          (b) if the party serving the process or document has notice that a  
23          lawyer other than the government solicitor is acting for the  
24          Crown in relation to the proceedings—the process or document  
25          must be served on that lawyer.

26      *Note*      A reference to an Act includes a reference to the statutory instruments  
27      made or in force under the Act, including regulations (see *Legislation*  
28      *Act 2001*, s 104).

1 **Explanatory note**

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

3 **Part 3.14 Dangerous Goods Act 1975**

4 **[3.144] Section 3 (7), definition of *overriding law*,**  
5 **paragraph (b)**

6 *substitute*

7 (b) regulations made under that Act; or

8 *Note* On the republication date, the following regulations were in force:

- 9 • the *Occupational Health and Safety Regulations 1991*;
- 10 • the *Occupational Health and Safety (Certification of Plant Users*  
11 *and Operators) Regulations 2000*;
- 12 • the *Occupational Health and Safety (Manual Handling) Regulations*  
13 *1997*.

14 **Explanatory note**

15 This amendment omits a reference to the *Occupational Health and Safety Regulations*  
16 *1991* and applies the paragraph to all the regulations made under the *Occupational Health*  
17 *and Safety Act 1989*. This amendment reflects the fact that the regulations under the  
18 *Occupational Health and Safety Act 1989* are no longer contained in a single set of  
19 regulations.

20 **[3.145] Sections 4 to 7**

21 *substitute*

22 **4 Chief inspector**

23 (1) The chief executive must appoint a public servant as the Chief  
24 Inspector of Dangerous Goods.

25 (2) The chief inspector is also an inspector.

26 *Note 1* For the making of appointments (including acting appointments), see  
27 *Legislation Act 2001*, pt 19.3.

28 *Note 2* In particular, a person may be appointed for a particular provision of a  
29 law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
30 by naming a person or nominating the occupant of a position (see s 207).

1    **5    Inspectors**

2            The chief executive must appoint a public servant as an inspector for  
3            this Act.

4    **6    Analysts**

5            The chief executive may appoint a public servant as an analyst for  
6            this Act.

7    **7    Delegation by chief inspector**

8            The chief inspector may delegate the chief inspector's functions  
9            under this Act to an inspector or another public servant.

10           *Note*      For the making of delegations and the exercise of delegated functions,  
11                      see *Legislation Act 2001*, pt 19.4.

12    **Explanatory note**

13    This amendment removes the requirement that the chief executive must create and  
14    maintain offices for inspectors etc in the public service. The *Legislation Act 2001*, section  
15    207 provides that an appointment may be made by naming the person appointed or by  
16    nominating the occupant of a position (however described), at a particular time or from  
17    time to time. Standard notes about appointments are also inserted.

18    This amendment also updates the delegation provision, as follows:

- 19    • the words 'in writing' have been omitted because the *Legislation Act 2001*,  
20               section 232 provides that a delegation must be made, or evidenced, in writing;
- 21    • the words 'all or any' (of the chief inspector's functions) have been omitted because  
22               the *Legislation Act 2001*, section 234 provides that the delegation instrument may  
23               provide that the delegation has effect in stated circumstances or subject to stated  
24               conditions, limitations or directions or that all of the function, or a stated part of the  
25               function, is delegated.

26    This amendment also adds a standard note about delegations.

1 **[3.146] Section 8 (1), new note**

2 *insert*

3 *Note* The definition of *in* premises includes on the premises (see the dict).

4 **Explanatory note**

5 This amendment is consequential on the omission of ‘or on’ from the section and the  
6 insertion into the dictionary of a new definition of *in* by other amendments.

7 **[3.147] Section 9 (4)**

8 *omit*

9 is not guilty of

10 *substitute*

11 does not commit

12 **Explanatory note**

13 This amendment updates language.

14 **[3.148] Section 9 (4)**

15 *omit*

16 conveyed

17 *substitute*

18 transported

19 **Explanatory note**

20 This amendment updates language consequential on the insertion into the dictionary of a  
21 new definition of *transport* by another amendment.

22 **[3.149] Division 3.2, heading**

23 *substitute*

24 **Division 3.2 Transport of dangerous goods**

25 *Note* The definition of *in* a vehicle includes on the vehicle (see the dict).

1    **Explanatory note**

2    This amendment updates language consequential on the new definition of *transport* made  
3    by another amendment, brings the division heading into line with current drafting practice  
4    and adds a note consequential on the new definition of *in* made by another amendment.

5    **[3.150] Section 10, heading**

6           *substitute*

7    **10    Licensing of vehicles to carry dangerous goods**

8    **Explanatory note**

9    This amendment is consequential on the revised definition of *vehicle* and brings the  
10   section heading into line with current drafting practice.

11   **[3.151] Section 10 (1A) (b)**

12          *omit*

13          vehicle or vessel in or on

14          *substitute*

15          vehicle in

16   **Explanatory note**

17   This amendment is consequential on the revised definition of *vehicle* and the new  
18   definition of *in* made by other amendments.

19   **[3.152] Section 10 (2) (c)**

20          *omit*

21          or vessel

22   **Explanatory note**

23   This amendment is consequential on the revised definition of *vehicle* inserted by another  
24   amendment.

---

1 **[3.153] Sections 11 and 12**

2 *substitute*

3 **11 Unlicensed carriage of dangerous goods**

4 A person must not carry dangerous goods prescribed under the  
5 regulations for this section in a container that is in, or forms part of,  
6 a vehicle unless the person is authorised under section 10 (3) to  
7 carry the dangerous goods in the container.

8 Maximum penalty: 50 penalty units.

9 **12 Transport of dangerous goods generally**

- 10 (1) A person transporting dangerous goods must take the precautions  
11 necessary to prevent access to the goods by people who are not  
12 entitled to have lawful access to them.

13 Maximum penalty: 50 penalty units.

- 14 (2) A person must not transport dangerous goods unless any container  
15 or vehicle in which the goods are transported is constructed and  
16 maintained, and the goods enclosed, so as to prevent the escape of  
17 any part of the goods during the ordinary course of their transport.

18 Maximum penalty: 100 penalty units.

- 19 (3) Subsection (2) is subject to any regulation about the venting of  
20 dangerous goods.

- 21 (4) This section does not affect the power to make regulations about the  
22 transport of dangerous goods.

23 **Explanatory note**

24 This amendment brings the sections into line with current drafting practice and revises  
25 them consequentially on the revised definition of *vehicle* and the new definition of *in*  
26 which are inserted by other amendments. The heading to section 11 is also brought into  
27 line with the scope of the section by referring to 'carriage' rather than 'transport'.

1    **[3.154] Section 14**

2            *omit*

3            convey

4            *substitute*

5            transport

6    **Explanatory note**

7    This amendment updates language consequential on the insertion into the dictionary of a  
8    new definition of *transport* by another amendment.

9    **[3.155] Section 20 (2) (d)**

10           *omit*

11           inexplusive

12           *substitute*

13           non-explosive

14    **Explanatory note**

15    This amendment updates language.

16    **[3.156] Section 23, new note**

17           *insert*

18           *Note*      *Sell* has an expanded meaning that includes offer for sale, expose for  
19           sale and supply (see the dict).

20    **Explanatory note**

21    The note explains the extended meaning of ‘sell’ in relation to the offence of unlicensed  
22    sale.

23    **[3.157] Section 27 (3)**

24           *substitute*

25           (3) A licence is subject to—

26           (a) any condition prescribed under the regulations that applies to  
27           the licence; and



1 (b) any condition that is stated in the licence by the chief inspector.

2 **Explanatory note**

3 This amendment brings the subsection into line with current drafting practice. In  
4 particular, it omits references to classes because a statutory instrument may apply to  
5 different matters or classes of matters (see the *Legislation Act 2001*, section 48).  
6 Unnecessary references to ‘term’ are also omitted.

7 **[3.158] Section 28 (2)**

8 *omit*

9 shall be deemed not to be

10 *substitute*

11 is not

12 **Explanatory note**

13 This amendment updates language.

14 **[3.159] Part 6, heading, new note**

15 *insert after the heading*

16 *Note for pt 6*

17 The definition of *in* a vehicle or premises includes on the vehicle or premises  
18 (see the dict).

19 This amendment is consequential on the new definition of *in* inserted by another  
20 amendment.

21 **[3.160] Section 31 (1) (a)**

22 *omit*

23 premises, vehicle or vessel, or examine any container, fixture or  
24 fitting in or on

25 *substitute*

26 premises or vehicle, or examine any container, fixture or fitting, in

1    **Explanatory note**

2    This amendment is consequential on the revised definition of *vehicle* and the new  
3    definition of *in* which are inserted by other amendments.

4    **[3.161] Section 31 (1) (b)**

5         *omit*

6         or cause any container to be opened

7    **Explanatory note**

8    This amendment omits unnecessary words.

9    **[3.162] Section 31 (1) (c)**

10        *omit*

11        , vehicle or vessel in or on which the substance or article is being  
12        kept or conveyed

13        *substitute*

14        or vehicle in which the substance or article is being kept or  
15        transported

16    **Explanatory note**

17    This amendment updates language and is consequential on the revised definition of *vehicle*  
18    and the new definition of *in* which are inserted by other amendments.

19    **[3.163] Section 31 (1) (e) and (f)**

20        *substitute*

21        (e) give directions in relation to the detention of any substance,  
22        article, container or vehicle that has been detained under  
23        paragraph (c);

24        (f) give to the occupier or licensee of licensed premises directions  
25        (including written directions) in relation to the premises or the  
26        keeping of dangerous goods in the premises;

1 **Explanatory note**

2 This amendment updates language consequentially on the revised definition of *vehicle* and  
3 the new definition of *in* which are inserted by other amendments. This amendment also  
4 simplifies the paragraphs and brings them into line with current drafting practice.

5 **[3.164] Section 31 (1) (i)**

6 *omit*

7 the observance of

8 *substitute*

9 compliance with

10 **Explanatory note**

11 This amendment updates language.

12 **[3.165] Section 31 (1) (j)**

13 *omit*

14 premises, vehicle or vessel

15 *substitute*

16 premises or vehicle

17 **Explanatory note**

18 This amendment is consequential on the revised definition of *vehicle* inserted by another  
19 amendment.

20 **[3.166] Section 31 (3)**

21 *omit*

22 containers, vehicles or vessels

23 *substitute*

24 containers or vehicles

25 **Explanatory note**

26 This amendment is consequential on the revised definition of *vehicle* inserted by another  
27 amendment.

1    **[3.167] Section 31 (4)**

2            *omit*

3            due

4            *substitute*

5            payable

6    **Explanatory note**

7    This amendment updates language.

8    **[3.168] Section 31 (7)**

9            *substitute*

10    (7) An inspector who enters premises or a vehicle under this section is  
11       not authorised to remain in the premises or vehicle, and a person is  
12       not required to comply with any requirement made by the inspector  
13       under this section, if the inspector does not produce his or her  
14       identity card for inspection when asked to do so by the occupier or  
15       person in charge of the premises or vehicle.

16    **Explanatory note**

17    This amendment is consequential on the revised definition of *vehicle* and the new  
18    definition of *in* which are inserted by other amendments.

19    **[3.169] Section 40 (1A)**

20            *omit*

21            deemed

22            *substitute*

23            taken

24    **Explanatory note**

25    This amendment updates archaic language.

1 **[3.170] Section 40 (2) (a) (i)**

2 *omit*

3 or the regulations

4 **Explanatory note**

5 This amendment omits unnecessary words. A reference to an Act includes a reference to  
6 the statutory instruments made or in force under the Act, including regulations (see the  
7 *Legislation Act 2001*, section 104).

8 **[3.171] Section 40 (2) (b)**

9 *omit*

10 referred to in section 49 (4) (e) (i)

11 *substitute*

12 mentioned in section 50 (1) (b)

13 **Explanatory note**

14 This amendment is consequential on another amendment.

15 **[3.172] Section 42 (1)**

16 *omit 1st mention of*

17 within

18 *substitute*

19 in

20 **Explanatory note**

21 This amendment updates archaic language.

22 **[3.173] Section 42 (1)**

23 *omit*

24 such persons, being inspectors or police officers, as are named

25 *substitute*

26 the inspectors or police officers named

1    **Explanatory note**

2    This amendment omits unnecessary text.

3    **[3.174] Section 42 (1)**

4        *omit*

5        vehicle, vessel, fixtures or fittings therein and to search any persons  
6        therein

7        *substitute*

8        vehicle, fixture, fittings or people in the house

9    **Explanatory note**

10   This amendment is consequential on the revised definition of *vehicle* and updates the  
11   language of the subsection.

12   **[3.175] Section 43 (2)**

13        *substitute*

14        (2) If a police officer suspects, on reasonable grounds, that an explosive  
15        is being carried in a vehicle in contravention of this Act, the officer  
16        may stop and search the vehicle.

17   **Explanatory note**

18   This amendment revises the section consequentially on the revised definition of *vehicle*  
19   and the new definition of *in* which are inserted by other amendments.

20   **[3.176] Section 45 (2), new note**

21        *insert*

22        *Note*      For other provisions about forms, see *Legislation Act 2001*, s 255.

23   **Explanatory note**

24   This amendment adds a standard note about approved forms.

1 **[3.177] Section 48**

2 *omit*

3 **Explanatory note**

4 This amendment omits an unnecessary section. It is similar to the *Legislation Act 2001*,  
5 section 58 which provides that regulations may make provision about the payment of fees.

6 **[3.178] Section 49 (2)**

7 *omit*

8 for or with respect to

9 *substitute*

10 in relation to

11 **Explanatory note**

12 This amendment substitutes the drafting term currently used for regulation-making powers.

13 **[3.179] Section 49 (2) (c)**

14 *omit*

15 conveying

16 *substitute*

17 transport

18 **Explanatory note**

19 This amendment updates language consequential on the insertion into the dictionary of a  
20 new definition of *transport* by another amendment.

21 **[3.180] Section 49 (2) (d)**

22 *omit*

23 vessels,

24 **Explanatory note**

25 This amendment is consequential on the revised definition of *vehicle* made by another  
26 amendment.

1    **[3.181] Section 49 (2) (e)**

2            *omit*

3            or prohibiting

4    **Explanatory note**

5    This amendment omits unnecessary words. The *Legislation Act 2001*, section 53 provides  
6    that power to regulate a matter includes power to prohibit the matter.

7    **[3.182] Section 49 (2) (g)**

8            *substitute*

9            (g) regulating smoking, the lighting or use of fire and any other  
10            dangerous, or potentially dangerous, activities near dangerous  
11            goods and in or near premises, vehicles, containers or pipelines  
12            used or that have been used in relation to dangerous goods; and

13    **Explanatory note**

14    This amendment is consequential on the revised definition of *vehicle* and the new  
15    definition of *in* which are inserted by other amendments. It also updates the language of  
16    the paragraph and omits a reference to prohibiting consequent on the *Legislation Act 2001*,  
17    section 53. That section provides that power to regulate a matter includes power to  
18    prohibit the matter.

19    **[3.183] Section 49 (2) (i)**

20            *omit*

21            premises licensed under this Act, in a vehicle, vessel or container  
22            used for the conveyance

23            *substitute*

24            licensed premises, in a vehicle or container used for the transport

25    **Explanatory note**

26    This amendment is consequential on the revised definition of *vehicle* and updates a  
27    reference to the conveyance of dangerous goods consequential on the insertion into the  
28    dictionary of a new definition of *transport* by another amendment.



1 **[3.184] Section 49 (2) (j)**

2 *omit*

3 vessel,

4 **Explanatory note**

5 This amendment is consequential on the revised definition of *vehicle* made by another  
6 amendment.

7 **[3.185] Section 49 (2) (l)**

8 *omit*

9 therewith

10 *substitute*

11 those matters

12 **Explanatory note**

13 This amendment updates archaic language.

14 **[3.186] Section 49 (2) (m)**

15 *substitute*

16 (m) the driving of vehicles, and the navigation and mooring of  
17 vessels, transporting dangerous goods; and

18 **Explanatory note**

19 This amendment is consequential on the revised definition of *vehicle* inserted by another  
20 amendment.

21 **[3.187] Section 49 (4) to (8)**

22 *substitute*

23 (4) A regulation may—

24 (a) exempt a person from the regulations; and

25 (b) give a prescribed person power to give an exemption from the  
26 regulations.

27 (5) Dangerous goods or explosives may be prescribed by reference to—

- 1            (a) a class of substances, articles, dangerous goods or explosives;  
2            or  
3            (b) the circumstances in which, or other than in which, substances,  
4            articles, dangerous goods or explosives are or are not  
5            dangerous goods or explosives; or  
6            (c) a quantity; or  
7            (d) a flashpoint.  
8            (6) Subsection (5) does not limit how dangerous goods or explosives  
9            may be prescribed.

10           **50 Regulations may apply certain documents etc**

- 11           (1) The regulations may apply, adopt or incorporate an instrument  
12           (including standards, rules, codes or specifications), or a provision  
13           of an instrument, as in force from time to time—  
14           (a) that is approved in writing by the Minister; or  
15           (b) that has been recommended or adopted by—  
16                  (i) the American Petroleum Institute; or  
17                  (ii) the British Standards Institution; or  
18                  (iii) the Institute of Petroleum; or  
19                  (iv) Standards Australia.

20           *Note 1*    The text of an applied, adopted or incorporated law or instrument,  
21                      whether applied as in force from time to time or as at a particular time,  
22                      is taken to be a notifiable instrument if the operation of the *Legislation*  
23                      *Act 2001*, s 47 (5) or (6) is not disappplied (see s 47 (7)).

24           *Note 2*    A notifiable instrument must be notified under the *Legislation Act 2001*.

- 25           (2) If an instrument (or a provision of an instrument) adopted under  
26           subsection (1) refers to a temperature reading under the Fahrenheit  
27           scale, the reading must, unless the contrary intention appears, be  
28           applied as a reading under the Celsius scale that is—  
29           (a) its equivalent; or

1 (b) if the equivalent is not a whole number—the next highest  
2 whole number.

3 (3) An approval under subsection (1) (a) is a notifiable instrument.

4 *Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

5 **Explanatory note**

6 This amendment updates the structure and language (including the reference to Standards  
7 Australia) of these provisions in accordance with current drafting practice and to reflect the  
8 operation of the *Legislation Act 2001*, section 47 and section 52 (which give a wide power  
9 about how regulations may make provision about a matter).

10 **[3.188] Dictionary, new notes**

11 *insert*

12 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
13 relevant to this Act.

14 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
15 terms:

- 16 • chief executive
- 17 • corporation
- 18 • function
- 19 • person
- 20 • public servant.

21 This amendment adds standard dictionary notes.

22 **[3.189] Dictionary, definition of *convey***

23 *omit*

24 **Explanatory note**

25 This amendment is consequential on the insertion of a new definition of *transport* by  
26 another amendment.

27 **[3.190] Dictionary, definition of *credit card***

28 *omit*

29 **Explanatory note**

30 This amendment is consequential on the omission of section 48 by another amendment.

1    **[3.191] Dictionary, definition of *director*, note**

2            *omit*

3    **Explanatory note**

4    This amendment omits a note that is out of date and unnecessary.

5    **[3.192] Dictionary, new definition of *in***

6            *insert*

7            *in* a vehicle or premises includes on the vehicle or premises.

8    **Explanatory note**

9    This new definition allows for the simplification of the language of the Act.

10   **[3.193] Dictionary, definition of *premises***

11           *substitute*

12           *premises* means all or part of any land, structure (including a  
13           portable structure), building or enclosed place.

14   **Explanatory note**

15   This amendment updates the language of the definition and recasts it in accordance with  
16   current drafting practice.

17   **[3.194] Dictionary, new definition of *transport***

18           *insert*

19           *transport* dangerous goods includes carry, load, unload, transfer,  
20           transmit, pump or discharge the goods.

21   **Explanatory note**

22   This amendment is consequent on the updating of the language of the Act from convey to  
23   transport.

24   **[3.195] Dictionary, definitions of *vehicle* and *vessel***

25           *substitute*

26           *vehicle* includes a railway vehicle and a vessel used in navigation.

1 **Explanatory note**

2 This amendment enables the language of the Act to be simplified.

3 **[3.196] Further amendments, mentions of *in or on***

4 *omit*

5 *in or on*

6 *substitute*

7 *in*

8 *in*

- 9 • section 8  
10 • section 9 (1)  
11 • section 19  
12 • section 26 (3) (a).

13 **Explanatory note**

14 This amendment enables the language of the Act to be simplified and is consequential on  
15 the new definition of *in* made by another amendment.

16 **Part 3.15 Dangerous Goods Regulations**  
17 **1978**

18 **[3.197] Regulation 14 (8) (b)**

19 *substitute*

20 (b) who has committed an offence against—

- 21 (i) the Act; or  
22 (ii) the road transport legislation within the meaning of the  
23 *Road Transport (General) Act 1999*, section 6 (What is  
24 the road transport legislation?); or

1    **Explanatory note**

2    This amendment simplifies the reference to the road transport legislation.

3    **[3.198] Regulations 52 (1) and 53 (1), new notes**

4        *insert*

5        *Note 1*    A fee may be determined under the Act, s 46 (Determination of fees) for  
6                    this regulation.

7        *Note 2*    If a form is approved under the Act, s 45 (Approved forms) for this  
8                    regulation, the form must be used.

9    **Explanatory note**

10   This amendment adds standard notes about fees and approved forms.

11   **[3.199] Regulation 59 (3) (a) and (b)**

12        *omit*

13        for

14        *substitute*

15        from

16   **Explanatory note**

17   This amendment corrects minor typographical errors.

18   **[3.200] Regulations 248 (5) and 293 (2) (b)**

19        *omit*

20        the State

21        *substitute*

22        the ACT

23   **Explanatory note**

24   This amendment is consequential on the regulations becoming an ACT law.

25   **[3.201] Dictionary, new notes**

26        *insert*

1           *Note 1*   The *Legislation Act 2001* contains definitions and other provisions  
2                   relevant to this Act.

3           *Note 2*   In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
4                   terms:

- 5                   • ACT  
6                   • fail  
7                   • person.

8   This amendment adds standard dictionary notes.

9   **[3.202] Dictionary, definitions of *amorces* and *confetti bomb***

10           *omit*

11           an admixture

12           *substitute*

13           a mixture

14   **Explanatory note**

15   This amendment updates language.

16   **[3.203] Dictionary, new definition of *convey***

17           *insert*

18           *convey* means transport.

19           *Note*   Transport dangerous goods includes, carry, load, unload, transfer,  
20                   transmit, pump or discharge the goods, see the Act, dict, def of  
21                   *transport*.

22   **Explanatory note**

23   This amendment adds a definition of *convey* consequential on the amendment of the  
24   *Dangerous Goods Act 1984* by this schedule to update the language of the Act by changing  
25   ‘convey’ to ‘transport’.

26   **[3.204] Dictionary, definition of *depot***

27           *substitute*

28           *depot*—

---

- 1            (a) means a building, structure, room, compartment, tank, store,  
2            area or receptacle where dangerous goods are kept (other than  
3            a process building); and
- 4            (b) for cryogenic liquid—includes all pressure regulators, safety  
5            devices, vaporisers, manifolds, pipelines and other equipment  
6            provided in relation to the depot (other than equipment for the  
7            conveyance or other handling of cryogenic liquid kept in the  
8            depot beyond the point where it enters a pipeline at service  
9            pressure); and
- 10           (c) for division 5.3 (Keeping of dangerous goods of class 2)—see  
11           regulation 110.

12    **Explanatory note**

13    This amendment adds to the definition the signpost reference in new paragraph (c) in  
14    accordance with current drafting practice.

15    **[3.205] Dictionary, definition of *detonating fuse***

16            *omit*

17            thereof

18            *substitute*

19            of them

20    **Explanatory note**

21    This amendment updates language.

22    **[3.206] Dictionary, new definitions of *premises* and *safety***  
23            ***cartridge***

24            *insert*

25            *premises*—see the Act, dictionary.

26            *safety cartridge*—see the Act, dictionary.

27    **Explanatory note**

28    This amendment adds signpost definitions for important terms used in the regulations.



1 **[3.207] Dictionary, definition of *sparkler***

2 *omit*

3 in admixture

4 *substitute*

5 mixed

6 **Explanatory note**

7 This amendment updates language.

8 **[3.208] Dictionary, definitions of *starting pistol cap* and**  
9 ***streamer cone***

10 *omit*

11 an admixture

12 *substitute*

13 a mixture

14 **Explanatory note**

15 This amendment updates language.

16 **Part 3.16 Defamation Act 2001**

17 **[3.209] Section 17 (4) and (5)**

18 *omit*

19 and section 31

20 This amendment omits an unnecessary reference to section 31. Section 31 (3) contains a  
21 signpost definition that applies the definition of *proceeding of public concern*. The terms  
22 defined in section 17 (5) are used only in section 17.

23 **[3.210] Section 18 (4)**

24 *omit*

1    **Explanatory note**

2    This amendment is consequential on the relocation of the definition of *publication* to  
3    section 18 (5) by another amendment.

4    **[3.211] Section 18 (5)**

5        *omit*

6        (5) In this section and section 31

7            *substitute*

8        (4) In this section

9    **Explanatory note**

10   This amendment omits an unnecessary reference to section 31. Section 31 (3) contains a  
11   signpost definition picking up the definition of *publication*. The terms defined in  
12   section 18 (5) are used only in section 18. This amendment also renumbers the subsection  
13   consequent on the omission of section 18 (4) by another amendment.

14   **[3.212] Section 18 (5), new definition of *publication***

15        *insert*

16        *publication*, of matter, includes publication in a way that the matter  
17        will become accessible or will be broadcast or sent to other people  
18        through a computer network.

19   **Explanatory note**

20   This amendment brings the form of the definition, presently in section 18 (4), into line  
21   with current drafting practice.

22   **[3.213] Section 31 (3)**

23        *omit*

24        subsection 18 (5)

25            *substitute*

26        section 18 (4)

1 **Explanatory note**

2 This amendment is consequential on the renumbering of the subsection by another  
3 amendment.

4 **[3.214] Dictionary, new notes**

5 *insert*

6 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
7 relevant to this Act.

8 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
9 terms:

- 10 • entity  
11 • the Territory.

12 **Explanatory note**

13 This amendment adds standard dictionary notes.

14 **Part 3.17** **Dental Technicians and Dental**  
15 **Prosthetists Registration Act**  
16 **1988**

17 **[3.215] Section 61**

18 *substitute*

19 **61 Witness fees and travelling expenses**

20 (1) This section applies to a person (the *witness*) who attends a hearing  
21 of the board to give evidence (whether voluntarily or under a  
22 summons).

23 (2) The witness is entitled to receive the fees and travelling expenses  
24 that the presiding member directs in accordance with the scale and  
25 conditions applying to people who attend as witnesses before the  
26 Supreme Court.

27 *Note* For the Supreme Court scale, see *Supreme Court Rules*, sch 4, pt 4.8.

- 1 (3) The fees and expenses are payable by—  
2 (a) if the witness attended at the request of a board member—the  
3 Territory; or  
4 (b) in any other case—the person who requested the attendance of  
5 the witness.

6 **Explanatory note**

7 This amendment does not make a substantive change in the entitlements of a witness. The  
8 existing section adopts the scale in the *Public Works Committee Regulations 1969* (Cwlth),  
9 schedule 2 which applies the High Court scale. The *Supreme Court Rules* (see schedule  
10 4, part 4.8) is, in substance, the same as the High Court scale. The linking of the  
11 entitlements to the Supreme Court reflects the Territory's self-governing status.

12 **Part 3.18 Domestic Animals Act 2000**

13 **[3.216] Section 29, heading**

14 *substitute*

15 **29 Meaning of *special licence* for div 2.4**

16 **Explanatory note**

17 This amendment corrects a minor error in the kind of licence defined.

18 **[3.217] Section 39**

19 *omit*

20 a licence

21 *substitute*

22 a special licence

23 **Explanatory note**

24 This amendment clarifies the operation of the section.

1 **[3.218] Section 52**

2 *substitute*

3 **52 Costs of impounding dogs**

4 (1) This section applies in relation to a prosecution of a person for an  
5 offence against section 50 (1) or (2) or section 51 in relation to a  
6 dog.

7 (2) If the court convicts the person, or finds the person guilty, of the  
8 offence, the costs of impounding the dog are payable to the  
9 Territory by the keeper of the dog.

10 (3) If the court finds the complaint to be frivolous or vexatious, the  
11 costs of impounding the dog are payable to the Territory by the  
12 complainant.

13 **Explanatory note**

14 This amendment brings the section structure into line with current drafting practice.

15 **[3.219] Section 56**

16 *omit*

17 if the dog—

18 *substitute*

19 if—

20 **Explanatory note**

21 This amendment corrects a syntax error.

22 **[3.220] Section 56 (a), (b), (c) and (d)**

23 *omit*

24 is

25 *substitute*

26 the dog is

1    **Explanatory note**

2    This amendment is consequential on another amendment of the section.

3    **[3.221] Section 57 (b)**

4        *omit*

5        a dog

6        *substitute*

7        the dog

8    **Explanatory note**

9    This amendment corrects a minor error.

10   **[3.222] Section 60 (1) (c)**

11        *omit 2nd mention of*

12        to the keeper

13   **Explanatory note**

14   This amendment omits unnecessary words.

15   **[3.223] Section 79 (2)**

16        *omit*

17        ranger

18        *substitute*

19        authorised officer

20   **Explanatory note**

21   This amendment corrects a misdescription of the person who may exercise the relevant  
22   powers.

1 **[3.224] Section 102**

2 *substitute*

3 **102 Delegation**

4 The administering authority for an infringement notice offence may  
5 delegate the authority's functions under this part to an authorised  
6 person or a person prescribed under the regulations.

7 *Note* For the making of delegations and the exercise of delegated functions,  
8 see *Legislation Act 2001*, pt 19.4.

9 **Explanatory note**

10 This amendment updates the delegation provision, as follows:

- 11 • the words 'in writing' have been omitted because the *Legislation Act 2001*,  
12 section 232 provides that a delegation must be made, or evidenced, in writing;
- 13 • the words 'all or any' (of the administering authority's functions) have been omitted  
14 because the *Legislation Act 2001*, section 234 provides that the delegation  
15 instrument may provide that the delegation has effect in stated circumstances or  
16 subject to stated conditions, limitations or directions or that all of the function, or a  
17 stated part of the function, is delegated.

18 This amendment also adds a standard note about delegations.

19 **[3.225] Section 112 (7), penalty**

20 *substitute*

21 Maximum penalty (subsection (7)): 5 penalty units.

22 **Explanatory note**

23 This amendment clarifies the operation of the penalty provision.

24 **[3.226] Section 115, heading**

25 *substitute*

26 **115 Destruction of animals on registrar's authority**

27 **Explanatory note**

28 This amendment revises the heading to make it more descriptive of the section's content.

1 **[3.227] Sections 121 to 123**

2            *substitute*

3 **121 Registrar**

4            The chief executive must appoint a public servant as the registrar.

5            *Note*    For the making of appointments (including acting appointments), see  
6                      *Legislation Act 2001*, pt 19.3.

7 **122 Deputy registrars**

8            (1) The chief executive may appoint a public servant as a deputy  
9                      registrar.

10            *Note 1*    For the making of appointments (including acting appointments), see  
11                      *Legislation Act 2001*, pt 19.3.

12            *Note 2*    In particular, a person may be appointed for a particular provision of a  
13                      law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
14                      by naming a person or nominating the occupant of a position (see s 207).

15            (2) A deputy registrar may exercise a function of the registrar, subject  
16                      to any direction of the registrar.

17 **123 Authorised officers**

18            (1) The chief executive may appoint a person as an authorised officer  
19                      for this Act.

20            (2) An authorised officer may exercise the functions that the registrar  
21                      directs or that are prescribed under the regulations.

22 **Explanatory note**

23            This amendment remakes the appointment provisions to omit unnecessary words and insert  
24                      standard notes about appointments. The *Legislation Act 2001*, section 206 provides that  
25                      an appointment must be made, or evidenced, in writing. The *Legislation Act 2001*,  
26                      section 207 provides that an appointment may be made by naming the person appointed or  
27                      by nominating the occupant of a position (however described), at a particular time or from  
28                      time to time.

29 **[3.228] Section 125**

30            *omit*

---



1 authorised person

2 *substitute*

3 authorised officer

4 **Explanatory note**

5 This amendment corrects a minor error.

6 **[3.229] Sections 126 and 127**

7 *substitute*

8 **126 Definitions for div 9.2**

9 In this division:

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

11 (a) the offence has been committed in relation to it; or

12 (b) it will provide evidence of the commission of the offence; or

13 (c) it was used, is being used, or is intended to be used, to commit  
14 the offence.

15 ***enter*** includes board.

16 ***offence*** includes an offence that there are reasonable grounds for  
17 believing has been, is being, or will be committed.

18 ***residential premises*** means premises used exclusively or mainly for  
19 residential purposes, and includes a private room in, but not any  
20 other part of, a motel, hotel, hostel or guesthouse.

21 **Explanatory note**

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

1    **[3.230] Section 137**

2            *omit*

3    **Explanatory note**

4    This section defines the term 'release of a dog'. A definition of *release* is inserted into  
5    the dictionary by another amendment.

6    **[3.231] Section 141 (a) and (b)**

7            *omit*

8            authorised person

9            *substitute*

10          authorised officer

11   **Explanatory note**

12   This amendment corrects a misdescription of the person who may exercise the relevant  
13   powers.

14   **[3.232] Section 147 (2), new note**

15          *insert*

16          *Note*      For other provisions about forms, see *Legislation Act 2001*, s 255.

17   **Explanatory note**

18   This amendment adds a standard note about approved forms.

19   **[3.233] Dictionary, new notes**

20          *insert*

21          *Note 1*      The *Legislation Act 2001* contains definitions and other provisions  
22          relevant to this Act.

23          *Note 2*      In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
24          terms:

- 25                  • chief executive  
26                  • contravene  
27                  • found guilty  
28                  • function  
29                  • person

- 1                   • police officer  
2                   • the Territory.

3 **Explanatory note**

4 This amendment adds standard dictionary notes.

5 **[3.234] Dictionary, definition of *animal welfare offence***

6                   *after*

7                   a provision of

8                   *insert*

9                   any of

10 **Explanatory note**

11 This amendment clarifies the operation of the definition.

12 **[3.235] Dictionary, definition of *authorised officer***

13                   *substitute*

14                   *authorised officer* means an authorised officer under section 123,  
15                   and includes the registrar and a deputy registrar.

16 **Explanatory note**

17 This amendment corrects a minor error.

18 **[3.236] Dictionary, new definition of *connected***

19                   *insert*

20                   *connected* with an offence, for division 9.2 (Powers of authorised  
21                   officers)—see section 126.

22 **Explanatory note**

23 This amendment adds a signpost definition into the dictionary in accordance with current  
24 drafting practice.

1    **[3.237] Dictionary, definition of *function***

2            *omit*

3    **Explanatory note**

4    This amendment omits an unnecessary definition. *Function* is defined in the *Legislation*  
5    *Act 2001*, dictionary, part 1 to include authority, duty and power.

6    **[3.238] Dictionary, definition of *licence***

7            *omit*

8    **Explanatory note**

9    This amendment is consequential on the insertion of a new definition of *special licence* by  
10   another amendment.

11   **[3.239] Dictionary, new definitions**

12            *insert*

13            *offence*, for division 9.2 (Powers of authorised officers)—see  
14            section 126.

15            *release* a dog to a person includes permit the dog to be collected by  
16            the person.

17            *special licence*, for division 2.4 (General provisions about multiple  
18            dog and dangerous dog licences)—see section 29.

19   **Explanatory note**

20   The definition of *release* is consequential on the omission of section 137 by another  
21   amendment. The new signpost definitions of *offence* and *special licence* are inserted in  
22   accordance with current drafting practice.

23   **[3.240] Further amendments, new note**

24            *insert*

25            *Note*      For how documents may be given, see *Legislation Act 2001*, pt 19.5.

26            *after*

27            •      section 12 (1)

28            •      section 13 (1)

- 1 • section 22 (5)
- 2 • section 33 (3)
- 3 • section 111 (1).

4 **Explanatory note**

5 This amendment adds standard notes about service of documents.

6 **Part 3.19 Domestic Animals Regulations**  
7 **2001**

8 **[3.241] Regulations 3 to 5**

9 *substitute*

10 **2 Dog registration information—Act, s 8**

11 The following information must be recorded in the register:

- 12 (a) the name and address of the applicant (who must be stated in
- 13 the register as the keeper of the dog);
- 14 (b) if the dog is kept at another address—the address;
- 15 (c) the registration number allotted to the dog;
- 16 (d) if the dog is an assistance animal—a statement to that effect;
- 17 (e) if the dog is a dangerous dog—a statement to that effect.

18 **3 Information on dog registration certificates—Act, s 11 (2)**

19 The following information must be stated on a registration  
20 certificate:

- 21 (a) the registration number allotted to the dog;
- 22 (b) if the dog is a recognisable breed—the breed;
- 23 (c) the colour of the dog;
- 24 (d) whether the dog is an assistance animal;



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## 1 Part 3.21 Electoral Act 1992

### 2 [3.243] Section 6

3 *substitute*

#### 4 6 Constitution of commission

5 The electoral commission consists of—

- 6 (a) the chairperson; and  
7 (b) the commissioner; and  
8 (c) 1 other member.

#### 9 Explanatory note

10 This amendment omits section 6 (2) which is no longer necessary because of the  
11 *Legislation Act 2001*, section 199 (4). That subsection provides that the exercise of a  
12 function of a body is not affected only because of vacancies in the body's membership.

### 13 [3.244] Section 7 (1) (g)

14 *omit*

15 performance

16 *substitute*

17 exercise

#### 18 Explanatory note

19 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
20 perform the function. It is the drafting term that is now used in relation to functions.

### 21 [3.245] Section 7 (1) (i)

22 *substitute*

- 23 (i) to exercise any other function given to it under this Act or  
24 another Territory law.

25 *Note* A provision of a law that gives an entity (including a person) a function  
26 also gives the entity powers necessary and convenient to exercise the  
27 function (see *Legislation Act 2001*, s 196 and dict, pt 1, def of *entity*).

1      **Explanatory note**

2      This amendment brings the paragraph into line with current drafting practice and adds a  
3      standard note about necessary and convenient powers related to a function consequential  
4      on the omission of section 9 by another amendment.

5      **[3.246] Section 7 (3)**

6           *substitute*

7           (3) In this section:

8                *election* includes a referendum and any other ballot.

9      **Explanatory note**

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

11      **[3.247] Section 9**

12           *omit*

13      **Explanatory note**

14      This section is no longer necessary because of the *Legislation Act 2001*, section 196 (1).  
15      That subsection provides that a provision of a law that gives a function to an entity also  
16      gives the entity the powers necessary and convenient to exercise the function.

17      **[3.248] Section 10A**

18           *substitute*

19      **10A Special reports by electoral commission**

20           (1) The electoral commission may give to the Minister a report on  
21           anything relating to elections, referendums or other ballots.

22           (2) If the Minister receives a report that is expressed to be given to the  
23           Minister under subsection (1), the Minister must present a copy of  
24           the report to the Legislative Assembly within 6 sitting days after the  
25           day the Minister receives it.

26      **Explanatory note**

27      This amendment brings the section into line with current drafting practice by updating  
28      language. *Present* is the drafting term that is now used in relation to the tabling of  
29      documents in the Legislative Assembly.



1 **[3.249] Section 11, definition of *member***

2 *substitute*

3 *member* means a member of the electoral commission, other than  
4 the commissioner.

5 **Explanatory note**

6 This amendment omits a reference to section 6 (1), which is omitted by another  
7 amendment, and recasts the definition in accordance with current drafting practice.

8 **[3.250] Section 12 (1)**

9 *substitute*

10 (1) The Executive may appoint a person to be a member.

11 *Note* For the making of appointments (including acting appointments), see  
12 *Legislation Act 2001*, pt 19.3.

13 **Explanatory note**

14 This amendment brings the subsection into line with current drafting practice. The  
15 reference to the appointment being made ‘in writing’ is omitted because the *Legislation*  
16 *Act 2001*, section 206 provides that an appointment must be made, or evidenced, in  
17 writing. This amendment also adds a standard note about appointments.

18 **[3.251] Section 12 (4)**

19 *omit*

20 **Explanatory note**

21 The subsection is unnecessary because of the *Legislation Act 2001*, sections 212 and 225  
22 which provide that an appointment, or anything done under an appointment, is not invalid  
23 only because of a defect or irregularity in the appointment.

24 **[3.252] Section 12 (5)**

25 *renumber as section 12 (4)*

26 **Explanatory note**

27 This amendment is consequential on the omission of section 12 (4).

1    **[3.253] Section 13**

2            *substitute*

3    **13 Term of appointment of members**

4            A member must be appointed for a term of not longer than 5 years.

5            *Note*      A person may be reappointed to a position if the person is eligible to be  
6                      appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1,  
7                      def of *appoint*).

8    **14 Conditions of appointment of members generally**

9            A member holds the position on the conditions not provided by this  
10            Act or another Territory law that are decided by the Minister.

11    **Explanatory note**

12            This amendment splits existing section 13 into 2 new sections in line with current drafting  
13            practice. Section 13 (3) is omitted because the *Legislation Act 2001*, s 208 provides for  
14            the reappointment of a person who is eligible for appointment. This amendment also adds  
15            a standard note about reappointments.

16    **[3.254] Section 16**

17            *omit*

18            This section is omitted because the *Legislation Act 2001*, section 210 provides for the  
19            resignation of a person from a statutory appointment. A standard note about resignation is  
20            inserted by an amendment of section 17 (6).

21    **[3.255] Section 17, heading**

22            *substitute*

23    **17 Suspension or ending of appointment of members**

24    **Explanatory note**

25            This amendment brings the language of the section heading into line with current drafting  
26            practice.

1 **[3.256] Section 17 (3) and (6)**

2 *omit*

3 terminate

4 *substitute*

5 end

6 **Explanatory note**

7 *End* is the drafting term that is now used in relation to appointments.

8 **[3.257] Section 17 (6), new note**

9 *insert*

10 *Note* A member's appointment also ends if the member resigns (see  
11 *Legislation Act 2001*, s 210).

12 **Explanatory note**

13 This amendment adds a standard note about resignation consequential on the omission of  
14 section 16 by another amendment.

15 **[3.258] Section 18**

16 *omit*

17 **Explanatory note**

18 This amendment omits an unnecessary provision about acting appointments for the  
19 following reasons:

- 20 • section 18 (1) is unnecessary because the *Legislation Act 2001*, section 209 (1)  
21 provides that a power to make an appointment includes power to appoint a person to  
22 act in the position during a vacancy, whether or not an appointment had previously  
23 been made and during any periods when the person holding the position cannot  
24 exercise the functions of the position;
- 25 • section 18 (2) is unnecessary because the *Legislation Act 2001*, section 209 (2)  
26 provides that the power to appoint a person to act is exercisable in the same way, and  
27 subject to the same conditions, as the power to make the appointment;
- 28 • section 18 (3) is unnecessary because the *Legislation Act 2001*, section 225 provides  
29 that an acting appointment, or anything done under an acting appointment, is not  
30 invalid only because of a defect or irregularity in the appointment.

1    **[3.259] Section 20**

2            *substitute*

3    **20 Delegation by electoral commission**

4        (1) The electoral commission may delegate the commission's functions  
5            under this Act or another Territory law to—

6            (a) the commissioner; or

7            (b) an officer or a member of the commission's staff.

8        (2) However, the electoral commission must not delegate its functions  
9            under part 4 (Electorates) or part 15 (Review of decisions).

10        *Note*      For the making of delegations and the exercise of delegated functions,  
11            see *Legislation Act 2001*, pt 19.4.

12    **Explanatory note**

13    This amendment updates the delegation provision, as follows:

- 14    • the words 'by resolution' have been omitted with the effect that the *Legislation Act*  
15        *2001*, section 199 (1) provides that a body that is authorised by a law to exercise a  
16        function may do so by resolution;
- 17    • the words 'all or any' (of the commission's functions) have been omitted because the  
18        *Legislation Act 2001*, section 234 provides that the delegation may provide that the  
19        delegation has effect in stated circumstances or subject to stated conditions,  
20        limitations or directions or that all of the function, or a stated part of the function, is  
21        delegated.

22    This amendment also adds a standard note about delegations.

23    **[3.260] Section 22 (1)**

24            *substitute*

25        (1) The Executive may appoint a person to be the Electoral  
26            Commissioner.

27        *Note*      For the making of appointments (including acting appointments), see  
28            *Legislation Act 2001*, pt 19.3.

1 **Explanatory note**

2 This amendment brings the subsection into line with current drafting practice. The  
3 reference to the appointment being made ‘in writing’ is omitted because the *Legislation*  
4 *Act 2001*, section 206 provides that an appointment must be made, or evidenced, in  
5 writing. This amendment also adds a standard note about appointments.

6 **[3.261] Section 23**

7 *substitute*

8 **23 Functions of commissioner etc**

9 (1) The commissioner is the chief executive officer of the electoral  
10 commission.

11 (2) The commissioner has the functions given to the commissioner  
12 under this Act or another Territory law.

13 *Note* A provision of a law that gives an entity (including a person) a function  
14 also gives the entity powers necessary and convenient to exercise the  
15 function (see *Legislation Act 2001*, s 196 and dict, pt 1, def of *entity*).

16 (3) The commissioner may give written directions to officers and  
17 members of the staff of the electoral commission in relation to the  
18 exercise of their functions under this Act or another Territory law.

19 **Explanatory note**

20 This amendment brings this section into line with current drafting practice. *Exercise* a  
21 function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the  
22 function. It is the drafting term that is now used in relation to functions. This  
23 amendment also adds a standard note about necessary and convenient powers related to a  
24 function.

1    **[3.262] Section 24**

2            *substitute*

3    **24 Delegation by commissioner**

4        (1) The commissioner may delegate the commissioner's functions under  
5        this Act or another Territory law to an officer or a member of the  
6        staff of the electoral commission.

7            *Note*      For the making of delegations and the exercise of delegated functions,  
8            see *Legislation Act 2001*, pt 19.4.

9        (2) However, the commissioner must not delegate the commissioner's  
10        functions under part 4 (Electorates).

11    **Explanatory note**

12    This amendment updates the delegation provision, as follows:

- 13    • the words 'in writing' have been omitted because the *Legislation Act 2001*,  
14    section 232 provides that a delegation must be made, or evidenced, in writing;
- 15    • the words 'all or any' (of the commissioner's functions) have been omitted because  
16    the *Legislation Act 2001*, section 234 provides that the delegation instrument may  
17    provide that the delegation has effect in stated circumstances or subject to stated  
18    conditions, limitations or directions or that all of the function, or a stated part of the  
19    function, is delegated.

20    This amendment also adds a standard note about delegations.

21    **[3.263] Section 25**

22            *substitute*

23    **25 Term of appointment of commissioner**

24        The commissioner must be appointed for a term of not longer than  
25        5 years.

26            *Note*      A person may be reappointed to a position if the person is eligible to be  
27            appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1,  
28            def of *appoint*).

1 **26 Conditions of appointment of commissioner generally**

2 (1) The commissioner holds the position on the conditions not provided  
3 by this Act or another Territory law that are decided by the Minister.

4 (2) The commissioner may hold any other position that is compatible  
5 with the exercise of his or her functions as commissioner.

6 **Explanatory note**

7 This amendment splits existing section 25 into 2 new sections in line with current drafting  
8 practice. Section 25 (4) is omitted because the *Legislation Act 2001*, s 208 provides for  
9 the reappointment of a person who is eligible for appointment. This amendment also adds  
10 a standard note about delegations.

11 **[3.264] Section 28**

12 *omit*

13 **Explanatory note**

14 This section is omitted because the *Legislation Act 2001*, section 210 provides for the  
15 resignation of a person from a statutory appointment. A standard note about resignation is  
16 inserted by an amendment of section 29.

17 **[3.265] Section 29, heading**

18 *substitute*

19 **29 Suspension or ending of appointment of commissioner**

20 **Explanatory note**

21 This amendment brings the language of the section heading into line with current drafting  
22 practice.

23 **[3.266] Section 29 (3) and (6)**

24 *omit*

25 terminate

26 *substitute*

27 end

1      **Explanatory note**

2      *End* is the drafting term that is now used in relation to appointments.

3      **[3.267] Section 29 (6), new note**

4                    *insert*

5                    *Note*      A person's appointment also ends if the person resigns (see *Legislation*  
6                    *Act 2001*, s 210).

7      **Explanatory note**

8      This amendment adds a standard note about resignation consequentially on the omission of  
9      section 28 by another amendment.

10     **[3.268] Section 30**

11                    *omit*

12     **Explanatory note**

13     This amendment omits an unnecessary provision about acting appointments for the  
14     following reasons:

- 15     • section 30 (1) is unnecessary because the *Legislation Act 2001*, section 209 (1)  
16     provides that a power to make an appointment includes power to appoint a person to  
17     act in the position during a vacancy, whether or not an appointment had previously  
18     been made and during any periods when the person holding the position cannot  
19     exercise the functions of the position;
- 20     • section 30 (2) is unnecessary because the *Legislation Act 2001*, section 225 provides  
21     that an acting appointment, or anything done under an acting appointment, is not  
22     invalid only because of a defect or irregularity in the appointment.

23     **[3.269] Section 33 (1)**

24                    *substitute*

25     (1) The commissioner may appoint an adult to be an officer for this Act.

26                    *Note 1* For the making of appointments (including acting appointments), see  
27                    *Legislation Act 2001*, pt 19.3.

28                    *Note 2* In particular, a person may be appointed for a particular provision of a  
29                    law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
30                    by naming a person or nominating the occupant of a position (see s 207).



1 **Explanatory note**

2 This amendment brings the subsection into line with current drafting practice. The  
3 reference to the appointment being made ‘in writing’ is omitted because the *Legislation*  
4 *Act 2001*, section 206 provides that an appointment must be made, or evidenced, in  
5 writing. This amendment also adds standard notes about appointments.

6 **[3.270] Section 37 (1)**

7 *omit*

8 **Explanatory note**

9 This amendment omits a provision about the first redistribution of electorates. The  
10 provision is now spent.

11 **[3.271] Section 37 (2)**

12 *renumber as section 37 (1)*

13 **Explanatory note**

14 This amendment is consequential on the omission of section 37 (1).

15 **[3.272] Section 37 (3)**

16 *omit*

17 (3) For subsection (2),

18 *substitute*

19 (2) For subsection (1),

20 **Explanatory note**

21 This amendment is consequential on the renumbering of section 37 (2).

22 **[3.273] Section 38 (2) and (3)**

23 *omit*

24 commences

25 *substitute*

26 begins

1      **Explanatory note**

2      This amendment updates language in accordance with current drafting practice.

3      **[3.274] Section 39 (4) to (6)**

4              *substitute*

5              *Note*      For the making of appointments, see *Legislation Act 2001*, pt 19.3.

6              (4) The member mentioned in subsection (3) (d) holds the position on  
7              the conditions that are decided by the electoral commission in  
8              consultation with the Minister and stated in the member's  
9              appointment.

10     **Explanatory note**

11     A note about the making of appointments is added to section 39 (3).

12     Section 39 (4) is revised in accordance with current drafting practice.

13     Section 39 (5) is unnecessary because the *Legislation Act 2001*, section 212 provides that  
14     an appointment, or anything done under an appointment, is not invalid only because of a  
15     defect or irregularity in the appointment.

16     Section 39 (6) is unnecessary because the *Legislation Act 2001*, section 199 (4) provides  
17     that the exercise of a function by a body is not affected only because of a vacancy in the  
18     body's membership.

19     **[3.275] Section 47 (3)**

20              *omit*

21     **Explanatory note**

22     Section 47 (3) is unnecessary because of the *Legislation Act 2001*, section 199 (4). That  
23     subsection provides that the exercise of a function by a body is not affected only because  
24     of a vacancy in the body's membership.

25     **[3.276] Section 55 (2)**

26              *substitute*

27              (2) In subsection (1):

28              *decision* includes a failure to make a decision.

1 **Explanatory note**

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

3 **[3.277] Section 58 (1) (b)**

4 *omit*

5 Christian or

6 **Explanatory note**

7 This amendment brings the reference to given names into line with current drafting  
8 practice.

9 **[3.278] Section 59**

10 *substitute*

11 **59 Meaning of *extract* from roll**

12 In this Act:

13 *extract* from a roll means the part of the roll that contains, for each  
14 elector enrolled at the time the extract is prepared—

- 15 (a) the elector's surname or family name; and  
16 (b) each given name of the elector; and  
17 (c) the elector's address, unless the elector is—  
18 (i) an elector whose address is suppressed; or  
19 (ii) an eligible overseas elector; or  
20 (iii) an Antarctic elector; or  
21 (iv) an elector who is enrolled because of the elector's  
22 enrolment on the Commonwealth roll as an itinerant  
23 elector.

24 *Note* A roll extract in electronic form is a disk, tape or other device from  
25 which the information in the extract may be reproduced by mechanical,  
26 electronic or other means (see dict, def of *electronic form*).

1    **Explanatory note**

2    This amendment brings the form of the definition of *extract* into line with current drafting  
3    practice. The definition of *roll extract in electronic form* has been relocated to the  
4    dictionary as a definition of *electronic form* of a roll or an extract from a roll so that the  
5    concept applies to section 65 (Provision of roll information to prescribed authorities).

6    **[3.279] Section 65 (3)**

7         *omit*

8         sheriff of the Territory

9         *substitute*

10        sheriff

11    **Explanatory note**

12    This amendment omits unnecessary words (see *Legislation Act 2001*, section 122).

13    **[3.280] Section 80 (6)**

14         *substitute*

15        (6) In this section:

16            *enrolment* includes the enrolment of a person who is taken to have  
17            been enrolled under this part.

18            *particulars*—a reference (express or implied) to *particulars* relating  
19            to a person includes a reference to particulars taken to be recorded  
20            on the roll under this part.

21    **Explanatory note**

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

23    **[3.281] Section 81 (4)**

24         *substitute*

25        (4) The deposit is not payable by an elector who objects to the  
26        enrolment of a person with a mental disability.

1 **Explanatory note**

2 This amendment brings the subsection into line with current drafting practice by removing  
3 the outdated concept of ‘unsound mind’.

4 **[3.282] Section 81 (5) (a)**

5 *substitute*

6 (a) the objection is made because the enrolled person is a person  
7 with a mental disability and is not accompanied by a  
8 supporting medical certificate; or

9 **Explanatory note**

10 This amendment brings the provision into line with current drafting practice by removing  
11 the outdated concept of ‘unsound mind’.

12 **[3.283] Section 81 (7) (b)**

13 *substitute*

14 (b) the commissioner believes on reasonable grounds that an  
15 enrolled person is not entitled to be enrolled (other than the  
16 ground that the person is a person with a mental disability);

17 **Explanatory note**

18 This amendment brings the provision into line with current drafting practice by removing  
19 the outdated concept of ‘unsound mind’.

20 **[3.284] New section 81 (11)**

21 *insert*

22 (11) In this section:

23 *person with a mental disability* means a person who is incapable of  
24 understanding the nature and significance of enrolment and voting,  
25 and includes such a person even if a guardian or manager has not  
26 been appointed for the person under the *Guardianship and*  
27 *Management of Property Act 1991*.

28 **Explanatory note**

29 This amendment adds a definition of *person with a mental disability* for the provisions  
30 about objections to enrolment. The definition is based on the concepts of the

1    *Commonwealth Electoral Act 1918* (Cwlth), section 93 (8) (b) and similar definitions in  
2    other ACT laws.

3    **[3.285] Section 85 (2) (b)**

4         *omit*

5         performance of duties or functions

6         *substitute*

7         exercise of functions

8    **Explanatory note**

9    *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
10    perform the function and *function* is defined to include duty.

11    **[3.286] Section 100 (1)**

12         *substitute*

13         (1) A general election under this Act must be held on the 3rd Saturday  
14         in October in the 3rd year after the year when the last ordinary  
15         election was held.

16    **Explanatory note**

17    This amendment omits a spent provision about the first election after the commencement  
18    of the *Electoral (Amendment) Act 1997*.

19    **[3.287] Section 102**

20         *substitute*

21    **102 Polling day**

22         (1) A poll must be held for an election on the day when the election is  
23         required to be held under this part.

24         (2) This section is subject to section 111 (Need for a poll).

25    **Explanatory note**

26    This amendment brings the form of the section into line with current drafting practice.  
27    The definition of *polling day* has been inserted into the dictionary because it applies to all  
28    of the Act.

1 **[3.288] Section 103 (4)**

2 *substitute*

3 (4) A person is not eligible to be an MLA for the disqualification period  
4 if—

5 (a) the person is convicted of an offence against—

6 (i) section 285 (Bribery) or section 288 (Violence and  
7 intimidation); or

8 (ii) the *Crimes Act 1914* (Cwlth), section 28 (Interfering with  
9 political liberty); or

10 (iii) the *Criminal Code* (Cwlth), part 2.4 relating to an offence  
11 mentioned in subparagraph (ii); or

12 (b) the person is found by the Court of Disputed Elections to have  
13 contravened (within the meaning of part 16) a section  
14 mentioned in paragraph (a) (i).

15 *Note 1* A reference to an offence against a Territory law includes a reference to  
16 an offence against the *Crimes Act 1900*, pt 9 (Aiding and abetting,  
17 accessories, attempts, incitement and conspiracy) that relates to the law  
18 (see *Legislation Act 2001*, s 189).

19 *Note 2* **Contravention** is defined for pt 16 (Disputed elections, eligibility and  
20 vacancies) in s 250.

21 (5) For subsection (4), the **disqualification period** is 2 years after the  
22 conviction or finding.

23 **Explanatory note**

24 This amendment revises the subsection to bring it into line with current drafting practice  
25 and to take into account the enactment of the *Legislation Act 2001*, section 189 (which is  
26 mentioned in note 1 above) and the Commonwealth *Criminal Code*.

27 **[3.289] Section 114 (8)**

28 *omit*

29 **Explanatory note**

30 The substance of the subsection is incorporated in a revised definition of **ballot paper**  
31 inserted into the dictionary by another amendment.

1    **[3.290] Section 115 (4)**

2            *omit*

3    **Explanatory note**

4    The substance of the subsection is incorporated in a revised definition of *group* inserted  
5    into the dictionary by another amendment.

6    **[3.291] Section 116 (1) (h)**

7            *omit*

8            in this Act called

9            *substitute*

10          called

11   **Explanatory note**

12   This amendment omits unnecessary words because of the revised definition of *candidate*  
13   *square* inserted into the dictionary by another amendment.

14   **[3.292] Section 116 (1), new note**

15          *insert*

16          *Note*    **Group**, in relation to candidates in an election, is defined in the  
17          dictionary.

18   **Explanatory note**

19   This amendment adds a note drawing attention to the definition of *group* in the dictionary.

20   **[3.293] Section 123 (6)**

21          *omit*

22          performance

23          *substitute*

24          exercise

25   **Explanatory note**

26   *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
27   perform the function. It is the drafting term that is now used in relation to functions.



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1 **[3.294] Section 136A (8), new note**

2 *insert*

3 *Note* For restrictions on sending completed ballot and voting papers by fax,  
4 see s 329.

5 **Explanatory note**

6 This amendment adds a note about restrictions on how certain electoral papers are sent.

7 **[3.295] Section 136B (8) (b)**

8 *substitute*

9 (b) the reference in section 134 to an *unoccupied voting*  
10 *compartment* were a reference to an unoccupied part of the  
11 place where the elector attends before the officer concerned.

12 **Explanatory note**

13 This amendment clarifies a possible minor ambiguity in the provision.

14 **[3.296] Sections 136B (20) (b) and 136C (8) (b)**

15 *substitute*

16 (b) the reference in section 135 (4) to an *unoccupied voting*  
17 *compartment* were a reference to an unoccupied part of the  
18 place where the elector attends before the officer concerned.

19 **Explanatory note**

20 This amendment clarifies a possible minor ambiguity in these provisions.

21 **[3.297] Section 139 (1), new note**

22 *insert*

23 *Note* For restrictions on sending completed ballot and voting papers by fax,  
24 see s 329.

25 **Explanatory note**

26 This amendment adds a note about restrictions on how certain electoral papers are sent.

1    **[3.298] Section 140 (4) (b)**

2            *omit*

3            Christian or

4    **Explanatory note**

5    This amendment brings the reference to given names into line with current drafting  
6    practice.

7    **[3.299] Section 141**

8            *omit*

9            commencement

10          *substitute*

11          beginning

12    **Explanatory note**

13    This amendment updates language in accordance with current drafting practice.

14    **[3.300] Sections 159 (4) and 160 (6)**

15          *omit*

16    **Explanatory note**

17    The substance of the subsections is incorporated in a revised definition of *polling day*  
18    inserted into the dictionary by another amendment.

19    **[3.301] Sections 168 and 169**

20          *substitute*

21    **168 Returning officers and assistants for Antarctic stations**

22    (1) The commissioner must appoint a returning officer, and an assistant  
23    returning officer, for each station.

24            *Note 1* For the making of appointments (including acting appointments), see  
25            *Legislation Act 2001*, pt 19.3.

26            *Note 2* In particular, a person may be appointed for a particular provision of a  
27            law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
28            by naming a person or nominating the occupant of a position (see s 207).

---

1 (2) The commissioner or the person in charge of a station may appoint  
2 an acting returning officer, or acting assistant returning officer, for a  
3 station.

4 (3) However, the person in charge of a station must not be appointed to  
5 be the returning officer, or assistant returning officer, for the station.

6 **Explanatory note**

7 This amendment updates the appointment provisions, as follows:

- 8 • the reference to the appointment under section 168 (1) being made ‘in writing’ is  
9 omitted because the *Legislation Act 2001*, section 206 provides that an appointment  
10 must be made, or evidenced, in writing;
- 11 • new subsection (2) has a similar operation to existing section 169 (1) and the  
12 *Legislation Act 2001*, section 209 (1). That section provides that a power to make an  
13 appointment includes power to appoint a person to act in the position during a  
14 vacancy, whether or not an appointment had previously been made and during any  
15 periods when the person holding the position cannot exercise the functions of the  
16 position;
- 17 • section 169 (2) is unnecessary because the *Legislation Act 2001*, section 225 provides  
18 that an acting appointment, or anything done under an acting appointment, is not  
19 invalid only because of a defect or irregularity in the appointment.

20 This amendment also adds standard notes about appointments.

21 **[3.302] Section 175 (1), new note**

22 *insert*

23 *Note* A ballot paper completed by an Antarctic elector may be faxed to the  
24 commissioner, see s 329.

25 **Explanatory note**

26 The note explains the application of section 329 to Antarctic votes.

27 **[3.303] Section 179 (3)**

28 *omit*

29 *commence*

30 *substitute*

31 *begin*

1    **Explanatory note**

2    This amendment updates language in accordance with current drafting practice.

3    **[3.304] Section 179 (4)**

4        *omit*

5        commencement

6        *substitute*

7        beginning

8    **Explanatory note**

9    This amendment updates language in accordance with current drafting practice.

10   **[3.305] Section 197**

11        *omit*

12        commences

13        *substitute*

14        begins

15   **Explanatory note**

16   This amendment updates language in accordance with current drafting practice.

17   **[3.306] Section 201 (2), definition of *disclosure day*,**  
18   **paragraph (a)**

19        *omit*

20        (including the 15 February 1992 election)

21   **Explanatory note**

22   This amendment omits text that is now redundant.

23   **[3.307] Section 203 (3) (a)**

24        *substitute*

25        (a) the person appointed is an adult; and

1 **Explanatory note**

2 This amendment brings the paragraph into line with current drafting practice.

3 **[3.308] Section 203 (5)**

4 *substitute*

5 (5) A person taken to be a reporting agent in accordance with  
6 subsection (4) or section 204 (2) is taken to continue in the position  
7 until the person resigns from the position with the commissioner's  
8 consent.

9 **Explanatory note**

10 Section 204 (1A) was renumbered as subsection (2) by the *Electoral Amendment Act 2001*,  
11 but a consequential amendment was not made to section 203 (5). This amendment  
12 confirms the correction of the cross-reference made under the *Legislation (Republication)*  
13 *Act 1996* and brings the subsection into line with current drafting practice.

14 **[3.309] Section 205 (4) (d)**

15 *substitute*

16 (d) it comes to the commissioner's notice that the person can no  
17 longer exercise the functions of a reporting agent.

18 **Explanatory note**

19 This amendment revises the paragraph to bring it into line with current drafting practice.  
20 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
21 perform the function and *function* is defined to include duty.

22 **[3.310] Section 236 (6)**

23 *omit*

24 commenced

25 *substitute*

26 begun

27 **Explanatory note**

28 This amendment updates language in accordance with current drafting practice.

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1 **[3.315] Section 250, definition of *proceeding***

2 *substitute*

3 *proceeding* means a proceeding before the Court of Disputed  
4 Elections.

5 **Explanatory note**

6 This amendment revises the definition to set out the court's full name.

7 **[3.316] Section 250, new definition of *Speaker***

8 *insert*

9 *Speaker*—see section 251.

10 **Explanatory note**

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

12 **[3.317] Section 250, definition of *undue influence***

13 *substitute*

14 *undue influence* means a contravention of section 288 (Violence  
15 and intimidation) or the *Crimes Act 1914* (Cwlth), section 28  
16 (Interfering with political liberty).

17 **Explanatory note**

18 This amendment revises the definition by inserting the names of the relevant sections.

19 **[3.318] Section 250A**

20 *omit*

21 **Explanatory note**

22 This amendment is consequential on relocation of the definition of *contravention* into  
23 section 250 in accordance with current drafting practice.

24 **[3.319] Section 251**

25 *substitute*

26 **251 Meaning of *Speaker* for pt 16**

- 1      (1) In this part:  
2          *Speaker* includes—  
3              (a) if the Speaker is unavailable—the Deputy Speaker; or  
4              (b) if both the Speaker and Deputy Speaker are  
5                  unavailable—another MLA who is not the subject of a  
6                  proceeding and is appointed by the Assembly to act as the  
7                  Speaker for this part; or  
8              (c) if both the Speaker and Deputy Speaker are unavailable and no  
9                  MLA is appointed for paragraph (b)—the clerk of the  
10                  Assembly.  
11      (2) For subsection (1), the Speaker or Deputy Speaker is unavailable  
12          if—  
13              (a) the office-holder is absent from duty; or  
14              (b) there is a vacancy in the office; or  
15              (c) the office-holder is the subject of a proceeding.

16      **Explanatory note**

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

18      **[3.320] Section 254**

19          *omit*

20      **Explanatory note**

21      This amendment omits a redundant power to make rules of court. The *Supreme Court Act*  
22      *1933*, section 36 provides for the making of rules of court (and see also *Legislation Act*  
23      *2001*, section 45 (Power to make court rules)).

24      **[3.321] Section 255**

25          *omit*

26          court

27          *substitute*

28          Court of Disputed Elections

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1 **Explanatory note**

2 This amendment is consequential on the omission of the definition of *court* from  
3 section 250 by another amendment.

4 **[3.322] Section 262**

5 *substitute*

6 **262 Parties to application under div 16.3**

7 (1) The following people are entitled to appear in a proceeding under  
8 this division:

9 (a) the applicant;

10 (b) the commissioner;

11 (c) if a person whose election is being disputed files a notice of  
12 appearance within 7 days after the day when the person is  
13 served with a copy of the application under section 261—the  
14 person;

15 (d) anyone else with the leave of the Court of Disputed Elections.

16 (2) A person other than the applicant who appears under subsection (1)  
17 is to be taken to be a respondent to the application.

18 (3) This section does not apply to an application under section 263.

19 **Explanatory note**

20 This amendment adds a new subsection (3) to clarify the relationship between sections 262  
21 and 263. Section 263 states the people who are entitled to appear in an application before  
22 the Supreme Court under that section. Also, section 262 (1) is amended to state the full  
23 name of the court and bring the subsection into line with current drafting practice.

24 **[3.323] Section 263 (5) to (8)**

25 *omit*

26 court

27 *substitute*

28 Supreme Court

---

1    **Explanatory note**

2    This amendment makes it clear that the court referred to is the Supreme Court.

3    **[3.324] Section 264 (1)**

4        *omit*

5        in the manner prescribed by rules of court

6        *substitute*

7        in accordance with the *Supreme Court Rules*

8    **Explanatory note**

9    This amendment cites the name of the relevant rules.

10   **[3.325] Section 265**

11        *omit*

12        The court

13        *substitute*

14        The Court of Disputed Elections

15   **Explanatory note**

16   This amendment states the full name of the court in line with current drafting practice.

17   **[3.326] New section 266 (5)**

18        *insert*

19        (5) In this section:

20        *illegal practice* means a contravention of this Act, and includes  
21        undue influence.

22        *Note*      *Contravention* and *undue influence* are defined in s 250.

23   **Explanatory note**

24   This amendment is consequential on the omission of the definition of this term from  
25   section 250 by another amendment.

1 **[3.327] Section 282**

2 *omit*

3 legal practitioner

4 *substitute*

5 lawyer

6 **Explanatory note**

7 This amendment updates the term in accordance with current drafting practice.

8 **[3.328] Section 284**

9 *substitute*

10 **284 Costs may be ordered against Territory**

11 Even if the Territory is not a party to a proceeding, the Court of  
12 Disputed Elections may order the Territory to pay all or any of the  
13 costs of the proceeding.

14 **Explanatory note**

15 This amendment updates the language of the section and includes the full name of the  
16 court.

17 **[3.329] Section 286**

18 *omit*

19 performance

20 *substitute*

21 exercise

22 **Explanatory note**

23 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
24 perform the function. It is the drafting term that is now used in relation to functions.

1    **[3.330] Section 295 (2) and (3)**

2            *substitute*

3            (2) In this section:

4            **government agency** means—

- 5            (a) an administrative unit; or
- 6            (b) a Territory instrumentality; or
- 7            (c) a statutory office-holder and the staff assisting the statutory
- 8                      office-holder.

9            **publication**, of a government agency, does not include a publication

10            that is published for the first time within 6 months immediately

11            before a general election if the publication includes a picture of an

12            MLA.

13    **Explanatory note**

14    This amendment remakes the subsections to bring the form of the definition of **publication**

15    (previously subsection (2)) into line with current drafting practice.

16    **[3.331] Section 299 (4), definition of lessee**

17            *substitute*

18            **lessee**—see the *Land (Planning and Environment) Act 1991*,

19            section 159.

20    **Explanatory note**

21    This amendment brings the provision into line with current drafting practice by referring to

22    the section that defines the term.

23    **[3.332] Sections 321 and 322**

24            *substitute*

25    **321 Restraining conduct**

26            (1) This section applies if a person (the **relevant person**) has engaged, is

27            engaging, or proposes to engage, in conduct that was, is, or would

- 1 be, a contravention of this Act or another Territory law in its  
2 application to elections.
- 3 (2) The commissioner or, if the conduct relates to an election, a  
4 candidate in the election may apply to the Supreme Court for an  
5 injunction.
- 6 (3) On application under subsection (2), the Supreme Court may grant  
7 an injunction—
- 8 (a) restraining the relevant person from engaging in the conduct;  
9 and
- 10 (b) if, in the court’s opinion, it is desirable to do so, requiring the  
11 relevant person to do anything.
- 12 (4) The Supreme Court may grant an injunction restraining a person  
13 from engaging in conduct of a particular kind—
- 14 (a) if satisfied that the person has engaged in conduct of that kind,  
15 whether or not it appears to the court that the person intends to  
16 engage again, or to continue to engage, in conduct of that kind;  
17 or
- 18 (b) if it appears to the court that, if an injunction is not granted, it  
19 is likely the person will engage in conduct of that kind,  
20 whether or not the person has previously engaged in conduct of  
21 that kind and whether or not there is an imminent danger of  
22 substantial damage to someone else if the person engages in  
23 conduct of that kind.

24 **322 Requiring things to be done**

- 25 (1) This section applies if a person (the *relevant person*) has failed, is  
26 failing, or proposes to fail to do something in contravention of this  
27 Act or another Territory law in its application to elections.
- 28 (2) The commissioner or, if the conduct relates to an election, a  
29 candidate in the election may apply to the Supreme Court for an  
30 injunction requiring the relevant person to do the thing.

- 1      (3) On application under subsection (2), the Supreme Court may grant  
2          an injunction requiring the relevant person to do the thing.
- 3      (4) The Supreme Court may grant an injunction requiring a person to do  
4          something—
- 5          (a) if satisfied that the person has failed to do the thing, whether or  
6              not it appears to the court that the person intends to fail again,  
7              or to continue to fail, to do the thing; or
- 8          (b) if it appears to the court that, if an injunction is not granted, it  
9              is likely the person will fail to do the thing, whether or not the  
10             person has previously failed to do the thing and whether or not  
11             there is an imminent danger of substantial damage to someone  
12             else if the person fails to do the thing.

13      **Explanatory note**

14      This amendment recasts the sections in accordance with current drafting practice. In  
15      particular, references in section 322 to a person refusing to do an act or thing are omitted.  
16      *Fail* is defined in the *Legislation Act 2001*, dictionary, part 1 to include refuse. It is the  
17      drafting term that is now used.

18      **[3.333] Section 323**

19          *omit*

20          court shall

21          *substitute*

22          Supreme Court must

23      **Explanatory note**

24      This amendment states the name of the relevant court.

25      **[3.334] Section 327, new note**

26          *insert*

27          *Note*      For other ways of serving documents, see *Legislation Act 2001*, pt 19.5.

28      **Explanatory note**

29      This amendment adds a note about service of documents.

1 **[3.335] Section 329**

2 *substitute*

3 **329 Restrictions on sending completed ballot and voting**  
4 **papers by fax**

5 (1) This section applies to—

6 (a) a completed ballot paper (other than a ballot paper completed  
7 by an Antarctic elector); and

8 (b) a completed declaration voting paper.

9 (2) Despite the *Legislation Act 2001*, part 19.5 (Service of a document),  
10 a document (including a copy of the document) to which this section  
11 applies cannot be served on a person by faxing it to the person.

12 *Note* For other ways of serving the documents and other documents under  
13 this Act, see *Legislation Act 2001*, pt 19.5.

14 **Explanatory note**

15 This amendment amends the section consequentially on the enactment of the service  
16 provisions of the *Legislation Act 2001* and brings the section into line with current drafting  
17 practice.

18 **[3.336] Section 335**

19 *substitute*

20 **335 Storage and destruction of electoral papers**

21 (1) This section applies to electoral papers in the commissioner's  
22 possession that were used for an election.

23 (2) The commissioner must securely store the electoral papers until  
24 whichever of the following happens last:

25 (a) the beginning of the pre-election period for the next general  
26 election;

27 (b) the electoral papers are no longer required by the  
28 commissioner, another member of the electoral commission or

1                    a member of the staff of the commission for exercising a  
2                    function under this Act.

3            (3) The commissioner may destroy the electoral papers only when the  
4            last of the matters mentioned in subsection (2) happens.

5    **Explanatory note**

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

7    **[3.337] Section 338**

8                    *substitute*

9    **338 Acts and omissions of representatives**

10    (1) In this section:

11                    *representative* means—

12                    (a) for a corporation—an executive officer, employee or agent of  
13                    the corporation; or

14                    (b) for an individual—an employee or agent of the individual.

15                    *state of mind*, of a person, includes—

16                    (a) the person's knowledge, intention, opinion, belief or purpose;  
17                    and

18                    (b) the person's reasons for the intention, opinion, belief or  
19                    purpose.

20    (2) If it is relevant to prove a person's state of mind about an act or  
21    omission, it is enough to show—

22                    (a) the act was done or omission made by a representative of the  
23                    person within the scope of the representative's actual or  
24                    apparent authority; and

25                    (b) the representative had the state of mind.

26    (3) An act done or omitted to be done on behalf of a person by a  
27    representative of the person within the scope of the representative's  
28    actual or apparent authority is taken to have been done or omitted to



1 be done also by the person, unless the person establishes that  
2 reasonable precautions were taken and appropriate diligence was  
3 exercised to avoid the act or omission.

4 (4) An individual who is convicted of an offence cannot be punished by  
5 imprisonment for the offence if the individual would not have been  
6 convicted of the offence without subsection (2) or (3).

7 **Explanatory note**

8 This amendment brings the section into line with current drafting practice.

9 **[3.338] Section 340A (2), new note**

10 *insert*

11 *Note* For other provisions about forms, see *Legislation Act 2001*, s 255.

12 **Explanatory note**

13 This amendment adds a standard note about approved forms.

14 **[3.339] Dictionary, notes 1 and 2**

15 *substitute*

16 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
17 relevant to this Act.

18 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
19 terms:

- 20 • adult
- 21 • doctor
- 22 • exercise
- 23 • fail
- 24 • function
- 25 • Self-government Act
- 26 • Speaker.

27 **Explanatory note**

28 This amendment updates the dictionary notes.

1    **[3.340] Dictionary, definition of *ballot paper***

2            *substitute*

3            ***ballot paper***—

4            (a) includes an electronic ballot paper; and

5            (b) if regulations are in force under section 114 (7) (Ballot  
6            papers)—means a ballot paper in the form prescribed under the  
7            regulations.

8            *Note*      A ballot paper is required to be in the form set out in sch 1  
9            (see s 114 (1)).

10    **Explanatory note**

11    This amendment is consequential on the omission of section 114 (8) by another  
12    amendment and also brings the definition into line with current drafting practice.

13    **[3.341] Dictionary, definition of *candidate square***

14            *substitute*

15            ***candidate square***—see section 116 (1) (h) (Printing of ballot  
16            papers).

17    **Explanatory note**

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

19    **[3.342] Dictionary, definition of *contravention***

20            *substitute*

21            ***contravention***, for part 16 (Disputed elections, eligibility and  
22            vacancies)—see section 250.

23    **Explanatory note**

24    This amendment is consequential on the amendment of section 250 and section 250A.

25    **[3.343] Dictionary, definition of *court***

26            *omit*

1 **Explanatory note**

2 This amendment is consequential on the omission of this definition from section 250 by  
3 another amendment.

4 **[3.344] Dictionary, definition of *Court of Disputed Elections***

5 *substitute*

6 *Court of Disputed Elections*—see section 252 (2).

7 **Explanatory note**

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

9 **[3.345] Dictionary, new definition of *electronic form***

10 *insert*

11 *electronic form*, of a roll or an extract from a roll, means a disk,  
12 tape or other device from which the information in the extract or roll  
13 may be reproduced by mechanical, electronic or other means.

14 **Explanatory note**

15 The definition of *electronic form* is consequential on the amendment of section 59 by  
16 another amendment.

17 **[3.346] Dictionary, definition of *extract***

18 *substitute*

19 *extract*, from a roll—see section 59.

20 **Explanatory note**

21 This amendment is consequential on the amendment of section 59 by another amendment.

22 **[3.347] Dictionary, definition of *group***

23 *substitute*

24 *group*, in relation to candidates in an election, means candidates  
25 whose names are grouped on the ballot papers in accordance with  
26 section 115 (1) or (2), whichever is applicable.

1      **Explanatory note**

2      This amendment includes the substance of the definition presently in section 115 (4). The  
3      subsection is omitted by another amendment.

4      **[3.348] Dictionary, definition of *illegal practice***

5              *omit*

6      **Explanatory note**

7      This amendment is consequential on the relocation of the definition to section 266 by  
8      another amendment. The defined term is used only in that section.

9      **[3.349] Dictionary, definition of *polling day***

10             *substitute*

11             *polling day*—

12             (a) means the day when, apart from section 111 (Need for an  
13             election), a poll for an election would be required; and

14             (b) except in part 8 (Timing of elections) and part 9 (Arrangements  
15             for elections), includes—

16                     (i) if the time for holding an election is extended under  
17                     section 159 for more than 1 day—each of those days; and

18                     (ii) if polling is suspended under section 160—a day when  
19                     polling is resumed.

20      **Explanatory note**

21      This amendment brings the definition into line with current drafting practice and combines  
22      the effect of sections 102 (2), 159 (4) and 160 (6).

23      **[3.350] Dictionary, definition of *Speaker***

24             *substitute*

25             *Speaker*—

26             (a) for part 13 (Casual vacancies)—see section 190; and

27             (b) for part 16 (Disputed elections, eligibility and vacancies)—see  
28             section 251.

1           *Note*     *Speaker* is defined in the *Legislation Act 2001*, dict. pt 1.

2     **Explanatory note**

3     This amendment updates paragraph (b) consequentially on the substitution of a new  
4     section 251 by another amendment.

5     **[3.351] Further amendments, mentions of *court* in pt 16**

6           *omit*

7           court

8           *substitute*

9           Court of Disputed Elections

10          *in*

11          • section 266 (1) (*1st mention*)

12          • section 266 (2)

13          • section 266 (3) (*1st mention*)

14          • section 266 (4) (*1st mention*)

15          • section 267 (*1st mention*)

16          • section 268

17          • section 269 (1) and (2)

18          • section 269 (3) (*1st mention*)

19          • section 270 (*1st mention*)

20          • section 271 (*1st mention*)

21          • sections 272 to 274

22          • section 275 (1) to (3)

23          • section 275 (4) (*1st mention*)

24          • section 276

25          • section 277 (a)

**Schedule 3**      Technical amendments  
**Part 3.21**      Electoral Act 1992

Amendment [3.352]

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- 1            •    section 278 (*1st mention*)
- 2            •    section 279 (*1st mention*)
- 3            •    sections 280 and 281
- 4            •    section 283.

5    **Explanatory note**

6    This amendment states the full name of the court in accordance with current drafting  
7    practice.

8    **[3.352] Further amendments, new note**

9            *insert*

10          *Note*      For how documents may be given, see *Legislation Act 2001*, pt 19.5.

11          *after*

- 12          •    section 52 (1)
- 13          •    section 67 (1)
- 14          •    section 73 (3)
- 15          •    section 76 (3)
- 16          •    section 81 (6)
- 17          •    section 90 (1)
- 18          •    section 110 (3)
- 19          •    section 194 (2)
- 20          •    section 203 (3)
- 21          •    section 237 (3).

22    **Explanatory note**

23    This amendment adds standard notes about service of documents.

1 **[3.353] Further amendments, additional note**

2 *substitute*

3 *Note 1* If a form is approved under s 340A (Approved forms) for a return, the  
4 form must be used.

5 *Note 2* For how a return may be given, see *Legislation Act 2001*, pt 19.5.

6 *for the note after*

- 7 • section 217 (1)
- 8 • section 218 (1)
- 9 • section 220 (2)
- 10 • section 221 (1)
- 11 • section 221A (1)
- 12 • section 224 (1)
- 13 • section 226 (1)
- 14 • section 230 (1)
- 15 • section 231B (1).

16 **Explanatory note**

17 This amendment adds standard notes about service of documents.

18 **Part 3.22 Electoral Regulations 1993**

19 **[3.354] Regulation 3, definition of *City of Canberra Arms***

20 *substitute*

21 *City of Canberra Arms*—see the *City of Canberra Arms Act 1932*,  
22 section 3.

23 **Explanatory note**

24 This amendment adds a reference to the relevant provision of the *City of Canberra Arms*  
25 *Act 1932*.





1 **[3.359] Section 5, remainder**

2 *substitute*

3 **5 Dictionary**

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

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

9 For example, the signpost definition '*computer program*—see the  
10 *Copyright Act 1968* (Cwlth), section 10.' means that the expression  
11 '*computer program*' is defined in that section and the definition applies  
12 to this Act.

13 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
14 the entire Act unless the definition, or another provision of the Act,  
15 provides otherwise or the contrary intention otherwise appears (see  
16 *Legislation Act 2001*, s 155 and s 156 (1)).

17 **Explanatory note**

18 This amendment adds a dictionary provision.

19 **[3.360] Division 2.4, heading**

20 *substitute*

21 **Part 3 Miscellaneous**

22 **Explanatory note**

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

1    **[3.361] New dictionary**

2            *insert*

3    **Dictionary**

4    (see s 5)

5            *Note 1*    The *Legislation Act 2001* contains definitions and other provisions  
6                                  relevant to this Act.

7            *Note 2*    In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
8                                  terms:

- 9                                  • document  
10                                 • regulations  
11                                 • the Territory.

12            *computer program*—see the *Copyright Act 1968* (Cwlth),  
13                                  section 10.

14            *data* includes all or part of a computer program.

15    **Explanatory note**

16    This amendment adds a new dictionary.

17    **Part 3.24                                  Executive Documents Release**  
18    **Act 2001**

19    **[3.362] Section 3, definitions**

20            *relocate to the dictionary*

21    **Explanatory note**

22    This amendment relocates the definitions to a new dictionary inserted by another  
23    amendment.

1 **[3.363] Section 3, remainder**

2 *substitute*

3 **3 Dictionary**

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

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

9 For example, the signpost definition '*release restraint*  
10 *determination*—see section 8 (2).' means that the expression 'release  
11 restraint determination' is defined in that subsection.

12 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
13 the entire Act unless the definition, or another provision of the Act,  
14 provides otherwise or the contrary intention otherwise appears (see  
15 *Legislation Act 2001*, s 155 and s 156 (1)).

16 **Explanatory note**

17 This amendment adds a dictionary provision.

18 **[3.364] Section 11**

19 *omit*

20 in good faith

21 *substitute*

22 honestly

23 **Explanatory note**

24 This amendment updates language.

1    **[3.365] Section 12, heading**

2            *substitute*

3    **12 Regulation-making power**

4    **Explanatory note**

5    This amendment corrects a minor error in the section heading.

6    **[3.366] New dictionary**

7            *insert*

8    **Dictionary**

9    (see s 3)

10           *Note 1*    The *Legislation Act 2001* contains definitions and other provisions  
11                                  relevant to this Act.

12           *Note 2*    In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
13                                  terms:

- 14                                  • chief executive  
15                                  • document  
16                                  • Executive  
17                                  • Speaker  
18                                  • the Territory.

19    **Explanatory note**

20    This amendment adds a new dictionary.

21    **Part 3.25                                  Financial Management Act**  
22    **1996**

23    **[3.367] Section 53A**

24            *omit everything after subsection (7), substitute*

25    (8) The Treasurer must consider each application and either refuse it or  
26            approve it completely or partly.

1 (9) The Treasurer must give the applicant written notice of his or her  
2 decision.

3 (10) A payment approved by the Treasurer under subsection (8) may be  
4 made whether or not an appropriation is available for the purpose.

5 **Explanatory note**

6 This amendment removes inconsistencies between the language used in the subsections.  
7 It also removes any doubt about the effectiveness of the amendment made by Act 2001  
8 No 95, section 21. This amendment inserted a subsection that was incorrectly numbered  
9 at the time the amendment commenced because of the renumbering of subsections  
10 required by Act 2001 No 44, amendment 1.1636.

11 **[3.368] Section 53B**

12 *omit*

13 wholly

14 *substitute*

15 completely

16 **Explanatory note**

17 This amendment is consequential on the amendment of section 53A.

18 **[3.369] New dictionary**

19 *insert*

20 **Dictionary**

21 (see s 3)

22 (commencement: 31 December 2001)

23 **Explanatory note**

24 This amendment adds the dictionary heading. This amendment is taken to have  
25 commenced on 31 December 2001 to remove any doubt about the effectiveness of Act  
26 2001 No 95, amendment 1.4, which relocated definitions to the dictionary effective from  
27 1 January 2002.

1 **Part 3.26 Financial Management**  
2 **Legislation Amendment Act**  
3 **2001 No 45**

4 **[3.370] Section 4**

5 *substitute*

6 **4 Dictionary, new definitions of *interest* and *invest***

7 *insert*

8 *interest* includes a dividend and any other financial return on a  
9 deposit, loan or other investment.

10 *invest* includes enter into a transaction or arrangement for the  
11 protection or enhancement of investments.

12 (commencement: 12 January 2002)

13 **Explanatory note**

14 This amendment removes any doubt about the effectiveness of an amendment made by Act  
15 2001 No 45, section 4. That amendment inserted the definitions into the *Financial*  
16 *Management Act 1996*, section 3 instead of the dictionary. The amendment was correct  
17 when the amendment was enacted, but was overtaken by a later enacted amendment of the  
18 Act that commenced first. This amendment is backdated to the commencement of section  
19 4 of the amending Act.

20 **Part 3.27 Firearms Act 1996**

21 **[3.371] Section 4, definition of *public place***

22 *omit*

23 within the meaning of the *Pubic Parks Act 1928*

24 **Explanatory note**

25 This amendment omits a reference to a repealed Act.

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1 **Part 3.28** **Firearms Regulations 1997**  
2 **SL 1997 No 13**

3 **[3.372] Regulation 2**

4 *substitute*

5 **2 Commencement**

6 These regulations commence on 19 May 1997.

7 (commencement: 19 May 1997)

8 **Explanatory note**

9 The commencement provision of these regulations provided that the regulations  
10 ‘commence on the day on which section 4 of the *Firearms Act 1996* commences’. That  
11 section commenced on 17 May 1997 but the regulations were not notified in the Gazette  
12 until 19 May 2001.

13 The backdating of this amendment makes it clear that the regulations validly commenced  
14 on 19 May 1997. This result is consistent with the provision now made by the *Legislation*  
15 *Act 2001*, section 73 (3) (which is about the commencement of laws).

16 The commencement provision is being reinserted because regulation 2 was repealed by the  
17 *Statute Law Amendment Act 2001*.

18 **Part 3.29** **Fisheries Act 2000**

19 **[3.373] Sections 26 (1) (a), 28 (1) (a) and 34 (1) (b)**

20 *omit*

21 part 3

22 *substitute*

23 part 4

24 **Explanatory note**

25 This amendment updates cross-references to the *Nature Conservation Act 1980*  
26 consequentially on the renumbering of the provisions of that Act.

1 **Part 3.30 Fisheries Regulations 2001**

2 **[3.374] Regulations 3 and 4**

3 *substitute*

4 **3 Prescribed number of fish—Act, s 37 (1)**

5 The number of fish prescribed for any period is zero.

6 **4 Prescribed quantity of fish—Act, s 45 (1)**

7 The quantity of fish prescribed is 0kg.

8 **Explanatory note**

9 This amendment omits unnecessary text from each regulation and brings it into line with  
10 current drafting practice.

11 **Part 3.31 Food Act 2001**

12 **[3.375] Section 41 (2), new note**

13 *insert*

14 *Note* For how documents may be served, see *Legislation Act 2001*, pt 19.5.

15 **Explanatory note**

16 This amendment adds a standard note about service of documents.

17 **[3.376] Section 51 (2), new note**

18 *insert*

19 *Note* The *Legislation Act 2001*, s 170 and s 171 deal with the application of  
20 the privilege against selfincrimination and client legal privilege.

21 **Explanatory note**

22 This amendment is consequential on the omission of sections 64 and 65 by another  
23 amendment



1 **[3.377] Sections 64 and 65**

2 *omit*

3 **Explanatory note**

4 This amendment omits section 64 (Selfincrimination) and section 65 (Legal professional  
5 privilege) consequentially on the insertion in the *Legislation Act 2001* of new sections 170  
6 and 171 by another amending law.

7 **[3.378] Section 79, note 2**

8 *substitute*

9 *Note 2* For how documents may be served, see *Legislation Act 2001*, pt 19.5.

10 **Explanatory note**

11 This amendment brings the note into line with the standard note about service of  
12 documents.

13 **[3.379] Section 82, new note**

14 *insert*

15 *Note* For how documents may be served, see *Legislation Act 2001*, pt 19.5.

16 **Explanatory note**

17 This amendment adds a standard note about service of documents.

18 **[3.380] Section 94, heading**

19 *substitute*

20 **94 Issue or amendment of registration subject to conditions**

21 **Explanatory note**

22 This amendment revises the heading to make it more descriptive of the section's content.

23 **[3.381] Section 101 (1) (a)**

24 *omit*

25 varied

26 *substitute*

27 amended



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## 1 Part 3.32 Gaming Machine Act 1987

### 2 [3.385] Section 23B (3)

3 *omit*

4 number of

5 *substitute*

6 number or

#### 7 Explanatory note

8 This amendment corrects a minor error.

### 9 [3.386] Sections 68 to 70

10 *substitute*

## 11 Part 9 Transitional provisions

### 12 68 Transitional provision for clubs not incorporated under 13 the Corporations Law

14 (1) This section applies to a club if—

15 (a) the club was a licensee immediately before 1 June 2000; and

16 (b) before 1 January 2001 the commission allowed an application  
17 by the club for this section to apply to the club.

18 (2) The club does not cease to be an eligible club during the period (not  
19 longer than 2 years) allowed by the commission for the application  
20 of this section to the club only because, during the period, it is not  
21 incorporated in the ACT under the Corporations Act.

### 22 69 Transitional provision for associated organisations

23 (1) This section applies to an associated organisation if—

24 (a) the organisation satisfied section 30D immediately before  
25 1 June 2000; and



1 **[3.388] Section 6, new note**

2 *insert*

3 *Note* A provision of a law that gives an entity (including a person) a function  
4 also gives the entity powers necessary and convenient to exercise the  
5 function (see *Legislation Act 2001*, s 196 and dict, pt 1, def of *entity*).

6 **Explanatory note**

7 This amendment adds a standard note about necessary and convenient powers related to a  
8 function.

9 **[3.389] Section 7 (1)**

10 *substitute*

11 (1) The board may make procurement guidelines for this Act.

12 **Explanatory note**

13 This amendment revises the subsection to take account of the *Legislation Act 2001*,  
14 section 44 (1) which provides that a power to make statutory instruments includes the  
15 power to make a statutory instrument with respect to any matter that is required or  
16 permitted to be prescribed or that is necessary or convenient to be prescribed for carrying  
17 out or giving effect to the authorising law.

18 **[3.390] Section 7 (2)**

19 *omit*

20 Without limiting subsection (1), the

21 *substitute*

22 The

23 **Explanatory note**

24 This amendment omits unnecessary words (see *Legislation Act 2001*, section 44 (3)).

25 **[3.391] Section 7 (3)**

26 *substitute*

27 (3) The procurement guidelines may apply, adopt or incorporate an  
28 instrument (or a provision of an instrument) as in force from time to  
29 time.



1 (1) The Minister must review the operation of this Act as soon as  
2 practicable after 24 May 2006.

3 (2) A report on the outcome of the review must be presented by the  
4 Minister to the Legislative Assembly by 24 November 2006.

5 (3) This section expires on 24 May 2007.

6 **Explanatory note**

7 This amendment revises the section to insert references to the relevant dates.

8 **[3.395] Dictionary, new notes**

9 *insert*

10 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
11 relevant to this Act.

12 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
13 terms:

- 14 • exercise  
15 • function  
16 • public employee.

17 **Explanatory note**

18 This amendment adds standard dictionary notes.

19 **[3.396] Dictionary, definition of *responsible chief executive***

20 *substitute*

21 *responsible chief executive*—see the *Auditor-General Act 1996*,  
22 dictionary.

23 **Explanatory note**

24 This amendment is consequential on the insertion of a dictionary into the *Auditor-General*  
25 *Act 1996* by another amendment.

26 **Part 3.34 Government Solicitor Act 1989**

27 **[3.397] Section 5 (12), definition of *Territory entity***

28 *substitute*

1 *Territory entity*—see the *Auditor-General Act 1996*, dictionary.

2 **Explanatory note**

3 This amendment is consequential on the insertion of a dictionary into the *Auditor-General*  
4 *Act 1996* by another amendment.

5 **Part 3.35 Guardianship and**  
6 **Management of Property Act**  
7 **1991**

8 **[3.398] Section 2A, heading**

9 *substitute*

10 **2 Dictionary**

11 **Explanatory note**

12 This amendment renumbers the section.

13 **[3.399] Section 3 (Principles to be observed) and section 3**  
14 **(Jurisdiction of the Supreme Court not affected)**

15 *omit*

16 **Explanatory note**

17 Section 3 (Principles to be observed) is made redundant by section 4 (What are a *person's*  
18 *interests*), which was inserted by the *Guardianship and Management of Property*  
19 *Amendment Act 2001*. Section 3 (Jurisdiction of the Supreme Court not affected) is  
20 unnecessary and predates the *Australian Capital Territory (Self-Government) Act 1988*  
21 (Cwlth), section 48A. That section gives the Supreme Court all original and appellate  
22 jurisdiction that is necessary for the administration of justice in the Territory but provides  
23 that the court is not bound to exercise any powers where it has concurrent jurisdiction with  
24 another court or tribunal.

25 **[3.400] New section 3**

26 *insert*

27 **3 Notes**

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





1 **Part 3.37 Health Professions Boards**  
2 **(Procedures) Act 1981**

3 **[3.403] Section 34**

4 *substitute*

5 **34 Witness fees and travelling expenses**

6 (1) This section applies to a person (the *witness*) who attends a hearing  
7 of the board to give evidence (whether voluntarily or under a  
8 summons).

9 (2) The witness is entitled to receive the fees and travelling expenses  
10 that the presiding member directs in accordance with the scale and  
11 conditions applying to people who attend as witnesses before the  
12 Supreme Court.

13 *Note* For the Supreme Court scale, see *Supreme Court Rules*, sch 4, pt 4.8.

14 (3) The fees and expenses are payable by—

15 (a) if the witness attended at the request of the Minister—the  
16 Territory; or

17 (b) in any other case—the person who requested the attendance of  
18 the witness.

19 (4) However, if the board believes that it was reasonable for a person  
20 other than the Minister to request a person to appear before the  
21 board, the board may order that some or all of the fees and expenses  
22 be paid by the Territory.

23 **Explanatory note**

24 This amendment does not make a substantive change in the entitlements of a witness. The  
25 existing section adopts the scale in the *Public Works Committee Regulations 1969* (Cwlth),  
26 schedule 2 which applies the High Court scale. The *Supreme Court Rules* (see schedule  
27 4, part 4.8) is, in substance, the same as the High Court scale. The linking of the  
28 entitlements to the Supreme Court reflects the Territory's self-governing status.

1 **Part 3.38** **Land (Planning and**  
2 **Environment) Act 1991**

3 **[3.404] Sections 1 and 4**

4 *substitute*

5 **1 Name of Act**

6 This Act is the *Land (Planning and Environment) Act 1991*.

7 **2 Dictionary**

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

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

13 For example, the signpost definition ‘*order*, for part 6 (Approvals and  
14 orders)—see section 222.’ means that the expression ‘order’ is defined  
15 in that section and the definition applies to part 6 of this Act.

16 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
17 the entire Act unless the definition, or another provision of the Act,  
18 provides otherwise or the contrary intention otherwise appears (see  
19 *Legislation Act 2001*, s 155 and s 156 (1)).

20 **3 Notes**

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

22 *Note* See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of  
23 notes.

24 **Explanatory note**

25 This amendment brings the naming provision of the Act into line with current drafting  
26 practice, adds standard dictionary and notes provisions and omits the definition section for  
27 the Act. The definitions in section 4 are inserted into a new dictionary inserted by another  
28 amendment.

1    **[3.405] Section 5, definition of *Commonwealth Planning Act***

2            *omit*

3    **Explanatory note**

4    This amendment omits a definition made redundant by other amendments.

5    **[3.406] Section 5, new definition of *consultation notice***

6            *insert*

7            *consultation notice*—see section 19 (Public  
8            consultation—notification).

9    **Explanatory note**

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

11   **[3.407] Section 5, definition of *draft plan variation***

12            *substitute*

13            *draft plan variation* means a draft plan variation notified under  
14            section 19, as revised under sections 22 (1) (a) and 27, and includes  
15            a draft stage or part of the variation.

16   **Explanatory note**

17   This amendment revises the definition to include the substance of section 6 which is  
18   omitted by another amendment. A provision based on section 6 (b) is unnecessary  
19   because the *Legislation Act 2001*, section 13 (3) provides that a reference to a statutory  
20   instrument includes a reference to a provision of the instrument.

21   **[3.408] Section 5, definition of *national authority***

22            *omit*

23   **Explanatory note**

24   The *Legislation Act 2001*, dictionary, part 1 defines the national capital authority. The  
25   references to national authority are changed to national capital authority by other  
26   amendments.

1 **[3.409] Section 5, definition of *national capital plan***

2 *substitute*

3 *national capital plan* means the plan approved under the *Australian*  
4 *Capital Territory (Planning and Land Management) Act 1988*  
5 (Cwlth), section 19.

6 *Note* A reference to an instrument under a law includes a reference to the  
7 instrument as amended from time to time (see *Legislation Act 2001*,  
8 s 102)

9 **Explanatory note**

10 This amendment is consequential on the omission of the definition of *Commonwealth*  
11 *Planning Act*.

12 **[3.410] Section 6**

13 *omit*

14 **Explanatory note**

15 This amendment omits the section because the substance of the section is incorporated into  
16 the definition of *draft plan variation* by another amendment.

17 **[3.411] Section 7 (3) (g) and (h)**

18 *substitute*

19 (g) provide for other matters relevant to the exercise of the powers  
20 of the Territory, the Executive or a Territory authority under a  
21 Territory law, or the administrative review of the exercise of  
22 those powers; and

23 (h) provide for other matters that are necessary or convenient.

24 **Explanatory note**

25 This amendment brings the language and structure of the paragraphs into line with current  
26 drafting practice.

1    **[3.412] Section 9 (1) and (2)**

2      *substitute*

3      (1) This section applies to a draft plan variation if a consultation notice  
4      states that it applies.

5      (2) The Territory, the Executive, a Minister or a Territory authority  
6      must not, during the defined period or a period stated in the  
7      consultation notice, whichever is shorter, do or approve the doing of  
8      anything that—

9          (a) would be inconsistent with the plan if it were varied in  
10          accordance with the draft variation; or

11          (b) is inconsistent with the plan.

12      (2A) Subsection (2) is subject to section 11 (Draft heritage places register  
13      and variations—lack of effect).

14    **Explanatory note**

15    This amendment brings the language and structure of the provisions into line with current  
16    drafting practice.

17    **[3.413] Section 9 (4), definition of *draft plan variation***

18      *omit*

19    **Explanatory note**

20    This amendment omits an unnecessary provision. Section 9 (1) and paragraph (a) of the  
21    definition are identical in substance to the definition of this term in section 5 and  
22    paragraph (b) is unnecessary because the *Legislation Act 2001*, section 13 (3) provides that  
23    a reference to a statutory instrument includes a reference to a provision of the instrument.

24    **[3.414] Section 9**

25      *renumber subsections when Act next republished under the*  
26      *Legislation Act 2001*

27    **Explanatory note**

28    This amendment is consequential on the insertion of a new subsection by another  
29    amendment.

1 **[3.415] Section 17 (1)**

2 *omit*

3 if it agrees with all the proposals contained in the register or any of  
4 them

5 *substitute*

6 if it agrees with any of the proposals in the interim register

7 **Explanatory note**

8 This amendment updates language and makes the reference to ‘the register’ consistent with  
9 the remainder of the subsection.

10 **[3.416] Section 18 (2)**

11 *substitute*

12 (2) The Minister may direct that an assessment be made, or establish a  
13 panel to conduct an inquiry, about any aspect of a draft plan  
14 variation or a proposed draft plan variation.

15 (3) The Minister may initiate action under subsection (2) or act on  
16 written request by the authority.

17 **Explanatory note**

18 This amendment brings the language and structure of the provision into line with current  
19 drafting practice.

20 **[3.417] Section 19 (1) (c)**

21 *omit*

22 national authority

23 *substitute*

24 national capital authority

25 **Explanatory note**

26 This amendment is consequential on the omission of the definition of *national authority*  
27 from section 5 by another amendment.

1    **[3.418] Section 19A (1)**

2            *omit*

3            under section 19

4    **Explanatory note**

5    This amendment is consequential on the insertion of a definition of *consultation notice*  
6    into section 5 by another amendment.

7    **[3.419] Section 19B (1)**

8            *omit*

9            under section 19 (1) (Public consultation—notification)

10   **Explanatory note**

11   This amendment is consequential on the insertion of a definition of *consultation notice*  
12   into section 5 by another amendment.

13   **[3.420] Section 20**

14            *omit*

15            national authority

16            *substitute*

17            national capital authority

18   **Explanatory note**

19   This amendment is consequential on the omission of the definition of *national authority*  
20   from section 5 by another amendment.

21   **[3.421] Section 21 (2)**

22            *omit*

23            (ba)

24            *substitute*

25            (c)

26   **Explanatory note**

27   This amendment corrects a cross-reference.



1 **[3.422] Sections 22 (5) and 24 (1)**

2 *omit*

3 national authority

4 *substitute*

5 national capital authority

6 **Explanatory note**

7 This amendment is consequential on the omission of the definition of *national authority*  
8 from section 5 by another amendment.

9 **[3.423] Section 24 (1) (d)**

10 *omit*

11 , being a report

12 **Explanatory note**

13 This amendment omits unnecessary text.

14 **[3.424] Section 26 (6)**

15 *omit*

16 laid before

17 *substitute*

18 presented to

19 **Explanatory note**

20 This amendment updates language. *Present* is the drafting term now used in relation to  
21 the tabling of documents in the Legislative Assembly.

22 **[3.425] Section 27**

23 *substitute*

24 **27 Return of draft plan variation to authority**

- 25 (1) This section applies if the Executive returns a draft plan variation to  
26 the authority with directions under section 26 (1) (b).

- 1      (2) The authority must comply with each Executive direction.
- 2      (3) If a direction is given under section 26 (1) (b) (i), (ii) or (iii), the  
3      authority may revise the draft variation and resubmit it to the  
4      Executive for approval together with a written report about the  
5      authority's compliance with the Executive's direction and any  
6      further revision of the draft variation under section 22 (6).
- 7      (4) If a direction is given under section 26 (1) (b) (iv), the authority  
8      must resubmit the draft variation (as revised) together with a written  
9      report about any further revision of the draft variation under  
10     section 22 (6).

11     **Explanatory note**

12     This amendment brings the language and structure of the section into line with current  
13     drafting practice.

14     **[3.426] Section 29 (1)**

15     *substitute*

- 16     (1) A plan variation must be presented to the Legislative Assembly  
17     within 5 sitting days after the day it is approved by the Executive,  
18     together with copies of the following documents in relation to the  
19     variation:
- 20     (a) the background papers;
- 21     (b) the summaries and reports mentioned in section 24 (b), (c)  
22     and (d);
- 23     (c) any direction under section 26 (1) (b);
- 24     (d) any report mentioned in section 26 (1) (b) (ii);
- 25     (e) any report mentioned in section 27 (c).
- 26     (1A) Subsection (1) is subject to section 26 (6) (Executive powers).

27     **Explanatory note**

28     This amendment brings the language and structure of the subsection into line with current  
29     drafting practice. *Present* is the drafting term now used in relation to the tabling of  
30     documents in the Legislative Assembly. This amendment also clarifies that copies of the

1 background papers (rather than the originals) must be presented to the Legislative  
2 Assembly.

3 **[3.427] Section 29 (2) to (5)**

4 *omit*

5 laid before

6 *substitute*

7 presented to

8 **Explanatory note**

9 This amendment updates language. *Present* is the drafting term now used in relation to  
10 the tabling of documents in the Legislative Assembly.

11 **[3.428] Section 29 (6)**

12 *omit*

13 expiration

14 *substitute*

15 end

16 **Explanatory note**

17 This amendment updates language.

18 **[3.429] Section 29 (6)**

19 *omit*

20 laid before

21 *substitute*

22 presented to

23 **Explanatory note**

24 This amendment updates language. *Present* is the drafting term now used in relation to  
25 the tabling of documents in the Legislative Assembly.

1    **[3.430] Section 29 (6)**

2      *omit*

3      pursuant to subsection (4), to be deemed

4      *substitute*

5      under subsection (4), taken

6    **Explanatory note**

7    This amendment updates language.

8    **[3.431] Section 29**

9      *renumber subsections when Act next republished under the*  
10     *Legislation Act 2001*

11   **Explanatory note**

12   This amendment is consequential on the insertion of a new subsection by another  
13   amendment.

14   **[3.432] Section 30A (5)**

15      *omit*

16   **Explanatory note**

17   This amendment omits an unnecessary provision. The *Legislation Act 2001*, section 73  
18   provides for a statutory instrument to commence in accordance with a commencement  
19   notice.

20   **[3.433] Section 33**

21      *substitute*

22   **33 Establishment of authority**

23      (1) The Australian Capital Territory Planning Authority is established.

24      (2) The chief executive must appoint a public servant as the chief  
25      executive of the authority.

26      *Note*    For the making of appointments (including acting appointments), see  
27      *Legislation Act 2001*, pt 19.3.

1 **Explanatory note**

2 This amendment removes the requirement that the chief executive must create and  
3 maintain an executive office in the public service for the authority. The *Legislation Act*  
4 *2001*, section 207 provides that an appointment may be made by naming the person  
5 appointed or by nominating the occupant of a position (however described), at a particular  
6 time or from time to time. This amendment also adds a standard note about appointments.

7 **[3.434] Section 36 (1) (c) and (d)**

8 *substitute*

9 (c) to exercise other functions required under this Act, another  
10 Territory law or a Commonwealth law; and

11 (d) with the written approval of the Minister, to carry out planning  
12 services for an entity in Australia or overseas.

13 *Note 1* A provision of a law that gives an entity (including a person) a function  
14 also gives the entity powers necessary and convenient to exercise the  
15 function (see *Legislation Act 2001*, s 196 and dict, pt 1, def of *entity*).

16 *Note 2* An entity includes a person, see *Legislation Act 2001*, dict, pt 1, def of  
17 *entity*.

18 **Explanatory note**

19 This amendment brings the language of the paragraphs into line with current drafting  
20 practice. *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to  
21 include perform the function. It is the drafting term that is now used in relation to  
22 functions. The amendment also adds a standard note about necessary and convenient  
23 powers related to a function. The note is consequential on the omission of section 38 (1)  
24 by another amendment.

25 **[3.435] Section 36 (2)**

26 *omit*

27 perform

28 *substitute*

29 exercise

30 **Explanatory note**

31 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
32 perform the function. It is the drafting term that is now used in relation to functions.

1    **[3.436] Section 37 (1)**

2      *omit*

3      performance

4      *substitute*

5      exercise

6    **Explanatory note**

7    *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
8    perform the function. It is the drafting term that is now used in relation to functions.

9    **[3.437] Sections 38 and 40**

10      *substitute*

11    **38 Power to enter into contracts**

12      (1) For the exercise of its functions, the authority may, on behalf of the  
13      Territory, enter into contracts.

14      (2) However, the authority must not, except with the Minister's  
15      approval, enter into a contract involving the payment or receipt by  
16      the authority of more than \$100 000.

17      (3) Also, subsection (1) does not give the authority power to enter into a  
18      contract of employment.

19    **40 Delegation**

20      The authority may delegate the authority's functions under this Act  
21      to a public servant or to the holder of a position established under  
22      this or another Act.

23      *Note 1* For the making of delegations and the exercise of delegated functions,  
24      see *Legislation Act 2001*, pt 19.4.

25      *Note 2* A reference to an Act includes a reference to the statutory instruments  
26      made or in force under the Act, including regulations (see *Legislation*  
27      *Act 2001*, s 104).

1 **Explanatory note**

2 This amendment brings the language of section 38 into line with current drafting practice.  
3 It also omits section 38 (1) which is unnecessary because of the *Legislation Act 2001*,  
4 section 196 (1). That section provides that a provision of a law that gives a function to an  
5 entity also gives the entity the powers necessary and convenient to exercise the function.

6 This amendment also updates the delegation provision, as follows:

- 7 • the words ‘by instrument’ have been omitted because the *Legislation Act 2001*,  
8 section 232 provides that a delegation must be made, or evidenced, in writing;
- 9 • the words ‘all or any’ (of the authority’s functions) have been omitted because the  
10 *Legislation Act 2001*, section 234 provides that the delegation instrument may provide  
11 that the delegation has effect in stated circumstances or subject to stated conditions,  
12 limitations or directions or that all of the function, or a stated part of the function, is  
13 delegated.

14 This amendment also adds a standard note about delegations.

15 **[3.438] Section 41**

16 *omit*

17 performance

18 *substitute*

19 exercise

20 **Explanatory note**

21 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
22 perform the function. It is the drafting term that is now used in relation to functions.

23 **[3.439] Section 52, heading**

24 *substitute*

25 **52 Definitions for pt 3**

26 **Explanatory note**

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

1    **[3.440] Section 52 (1)**

2            *omit*

3            (1) In this part:

4            *substitute*

5            In this part:

6    **Explanatory note**

7    This amendment omits a subsection number no longer needed because of the relocation of  
8    the provisions of the only other subsection to a new section by another amendment.

9    **[3.441] Section 52 (1), definition of *interim heritage places***  
10   ***register, new note***

11           *insert*

12           *Note*      The heritage places register means the register of heritage places  
13           incorporated in the plan (see the dict, def of *heritage places register*).

14   **Explanatory note**

15   This amendment adds a note to help users of the Act.

16   **[3.442] Section 52 (2)**

17           *omit*

18   **Explanatory note**

19   The subsection is replaced by new section 53 which is inserted by another amendment.

20   **[3.443] New section 53, division 3.1**

21           *insert*

22   **53 Compliance with requirements for consultation or**  
23   **notification**

24           If the Executive, the Minister or the heritage council is required  
25           under this part to consult or notify an entity, the requirement is taken  
26           to be complied with if the Executive, the Minister or the heritage  
27           council takes all reasonable steps to consult or notify the entity.



1 **Explanatory note**

2 This amendment adds the substance of section 52 (2) as a new section. As section 52 (2)  
3 refers to person or body (whether incorporated or not), ‘entity’ is more appropriate.

4 **[3.444] Section 54 (1)**

5 *omit*

6 (1) The heritage places register shall—

7 *substitute*

8 The heritage places register must—

9 **Explanatory note**

10 This amendment omits a subsection number consequential on the omission of  
11 subsection 54 (2) by another amendment and updates language.

12 **[3.445] Section 54 (2)**

13 *omit*

14 **Explanatory note**

15 The subsection is unnecessary because of the *Legislation Act 2001*, section 148. That  
16 section provides that, subject to any contrary intention, words and expressions used in a  
17 statutory instrument have the same meanings as they have in the authorising law or the  
18 relevant provision of the authorising law under which the instrument is made or in force.

19 **[3.446] Section 55 (3), definition of *defined period*,**  
20 **paragraph (a)**

21 *omit*

22 heritage register

23 *substitute*

24 heritage places register

25 **Explanatory note**

26 This amendment clarifies which register is being referred to.

1    **[3.447] Section 60 (4) and (5)**

2            *omit*

3            interim heritage places register

4            *substitute*

5            interim register

6    **Explanatory note**

7    This amendment brings the references to the register into line with current drafting  
8    practice.

9    **[3.448] Section 60 (6)**

10           *omit*

11           interim register

12           *substitute*

13           interim heritage places register

14    **Explanatory note**

15    This amendment brings the subsection into line with sections 61 (1) and 62 (7).

16    **[3.449] Section 62 (4) (b) and (5)**

17           *omit*

18           interim heritage places register

19           *substitute*

20           interim register

21    **Explanatory note**

22    This amendment brings the references to the register into line with current drafting  
23    practice.

1 **[3.450] Section 66**

2 *substitute*

3 **66 Definitions for div 3.5**

4 In this division:

5 ***registered***, in relation to a place, means a place for which—

- 6 (a) there is an entry in the heritage places register; or  
7 (b) there is a provision in an interim heritage places register that  
8 has the effect of including an entry for the place in the heritage  
9 places register.

10 ***registration***, in relation to a place, means—

- 11 (a) making an entry for the place in a heritage places register; or  
12 (b) including a provision in an interim heritage places register that  
13 has the effect of including an entry for the place in a heritage  
14 places register.

15 ***unregistered***, in relation to a place, means a place that is not a  
16 registered place.

17 **Explanatory note**

18 This amendment revises the heading to bring it into line with current drafting practice,  
19 omits the definitions in subsection 66 (1) and recasts the definitions in subsection 66 (2) in  
20 accordance with current drafting practice. The definitions of ***register*** and ***interim register***  
21 in subsection (1) are made unnecessary by other amendments which insert the names of  
22 the heritage places register, and interim heritage places register, in full, as appropriate.

23 **[3.451] Section 69 (1) (a)**

24 *omit*

25 interim register

26 *substitute*

27 interim heritage places register

1    **Explanatory note**

2    This amendment is consequential on the omission of the definition of *interim register* from  
3    section 66 by another amendment.

4    **[3.452] Section 69 (2)**

5        *omit*

6        persons referred to

7        *substitute*

8        people mentioned

9    **Explanatory note**

10   This amendment updates language.

11   **[3.453] Section 69 (3) (b)**

12        *substitute*

13        (b) after taking into account the views of the people consulted  
14        under subsection (2), consider the effect of registration on their  
15        interests.

16   **Explanatory note**

17   This amendment updates language.

18   **[3.454] Sections 69 (4) and 73 (1) (a)**

19        *omit*

20        interim register

21        *substitute*

22        interim heritage places register

23   **Explanatory note**

24   This amendment is consequential on the omission of the definition of *interim register* from  
25   section 66 by another amendment.

1 **[3.455] Section 73 (3) (b)**

2 *substitute*

- 3 (b) taking into account the views of the people consulted under  
4 subsection (2), consider the effect of registration on their  
5 interests; and

6 **Explanatory note**

7 This amendment updates language.

8 **[3.456] Section 73 (4)**

9 *omit*

10 interim register

11 *substitute*

12 interim heritage places register

13 **Explanatory note**

14 This amendment is consequential on the omission of the definition of *interim register* from  
15 section 66 by another amendment.

16 **[3.457] Section 75 (c) and (d)**

17 *substitute*

- 18 (c) a place is registered in an interim heritage places register under  
19 a direction under section 69 (1) (a) or 73 (1) (a) following a  
20 report or order mentioned in paragraph (a) or (b); or

- 21 (d) a place is registered in the heritage places register because of  
22 its registration in an interim heritage places register under a  
23 direction under section 69 (1) (a) or 73 (1) (a).

24 **Explanatory note**

25 This amendment is consequential on the omission of the definition of *register* from  
26 section 66 by another amendment. This amendment also changes the reference to ‘a  
27 register’ to ‘the heritage places register’ for consistency with section 7 (3) (d).

1    **[3.458] Section 77 (3) (b) (i)**

2            *omit*

3            a register

4            *substitute*

5            the heritage places register

6    **Explanatory note**

7    This amendment is consequential on the omission of the definition of *register* from  
8    section 66 by another amendment. This amendment also changes the reference to ‘a  
9    register’ to ‘the heritage places register’ for consistency with section 7 (3) (d).

10   **[3.459] Section 81 (1)**

11           *substitute*

12        (1) This section applies if the heritage council is preparing an interim  
13        heritage places register, or a revision of such a register, that relates  
14        to an Aboriginal place.

15   **Explanatory note**

16    This amendment is consequential on the omission of the definition of *interim register* from  
17    section 66 by another amendment.

18   **[3.460] Section 89**

19           *substitute*

20   **89 Searching heritage registers**

21        (1) Anyone may, during office hours, inspect the heritage places  
22        register or interim heritage places register, other than any part that  
23        contains restricted information.

24        (2) On application, the heritage council must give the applicant a copy  
25        of, or of any part of, the heritage places register or interim heritage  
26        places register, other than a part that contains restricted information.

27        *Note*      A fee may be determined under s 287 (Determination of fees) for this  
28        subsection and subsection (3).

- 1 (3) On application to the heritage council in relation to a place  
2 mentioned in subsection (4), the heritage council must give the  
3 applicant a certificate stating—
- 4 (a) whether a declaration in relation to the place is in force under  
5 section 69 (1) (a) or 73 (1) (a); or
- 6 (b) whether the place has previously been so listed, or proposed to  
7 be so listed.
- 8 (4) Subsection (3) applies to a place that—
- 9 (a) is not listed in the heritage places register or an interim  
10 heritage places register; and
- 11 (b) is not, in an interim heritage places register, proposed to be  
12 listed in the corresponding heritage places register.

13 **Explanatory note**

14 This amendment is consequential on the omission by another amendment of section 89 (4).  
15 That subsection presently contains definitions of *interim register* and *register*. The effect  
16 of the omission of the subsection is that the definition of *interim heritage places register*  
17 in section 52 and of *heritage places register* in the dictionary will apply to this section.  
18 This amendment also updates language.

19 **[3.461] Division 3.7**

20 *substitute*

21 **Division 3.7 Australian Capital Territory**  
22 **Heritage Council**

23 **90 Definitions for div 3.7**

24 In this division:

25 *chairperson* means the chairperson of the heritage council  
26 appointed under section 99 (1).

27 *deputy chairperson* means the deputy chairperson of the heritage  
28 council appointed under section 99 (1).

29 *expert member* means a member appointed under section 96 (1).

1            *heritage objects register*—see the *Heritage Objects Act 1991*,  
2            section 4.

3            *member* means a member of the heritage council.

4            *permanent member* means a member mentioned in section 92 (a),  
5            and includes a deputy of a permanent member appointed under  
6            section 95 (1).

7            *secretary* means the secretary to the heritage council appointed  
8            under section 99 (2).

9            **91      Establishment of heritage council**

10           The Australian Capital Territory Heritage Council is established.

11           **92      Constitution**

12           The heritage council consists of—

- 13           (a) the authority and the conservator as permanent members; and  
14           (b) not more than 9 expert members.

15           **93      Functions of heritage council**

16           The heritage council has the following functions:

- 17           (a) to advise the Minister about—  
18                (i) the criteria for this part and the *Heritage Objects Act*  
19                *1991* for deciding the heritage significance of places and  
20                objects; and  
21                (ii) incentives for the conservation of the heritage  
22                significance of heritage places and heritage objects; and  
23                (iii) the promotion of public awareness of heritage places and  
24                heritage objects; and  
25                (iv) other matters about heritage significance in the ACT;



- 1 (b) at the request of a Territory authority, to advise the authority  
2 about the matters mentioned in paragraph (a) as they relate to  
3 the exercise of the authority's functions under this Act or  
4 another Territory law;
- 5 (c) to prepare an initial interim heritage places register and an  
6 initial interim heritage objects register and, subsequently, to  
7 prepare interim variations to the heritage places register and  
8 the heritage objects register;
- 9 (d) any other function given to it under this Act or another  
10 Territory law.

11 *Note* A provision of a law that gives an entity (including a person) a function  
12 also gives the entity powers necessary and convenient to exercise the  
13 function (see *Legislation Act 2001*, s 196 and dict, pt 1, def of *entity*).

#### 14 **94 Ministerial directions**

- 15 (1) The Minister may give the heritage council written directions—  
16 (a) about the policy and objectives it should pursue in the exercise  
17 of its functions; or  
18 (b) to review the heritage places register or the heritage objects  
19 register in consideration of any stated matters.

20 (2) A direction is a notifiable instrument.

21 *Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

22 (3) A direction must be notified under the *Legislation Act 2001* within  
23 14 days after the day it is made.

#### 24 **95 Deputies of permanent members**

25 (1) The Minister may appoint a person to be the deputy of a permanent  
26 member.

27 *Note 1* For the making of appointments (including acting appointments), see  
28 *Legislation Act 2001*, pt 19.3.



- 
- 1    **97    Term of appointment of expert members**
- 2            An expert member must not be appointed for a term longer than
- 3            3 years.
- 4            *Note*     A person may be reappointed to a position if the person is eligible to be
- 5                    appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1,
- 6                    def of *appoint*).
- 7    **98    Conditions of appointment of expert members generally**
- 8            An expert member holds office on the conditions decided by the
- 9            Minister.
- 10   **99    Chairperson, deputy chairperson and secretary**
- 11        (1) The Minister must appoint members of the heritage council as the
- 12        chairperson and the deputy chairperson of the heritage council.
- 13        (2) The Minister must appoint a public servant as the secretary to the
- 14        heritage council.
- 15        (3) However, a member must not be appointed as the secretary.
- 16   **100   Leave of absence**
- 17            The Minister may give a member leave of absence on conditions
- 18            about remuneration and other matters decided by the Minister.
- 19   **101   Disclosure of interests**
- 20        (1) A member who has a direct or indirect financial interest in a matter
- 21        being considered or about to be considered by the heritage council
- 22        must, as soon as practicable after the relevant facts have come to the
- 23        member’s knowledge, disclose the nature of the interest at a heritage
- 24        council meeting.
- 25        (2) A disclosure must be recorded in the minutes of the meeting and,
- 26        unless the Minister otherwise decides, the member must not—
- 27            (a) be present during any deliberation of the heritage council about
- 28            the matter; or

- 1            (b) take part in any decision of the heritage council about the  
2            matter.

3      **102    Ending of appointments**

- 4            (1) The Minister may end the appointment of a member for  
5            misbehaviour or physical or mental incapacity.
- 6            (2) The Minister must end the appointment of a member if the  
7            member—
- 8                    (a) is absent from 3 consecutive meetings of the committee, except  
9                    on leave granted under section 100 (Leave of absence); or
- 10                   (b) contravenes section 101 (Disclosure of interests) without  
11                   reasonable excuse.

12            *Note*      A person's appointment also ends if the person resigns (see *Legislation*  
13                   *Act 2001*, s 210).

14      **103    Calling meetings**

- 15            (1) The chairperson, or if the chairperson cannot do so, the deputy  
16            chairperson—
- 17                    (a) may at any time call a meeting of the heritage council; and
- 18                    (b) must call a meeting of the heritage council if asked by the  
19                    Minister.
- 20            (2) The person who calls a meeting of the heritage council must, at least  
21            5 days before the day of the meeting, give the other members  
22            written notice of—
- 23                    (a) the date, time and place of the meeting; and
- 24                    (b) the matters to be considered at the meeting.

25      **104    Procedure at meetings**

- 26            (1) The chairperson presides at all heritage council meetings at which  
27            the chairperson is present.

- 1 (2) If the chairperson is absent, the deputy chairperson presides.
- 2 (3) If both the chairperson and deputy chairperson are absent from a  
3 meeting, the member chosen by the member's present presides.
- 4 (4) The presiding member may give directions about the procedure to  
5 be followed in relation to the meeting.
- 6 (5) Business may be carried out at a meeting only if a majority of  
7 members are present.
- 8 (6) At a meeting each member has a vote on each question to be  
9 decided.
- 10 (7) However, a permanent member must not vote on a question that  
11 relates to an interim heritage places register.
- 12 (8) A question is to be decided by a majority of the votes of the  
13 members present and voting, but, if the votes are equal the member  
14 presiding has a casting vote.
- 15 (9) The heritage council must keep minutes of its meetings.

16 **105 Delegation to secretary**

17 The heritage council may delegate the council's functions under this  
18 Act to the secretary.

19 *Note* For the making of delegations and the exercise of delegated functions,  
20 see *Legislation Act 2001*, pt 19.4.

21 **Explanatory note**

22 This amendment brings the division into line with current drafting practice. In particular,  
23 the following unnecessary provisions are omitted:

- 24 • section 94 (Powers) is unnecessary because the *Legislation Act 2001*, section 196 (1)  
25 provides that a provision of a law that gives a function to an entity also gives the  
26 entity the powers necessary and convenient to exercise the function;
- 27 • section 97 (3) (which is about the performance of functions during a vacancy) is  
28 unnecessary because the *Legislation Act 2001*, section 199 (4) provides that the  
29 functions of a body are not affected by a vacancy in its membership;

**Schedule 3** Technical amendments  
**Part 3.38** Land (Planning and Environment) Act 1991

Amendment [3.462]

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- 1 • section 99 (2) (which is about the reappointment of members) is unnecessary because  
2 the *Legislation Act 2001*, section 208 (1) gives an appointer power to reappoint an  
3 eligible person;
- 4 • section 105 (Resignation) is unnecessary because the *Legislation Act 2001*,  
5 section 210 provides for the resignation of a person from a statutory appointment;
- 6 • section 107 (Acting members) is unnecessary because the *Legislation Act 2001*,  
7 section 209 provides for acting appointments.
- 8 The delegation provision is updated as follows:
- 9 • the words ‘by resolution’ have been omitted with the effect that the *Legislation Act*  
10 *2001*, section 232 requires that a delegation must be made, or evidenced, in writing;
- 11 • the limitation on the functions that may be delegated has been omitted because the  
12 *Legislation Act 2001*, section 234 provides that the delegation instrument may provide  
13 that the delegation has effect in stated circumstances or subject to stated conditions,  
14 limitations or directions or that all of the function, or a stated part of the function, is  
15 delegated.
- 16 The term ‘ex officio’ member is replaced by ‘permanent member’. The term ‘appointed  
17 member’ is replaced by ‘expert member’.
- 18 This amendment also adds standard notes about appointments, necessary and convenient  
19 powers, resignation and delegations.

**[3.462] Section 132 (1)**

21 *omit*

22 cause to be laid before

23 *substitute*

24 present to

**Explanatory note**

26 This amendment updates language. *Present* is the drafting term now used in relation to  
27 the tabling of documents in the Legislative Assembly.

---

1 **[3.463] Section 133 (1)**

2 *omit*

3 shall cause that part to be excluded from the copy of the assessment  
4 laid before

5 *substitute*

6 must exclude that part from the copy of the assessment presented to

7 **Explanatory note**

8 This amendment updates language. *Present* is the drafting term now used in relation to  
9 the tabling of documents in the Legislative Assembly.

10 **[3.464] Section 141 (1)**

11 *substitute*

- 12 (1) The relevant Minister must present a copy of the report of a panel's  
13 findings and recommendations to the Legislative Assembly within  
14 6 sitting days after the day the Minister receives the report.

15 **Explanatory note**

16 This amendment updates language. *Present* is the drafting term now used in relation to  
17 the tabling of documents in the Legislative Assembly.

18 **[3.465] Section 142 (1)**

19 *omit*

20 cause that part of the report to be excluded from the copy laid before

21 *substitute*

22 exclude that part from the copy of the report presented to

23 **Explanatory note**

24 This amendment updates language. *Present* is the drafting term now used in relation to  
25 the tabling of documents in the Legislative Assembly.

1    **[3.466] Section 142 (2)**

2      *omit*

3      laid before

4      *substitute*

5      presented to

6    **Explanatory note**

7    This amendment updates language. *Present* is the drafting term now used in relation to  
8    the tabling of documents in the Legislative Assembly.

9    **[3.467] Section 143**

10      *substitute*

11    **143 Definitions for sdiv 4.4.3**

12      In this subdivision:

13      *authorised person* means—

14      (a) a panel member; or

15      (b) a person assisting a panel member in a way authorised in  
16      writing by the member.

17      *occupier*, of a place, includes—

18      (a) a person believed, on reasonable grounds, to be an occupier of  
19      the place; and

20      (b) a person apparently in charge of the place.

21      *place* includes premises, land, vehicle, aircraft or vessel.

22    **Explanatory note**

23    This amendment brings the heading into line with current drafting practice and recasts the  
24    form of the definition of *occupier* in section 143 (2) in accordance with current drafting  
25    practice.

26    **[3.468] Section 146 (1) (c), new note**

27      *insert*

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1    **[3.472] Section 159, heading**

2            *substitute*

3    **159 Definitions for pt 5**

4    **Explanatory note**

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

6    **[3.473] Section 159 (1)**

7            *omit*

8            (1) In this part:

9            *substitute*

10           In this part:

11    **Explanatory note**

12    This amendment omits a subsection number no longer needed because the provisions of  
13    the other subsections of section 159 are remade by another amendment in standard  
14    definition form and inserted into existing subsection (1).

15    **[3.474] Section 159 (1), definition of *lease***

16            *substitute*

17            *lease* means a lease (other than a sublease)—

- 18            (a) granted under this Act; or  
19            (b) that is taken under section 289 (Status of leases and licences)  
20            to have been granted under this Act; or  
21            (c) granted or arising under the *Unit Titles Act 2001*.

22    **Explanatory note**

23    This amendment is consequential on the transfer by an earlier Act of the transitional  
24    provisions of the *Land (Planning and Environment) (Consequential Provisions) Act 1991*  
25    to the *Land (Planning and Environment) Act 1991*, part 9. Paragraph (b) of the definition  
26    has been recast consequential on the definition of *repealed Act* being omitted by another  
27    amendment.

1 **[3.475] Section 159 (1), new definitions of *market value* and**  
2 ***provision***

3 *insert*

4 *market value*, of a lease, means the amount that could be expected  
5 to be paid for the lease on the open market if it were sold by a  
6 willing but not anxious seller to a willing but not anxious buyer.

7 *provision*, of a lease, includes a provision incorporated in the lease  
8 by reference and any other provision to which the lease is subject.

9 **Explanatory note**

10 This amendment updates the form of the definitions that are presently in section 159 (2)  
11 and (4). The subsections are omitted by another amendment.

12 **[3.476] Section 159 (1), definition of *repealed Act***

13 *omit*

14 **Explanatory note**

15 This amendment is consequential on the remaking of the definition of *lease* by another  
16 amendment.

17 **[3.477] Section 159 (2) and (4)**

18 *omit*

19 **Explanatory note**

20 This amendment is consequential on another amendment that inserts the definitions of  
21 *market value* and *provision* into section 159.

22 **[3.478] Section 163 (9)**

23 *omit*

24 Nothing in this section shall be taken to derogate from

25 *substitute*

26 This section does not limit

27 **Explanatory note**

28 This amendment updates language.

1    **[3.479] Section 170 (5)**

2        *omit*

3        monies

4        *substitute*

5        money

6    **Explanatory note**

7    This amendment updates language.

8    **[3.480] Section 191, heading**

9        *substitute*

10   **191 Definitions for div 5.7**

11   **Explanatory note**

12   This amendment corrects an error in the section heading.

13   **[3.481] Section 195 (4)**

14        *omit*

15        lastmentioned in that schedule

16        *substitute*

17        appearing later in the schedule

18   **Explanatory note**

19   This amendment updates language.

20   **[3.482] Section 211**

21        *omit*

22        may not be

23        *substitute*

24        must not be

1 **Explanatory note**

2 This amendment makes it clear that the requirement is mandatory.

3 **[3.483] Section 215**

4 *substitute*

5 **215 Reduction of rent and relief from provisions of lease**

6 (1) The Executive may approve—

7 (a) a reduction of the rent payable under a lease of Territory land,  
8 or of the amount payable, in relation to any occupation of  
9 Territory land; or

10 (b) the grant of relief, to a lessee or occupier of Territory land,  
11 from compliance, completely or partly, with any provision to  
12 which the person's lease or occupation is subject.

13 (2) The reduction or grant of relief may be for any period (including a  
14 period before the commencement of this section or any other period  
15 before the approval).

16 (3) If the Executive gives an approval under subsection (1), the liability  
17 or obligation of the lessee or occupier under the lease, or in relation  
18 to the person's occupation, is discharged for the period approved, to  
19 the extent of the reduction or grant of relief approved.

20 (4) An approval under subsection (1) may be made subject to  
21 conditions.

22 (5) If the Executive approves a grant of relief to a lessee or occupier  
23 under subsection (1), it must give to the lessee or occupier notice of  
24 the reduction of rent or other grant of relief approved.

25 *Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

26 **Explanatory note**

27 This amendment brings the form and language of the section into line with current drafting  
28 practice.

1    **[3.484] Section 216A**

2      *substitute*

3    **216A Notification of certain leases to Legislative Assembly**

4      (1) This section applies if the Executive grants a lease under any of the  
5      following provisions:

6          (a) section 161 (1) (d) (which is about the direct grant to an  
7          applicant of a lease);

8          (b) section 163 (Leases to community organisations);

9          (c) section 164 (Special leases);

10          (d) section 209 (which is about the grant of leases over certain  
11          areas of public land or land designated to become public land).

12      (2) The Minister must present to the Legislative Assembly, within  
13      5 sitting days after the end of the quarter in which the lease was  
14      granted, a statement that sets out for the lease—

15          (a) the name of the lessee; and

16          (b) a description of the land comprised in the lease that is in  
17          accordance with the *Districts Act 1966*, section 6; and

18          (c) the amount (if any) paid for the grant of the lease; and

19          (d) the provision of the Act under which the lease was granted.

20      (3) The validity of the lease is not affected by a failure to comply with  
21      subsection (2).

22    **Explanatory note**

23    This amendment brings the section into line with current drafting practice. A definition of  
24    *quarter* is inserted into the *Legislation Act 2001*, dictionary, part 1 by another amendment.

25    **[3.485] Section 222, heading**

26      *substitute*

27    **222 Definitions for pt 6**

---

1 **Explanatory note**

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

3 **[3.486] Section 222 (1)**

4 *omit*

5 (1) In this part:

6 *substitute*

7 In this part:

8 **Explanatory note**

9 This amendment omits a subsection number no longer needed because the other provisions  
10 of section 222 are remade by another amendment in standard definition form and relocated  
11 to existing section 222 (1) and new section 223.

12 **[3.487] Section 222 (1), definitions of *building work* and**  
13 ***consolidation***

14 *substitute*

15 *building work*—see the *Building Act 1972*, section 5.

16 *consolidation*—see section 159.

17 **Explanatory note**

18 This amendment changes the definitions to signpost definitions in line with current  
19 drafting practice.

20 **[3.488] Section 222 (1), new definition of *Executive***

21 *insert*

22 *Executive* includes a Minister acting on behalf of the Executive.

23 **Explanatory note**

24 This amendment is consequential on the omission of section 222 (2) by another  
25 amendment.

1    **[3.489] Section 222 (1), definitions of *lease*, *lessee* and**  
2    ***subdivision***

3        *substitute*

4        *lease*—see section 159.

5        *lessee*—see section 159.

6        *subdivision*—see section 159.

7    **Explanatory note**

8    This amendment changes the definitions to signpost definitions in line with current  
9    drafting practice.

10   **[3.490] Section 222 (1), new definition of *variation***

11       *insert*

12       *variation*, of a lease—see section 223.

13   **Explanatory note**

14   This amendment is consequential on the omission of section 222 (3) by another  
15   amendment.

16   **[3.491] Section 222 (2) and (3)**

17       *omit*

18   **Explanatory note**

19   This amendment is consequential on the relocation of the definitions by other amendments.

20   **[3.492] New section 223**

21       *insert*

22   **223 Meaning of *variation* for pt 6**

23   (1) In this part, *variation*, of a lease, includes—

24   (a) the surrender of a lease and the granting of a new lease subject  
25   to different provisions to the same lessee over all or part of the  
26   land comprised in the surrendered lease; and

27   (b) a consolidation; and



- 1 (c) a subdivision.
- 2 (2) However, the *variation* of a lease does not include the surrender of a  
3 lease and the granting of a new lease to the same lessee over all or  
4 part of the land comprised in the surrendered lease if—
- 5 (a) the land is defined land within the meaning of section 31; or
- 6 (b) the new lease is granted under any of the following provisions:
- 7 (i) section 171 (Grant of further residential leases);
- 8 (ii) section 171A (Grant of further rural leases);
- 9 (iii) section 172 (Grant of further leases for purposes other  
10 than residential or rural).

11 **Explanatory note**

12 This amendment brings the form of the definition of *variation* in existing section 222 (3),  
13 which is omitted by another amendment, into line with current drafting practice.

14 **[3.493] Section 229A (7) (b)**

15 *omit*

16 cause to be laid before

17 *substitute*

18 present to

19 **Explanatory note**

20 This amendment updates language. *Present* is the drafting term now used in relation to  
21 the tabling of documents in the Legislative Assembly.

22 **[3.494] Section 229A (10)**

23 *omit*

24 Subsections (5) and (7) (a) do not derogate from

25 *substitute*

26 Subsections (5) and (7) (a) do not limit

1      **Explanatory note**

2      This amendment updates language.

3      **[3.495] Section 231 (2)**

4      *substitute*

5      (2) In subsection (1) (b):

6      *Aboriginal place*—see section 52.

7      *relevant Aboriginal organisation*—see section 52.

8      **Explanatory note**

9      This amendment updates the section references consequential on other amendments.

10     **[3.496] Section 249 (c)**

11     *substitute*

12     (c) if application is made to the administrative appeals tribunal for  
13     a review of the decision to approve the application—on the day  
14     the tribunal decision affirming or varying the decision is given.

15     **Explanatory note**

16     This amendment brings section 249 (c) into line with the *Administrative Appeals Tribunal*  
17     *Act 1989*. Section 49 of that Act provides for a decision of the tribunal to come into  
18     operation on the giving of the decision or a later day specified in the decision (see s 44 (9)  
19     and (10)). Existing section 249 (c) is inconsistent with the AAT provisions (ie referring to  
20     the tribunal decision taking effect on the day the tribunal affirms or varies the decision  
21     under review).

22     **[3.497] Section 262**

23     *substitute*

24     **262 Definitions for div 6.4**

25     In this division:

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

27     (a) the offence has been committed in relation to it; or

28     (b) it will provide evidence of the commission of the offence; or

1 (c) it was used, is being used, or is intended to be used, to commit  
2 the offence.

3 *occupier*, of premises, includes—

4 (a) a person believed, on reasonable grounds, to be an occupier of  
5 the premises; and

6 (b) a person apparently in charge of the premises.

7 *offence* includes an offence that there are reasonable grounds for  
8 believing has been, is being, or will be committed.

9 **Explanatory note**

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

11 **[3.498] Sections 274A to 274F**

12 *substitute*

13 **274A Commissioner for land and planning**

14 (1) The Minister must appoint a person to be the Commissioner for  
15 Land and Planning.

16 *Note 1* For the making of appointments (including acting appointments), see  
17 *Legislation Act 2001*, pt 19.3.

18 *Note 2* Appointments under subsection (1) require consultation with an  
19 Assembly committee and are disallowable (see *Legislation Act 2001*,  
20 div 19.3.3).

21 (2) The commissioner holds office on the conditions (if any) in relation  
22 to matters not provided for by this Act decided by the Minister.

23 (3) The *Legislation Act 2001*, division 19.3.3  
24 (Appointments—Assembly consultation) applies to the appointment  
25 of a public servant as commissioner.

26 *Note* Certain Ministerial appointments require consultation with an Assembly  
27 committee and are disallowable (see *Legislation Act 2001*, div 19.3.3).

28 (4) Subsection (3) has effect despite the *Legislation Act 2001*,  
29 section 227 (2) (a) (Application of div 19.3.3).

1      **274B Term of office**

2            The commissioner must not be appointed for a term longer than  
3            5 years.

4            *Note*      A person may be reappointed to a position if the person is eligible to be  
5            appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1,  
6            def of *appoint*).

7      **274C Leave of absence**

8            The Minister may give leave of absence to the commissioner on  
9            conditions about remuneration or otherwise decided by the Minister.

10     **Explanatory note**

11     This amendment brings these provisions into line with current drafting practice. In  
12     particular, the following unnecessary provisions are omitted:

- 13     • section 274C (Remuneration and allowances) is unnecessary because the  
14     *Remuneration Tribunal Act 1995* applies to the commissioner;
- 15     • section 274E (Acting appointments) is unnecessary because the *Legislation Act 2001*,  
16     section 209 provides for acting appointments;
- 17     • section 274F (Resignation) is unnecessary because the *Legislation Act 2001*,  
18     section 210 provides for the resignation of a person from a statutory appointment.

19     This amendment also adds standard notes about appointments.

20     **[3.499] Section 274G (3)**

21            *omit*

22            shall cause a statement of the grounds of the suspension to be laid  
23            before the Legislative Assembly

24            *substitute*

25            must present to the Legislative Assembly a statement of the grounds  
26            of the suspension

27     **Explanatory note**

28     This amendment updates language. *Present* is the drafting term now used in relation to  
29     the tabling of documents in the Legislative Assembly.

1 **[3.500] Section 274G (4) and (5)**

2 *omit*

3 laid before

4 *substitute*

5 presented to

6 **Explanatory note**

7 This amendment updates language. *Present* is the drafting term now used in relation to  
8 the tabling of documents in the Legislative Assembly.

9 **[3.501] Section 274G (8), new note**

10 *insert*

11 *Note* A person's appointment also ends if the person resigns (see *Legislation*  
12 *Act 2001*, s 210).

13 **Explanatory note**

14 This amendment is consequential on the omission of section 274F (Resignation) by  
15 another amendment.

16 **[3.502] Section 274I**

17 *substitute*

18 **274I Delegation**

19 The commissioner may delegate the commissioner's function under  
20 this Act to a public servant.

21 *Note* For the making of delegations and the exercise of delegated functions,  
22 see *Legislation Act 2001*, pt 19.4.

23 **Explanatory note**

24 This amendment updates the delegation provision, as follows:

- 25 • the words 'by signed instrument' have been omitted with the effect that the  
26 *Legislation Act 2001*, section 232 requires that a delegation must be made, or  
27 evidenced, in writing;
- 28 • the words 'all or any' (of the commission's functions) have been omitted because the  
29 *Legislation Act 2001*, section 234 provides that the delegation instrument may provide

1      that the delegation has effect in stated circumstances or subject to stated conditions,  
2      limitations or directions or that all of the function, or a stated part of the function, is  
3      delegated.

4      This amendment also adds a standard note about delegations.

5      **[3.503] Section 274J**

6      *omit*

7      power or authority conferred by

8      *substitute*

9      function under

10     *Function* is defined in the *Legislation Act 2001*, dictionary, part 1, to include power and is  
11     the drafting term now used.

12     **[3.504] Section 283**

13     *omit*

14     power

15     *substitute*

16     function

17     *Function* is defined in the *Legislation Act 2001*, dictionary, part 1, to include power and is  
18     the drafting term now used.

19     **[3.505] Section 287A (2), new note**

20     *insert*

21     *Note*      For other provisions about forms, see *Legislation Act 2001*, s 255.

22     **Explanatory note**

23     This amendment adds a standard note about approved forms.

24     **[3.506] Section 289 (2)**

25     *substitute*

26     (2) In this section:

27     *repealed Act* means any of the following Acts:

- 1 (a) the *Leases Act 1918* No 2;  
2 (b) the *Leases (Special Purposes) Act 1925* No 11;  
3 (c) the *City Area Leases Act 1936* No 31.

4 **Explanatory note**

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

6 **[3.507] New dictionary**

7 *insert*

8 **Dictionary**

9 (see s 2)

10 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
11 relevant to this Act.

12 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
13 terms:

- 14 • administrative appeals tribunal  
15 • amend  
16 • appoint  
17 • change  
18 • conservator of flora and fauna  
19 • contravene  
20 • document  
21 • exercise  
22 • function  
23 • month  
24 • national capital authority  
25 • penalty unit  
26 • the Territory.

27 ***Aboriginal object***, for part 3 (Heritage)—see section 52.

28 ***Aboriginal place***, for part 3 (Heritage)—see section 52.

29 ***Aboriginal tradition***, for part 3 (Heritage)—see section 52.

- 1      **application**, for part 6 (Approvals and orders)—see section 222.
- 2      **approval**, for part 6 (Approvals and orders)—see section 222.
- 3      **assessment** means an assessment made under division 4.3  
4      (Assessments).
- 5      **authorised person**, for subdivision 4.4.3 (Procedures and  
6      powers)—see section 143.
- 7      **authority** means the Australian Capital Territory Planning Authority  
8      established under section 33.
- 9      **background papers**, for part 2 (Planning)—see section 5.
- 10     **building**, for part 6 (Approvals and orders)—see section 222.
- 11     **building and development provision**, for part 5 (Land  
12     administration)—see section 159.
- 13     **building work**, for part 6 (Approvals and orders)—see section 222.
- 14     **chairperson**, for division 3.7 (Australian Capital Territory Heritage  
15     Council)—see section 90.
- 16     **commissioner** means the Commissioner for Land and Planning  
17     appointed under section 274A.
- 18     **compensation**, for subdivision 3.5.4 (Compensation claims)—see  
19     section 74.
- 20     *Note*      Sdiv 3.5.4 is about compensation claims in relation to Aboriginal  
21              heritage discoveries and places.
- 22     **connected**, with an offence, for division 6.4 (Enforcement)—see  
23     section 262.
- 24     **conservation**, for part 3 (Heritage)—see section 52.
- 25     **conservator** means the conservator of flora and fauna.
- 26     **consolidation**—
- 27     (a) for part 5 (Land administration)—see section 159; and



- 1 (b) for part 6 (Approvals and orders)—see section 222.
- 2 *consultation notice*, for part 2 (Planning)—see section 19.
- 3 *controlled activity* means—
- 4 (a) an activity of a kind mentioned in schedule 5; or
- 5 (b) an activity under another Act that is declared by that Act to be
- 6 a controlled activity for schedule 5.
- 7 *dealing*, for division 5.4 (Restrictions on rural leases)—see
- 8 section 186B.
- 9 *defined decision*, for part 4 (Environmental assessments and
- 10 inquiries)—see section 111.
- 11 *deputy chairperson*, for division 3.7 (Australian Capital Territory
- 12 Heritage Council)—see section 90.
- 13 *development*, in relation to land—
- 14 (a) for part 2 (Planning)—see section 5; and
- 15 (b) for part 6 (Approvals and orders)—see section 222.
- 16 *discharge amount*, for division 5.4 (Restrictions on rural
- 17 leases)—see section 186B.
- 18 *draft plan variation*, for part 2 (Planning)—see section 5.
- 19 *earlier index number*, for division 5.4 (Restrictions on rural
- 20 leases)—see section 186B.
- 21 *environmental impact*, for part 4 (Environmental assessments and
- 22 inquiries)—see section 111.
- 23 *environmental impact statement*, for part 4 (Environmental
- 24 assessments and inquiries)—see section 111.
- 25 *environmental report*, for part 2 (Planning)—see section 5.
- 26 *Environment Minister* means the Minister administering part 4
- 27 (Environmental assessments and inquiries).
-

- 1            ***Executive***, for part 6 (Approvals and orders)—see section 222.
- 2            ***expert member***, for division 3.7 (Australian Capital Territory  
3            Heritage Council)—see section 90.
- 4            ***formal error*** means—
- 5            (a) a clerical error; or
- 6            (b) an error arising from an accidental slip or omission; or
- 7            (c) a defect of form.
- 8            ***Gungahlin central area*** means the area referred to as the Gungahlin  
9            Town Centre and Central Area in the plan.
- 10          ***heritage council*** means the Australian Capital Territory Heritage  
11          Council established under section 91.
- 12          ***heritage object***, for part 3 (Heritage)—see section 52.
- 13          ***heritage objects register***, for division 3.7 (Australian Capital  
14          Territory Heritage Council)—see section 90.
- 15          ***heritage place***, for part 3 (Heritage)—see section 52.
- 16          ***heritage places register*** means the register of heritage places  
17          incorporated in the plan.
- 18          ***heritage significance*** means archaeological, historic, aesthetic,  
19          architectural, scientific, natural or social significance, or other  
20          special significance in relation to the environment, for the present  
21          community, and for future generations.
- 22          ***holding period***, for division 5.4 (Restrictions on rural leases)—see  
23          section 186B.
- 24          ***index number***, for division 5.4 (Restrictions on rural leases)—see  
25          section 186G.
- 26          ***inquiry*** means an inquiry conducted under division 4.4 (Inquiries).
- 27          ***interim heritage places register***—see section 52.

- 1        ***interim variation***, in relation to the heritage places register, for  
2        part 3 (Heritage)—see section 52.
- 3        ***land***—
- 4        (a) for part 2 (Planning)—see section 5; and
- 5        (b) for part 4 (Environmental assessments and inquiries)—see  
6        section 111.
- 7        ***land management agreement*** means an agreement under  
8        section 186C.
- 9        *Note*     A reference to an instrument (including a land management agreement)  
10        includes a reference to the instrument as originally made and as  
11        amended (see *Legislation Act 2001*, s 102).
- 12        ***later index number***, for division 5.4 (Restrictions on rural  
13        leases)—see section 186B.
- 14        ***lease***—
- 15        (a) for part 5 (Land administration)—see section 159; and
- 16        (b) for part 6 (Approvals and orders)—see section 222.
- 17        ***lessee***—
- 18        (a) for part 5 (Land administration)—see section 159; and
- 19        (b) for part 6 (Approvals and orders)—see section 222.
- 20        ***long lease***, for division 5.4 (Restrictions on rural leases)—see  
21        section 186B.
- 22        ***market value***, for part 5 (Land administration)—see section 159.
- 23        ***member***, for division 3.7 (Australian Capital Territory Heritage  
24        Council)—see section 90.
- 25        ***national capital plan***, for part 2 (Planning)—see section 5.
- 26        ***natural environment***, for schedule 1 (Management objectives for  
27        public land)—see section 195 (6).

- 1      **newspaper** means a newspaper published and circulating in the  
2      ACT.
- 3      **nominal rent lease**, for part 5 (Land administration)—see  
4      section 159.
- 5      **objection**, for part 6 (Approvals and orders)—see section 222.
- 6      **occupier**—
- 7      (a) for subdivision 4.4.3 (Procedures and powers)—see  
8      section 143; and
- 9      (b) for division 6.4 (Enforcement)—see section 262.
- 10     **offence**, for division 6.4 (Enforcement)—see section 262.
- 11     **order**, for part 6 (Approvals and orders)—see section 222.
- 12     **panel**, for part 4 (Environmental assessments and inquiries)—see  
13     section 111.
- 14     **permanent member**, for division 3.7 (Australian Capital Territory  
15     Heritage Council)—see section 90.
- 16     **pest animal** means an animal in a class of animals declared to be  
17     pest animals under section 254 (1).
- 18     **pest plant** means a plant in a class of plants declared to be pest  
19     plants under section 254 (1).
- 20     **place**, for subdivision 4.4.3 (Procedures and powers)—see  
21     section 143.
- 22     **plan** means the Territory plan.
- 23     *Note*      A reference to an instrument (including the plan) includes a reference to  
24              the instrument as originally made and as amended (see *Legislation Act*  
25              *2001*, s 102).
- 26     **plan of management**, for division 5.7 (Public land)—see  
27     section 191.
- 28     **preliminary assessment**, for part 4 (Environmental assessments and  
29     inquiries)—see section 111.

- 1        ***prescribed period***, for part 6 (Approvals and orders)—see  
2        section 222.
- 3        ***proponent***, for part 4 (Environmental assessments and  
4        inquiries)—see section 111.
- 5        ***provision***, of a lease, for part 5 (Land administration)—see  
6        section 159.
- 7        ***public car park***, for part 5 (Land administration)—see section 159.
- 8        ***public environment report***, for part 4 (Environmental assessments  
9        and inquiries)—see section 111.
- 10       ***public land*** means land identified by the plan as public land.
- 11       ***registered***, for division 3.5 (Aboriginal heritage)—see section 66.
- 12       ***registered lease***, for part 5 (Land administration)—see section 159.
- 13       ***registered proprietor***, for part 5 (Land administration)—see  
14       section 159.
- 15       ***registration***, for division 3.5 (Aboriginal heritage)—see section 66.
- 16       ***relevant Aboriginal organisation***, for part 3 (Heritage)—see  
17       section 52.
- 18       ***relevant authority***, for part 6 (Approvals and orders)—see  
19       section 222.
- 20       ***relevant Minister***, for part 4 (Environmental assessments and  
21       inquiries)—see section 111.
- 22       ***rental lease***, for part 5 (Land administration)—see section 159.
- 23       ***residential lease***, for part 5 (Land administration)—see section 159.
- 24       ***restricted information***, for part 3 (Heritage)—see section 52.
- 25       ***rural lease***, for part 5 (Land administration)—see section 159.
- 26       ***secretary***, for division 3.7 (Australian Capital Territory Heritage  
27       Council)—see section 90.
-

- 1            *short lease*, for division 5.4 (Restrictions on rural leases)—see  
2            section 186B.
- 3            *special Pialligo lease*, for division 5.4 (Restrictions on rural  
4            leases)—see section 186B.
- 5            *structure*, for part 6 (Approvals and orders)—see section 222.
- 6            *subdivision*—
- 7            (a) for part 5 (Land administration)—see section 159; and  
8            (b) for part 6 (Approvals and orders)—see section 222.
- 9            *sublease*, for part 5 (Land administration)—see section 159.
- 10          *sublessee*, for part 5 (Land administration)—see section 159.
- 11          ***Territory authority*** means—
- 12          (a) a body (whether or not incorporated) established by the  
13              Executive; or
- 14          (b) the holder of a position established under an Act or by the  
15              Executive.
- 16          *unregistered*, for division 3.5 (Aboriginal heritage)—see section 66.
- 17          *variation*, for part 3 (Heritage)—see section 52.
- 18          *variation*, of a lease—
- 19          (a) for division 5.3 (Variation of leases)—see section 184; and  
20          (b) for part 6 (Approvals and orders)—see section 223.
- 21          *variation*, of the plan, for part 2 (Planning)—see section 5.
- 22          *variation*, of a plan of management, for division 5.7 (Public  
23          land)—see section 191.

24          **Explanatory note**

25          This amendment adds a new dictionary in accordance with current drafting practice which  
26          includes changes consequential on the insertion or omission of definitions by other  
27          amendments.

1 **[3.508] Further amendments, new note**

2 *insert*

3 *Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

4 *after*

- 5 • section 17 (3)
- 6 • section 61 (1)
- 7 • section 62 (6)
- 8 • section 68 (1)
- 9 • section 82 (3)
- 10 • section 147 (2)
- 11 • section 229 (3)
- 12 • section 232 (1)
- 13 • section 247 (3)
- 14 • section 256 (3)
- 15 • section 257 (1)
- 16 • section 278 (1).

17 **Explanatory note**

18 This amendment adds standard notes about service of documents.

1 **Part 3.39 Land (Planning and**  
2 **Environment) Regulations**  
3 **1992**

4 **[3.509] Regulation 6**

5 *substitute*

6 **6 Prescribed period—Act s 121 (1A)**

7 The prescribed period is 30 business days.

8 **Explanatory note**

9 This amendment updates a reference consequential on the amendment of the *Land*  
10 *(Planning and Environment) Act 1991*, section 121 by Act 2000 No 37, section 7.

11 **[3.510] Regulation 14**

12 *substitute*

13 **14 Heavy vehicle parking (lease purposes)—Act, s 175 (3) (b)**

14 (1) The parking of a heavy vehicle on residential land in accordance  
15 with the *Road Transport (Safety and Traffic Management)*  
16 *Regulations 2000*, division 3.1.3 is a prescribed activity.

17 (2) In this regulation:

18 *heavy vehicle*—see the *Road Transport (Safety and Traffic*  
19 *Management) Regulations 2000*, dictionary.

20 **Explanatory note**

21 This amendment recasts the regulation in accordance with current drafting practice by  
22 including specific references to the *Road Transport (Safety and Traffic Management)*  
23 *Regulations 2000*.



1 **[3.511] Regulation 15, heading**

2 *substitute*

3 **15 Definitions for div 3.2**

4 **Explanatory note**

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

6 **[3.512] Regulation 15 (1)**

7 *omit*

8 (1) In this division:

9 *substitute*

10 In this division:

11 **Explanatory note**

12 This amendment is consequential on the omission of subregulation (2) by another  
13 amendment.

14 **[3.513] Regulation 15 (1), new definition of *lease***

15 *insert*

16 *lease*, over the largest parcel of land—see regulation 15A.

17 **Explanatory note**

18 This amendment is consequential on the insertion of new regulation 15A by another  
19 amendment.

20 **[3.514] Regulation 15 (2)**

21 *substitute*

22 **15A Meaning of *lease* over the largest parcel of land**

23 (1) This regulation applies if—

24 (a) a number of leases are surrendered in the course of a  
25 subdivision or consolidation; and

1 (b) the parcels of land over which the leases were granted are not  
2 of equal area; and

3 (c) there are 2 or more parcels of land of equal area that are larger  
4 than all the other parcels.

5 (2) In this division:

6 *lease*, over the largest parcel of land, means any of the leases over  
7 the equally large parcels mentioned in subregulation (1) (c).

8 **Explanatory note**

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

10 **[3.515] Regulation 16 (1)**

11 *omit*

12 entirely remit the

13 *substitute*

14 remit in full

15 **Explanatory note**

16 This amendment updates language.

17 **[3.516] Regulation 17 (1)**

18 *omit*

19 whole of the

20 *substitute*

21 in full

22 **Explanatory note**

23 This amendment updates language.

1 **[3.517] Regulation 17 (2)**

2 *substitute*

3 (2) If a change of use charge eligible for a remission under  
4 subregulation (1) is also subject to an increase under regulation 22  
5 (Concessional lease increase—Act, s 184C (2)) or regulation 24  
6 (Enlarged area of land increase—Act, s 184C (2)), the remission is  
7 to be offset by that increase.

8 **Explanatory note**

9 This amendment makes minor changes to provision references consequential on the  
10 amendment of the *Land (Planning and Environment) Act 1991*, section 184C by Act 2001  
11 No 80 and the omission of regulation 23 by another amendment.

12 **[3.518] Regulation 19 (2)**

13 *omit*

14 s 184C (3)

15 *substitute*

16 s 184C (2)

17 **Explanatory note**

18 This amendment updates a reference consequential on the amendment of the *Land*  
19 (*Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

20 **[3.519] Regulation 21 (1)**

21 *substitute*

22 (1) The Minister may give written policy directions for determining the  
23 remission of change of use charges under the Act, section 184C (1),  
24 for the variation of leases in circumstances prescribed by  
25 regulation 20.

26 **Explanatory note**

27 This amendment updates a reference consequential on the amendment of the *Land*  
28 (*Planning and Environment) Act 1991*, section 184C by Act 2001 No 80. It also removes  
29 references to *stated* leases. These references are no longer necessary because of the  
30 *Legislation Act 2001*, section 48. Under that section, the power to make a statutory  
31 instrument (eg Ministerial direction under regulation 21 (1)), includes, among other things,

1 the power to make different provision with respect to different matters or different classes  
2 of matters.

3 **[3.520] Regulation 22, heading and subregulation (1)**

4 *substitute*

5 **22 Concessional lease increase—Act, s 184C (2)**

6 (1) The Minister must increase the change of use charge for the  
7 variation of a concessional lease by an amount equal to 25% of the  
8 added value in relation to the variation.

9 **Explanatory note**

10 This amendment updates provision references consequential on the amendment of the  
11 *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

12 **[3.521] Regulation 23, heading and subregulation (1)**

13 *substitute*

14 **23 Recently commenced lease increase—Act, s 184C (2)**

15 (1) The Minister must increase the change of use charge for the  
16 variation of a recently commenced lease by an amount equal to 25%  
17 of the added value in relation to the variation.

18 **Explanatory note**

19 This amendment updates a reference consequential on the amendment of the *Land*  
20 *(Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

21 **[3.522] Regulation 23 (4)**

22 *omit*

23 s 184C (3)

24 *substitute*

25 s 184C (2)

26 **Explanatory note**

27 This amendment updates a reference consequential on the amendment of the *Land*  
28 *(Planning and Environment) Act 1991*, section 184C by Act 2001 No 80.

1 **[3.523] Regulation 24, heading**

2 *substitute*

3 **24 Enlarged area of land increase—Act, s 184C (2)**

4 **Explanatory note**

5 This amendment updates a reference consequential on the amendment of the *Land*  
6 (*Planning and Environment*) Act 1991, section 184C by Act 2001 No 80.

7 **[3.524] Regulation 24 (2)**

8 *omit*

9 section 184C (3)

10 *substitute*

11 section 184C (2)

12 **Explanatory note**

13 This amendment updates a reference consequential on the amendment of the *Land*  
14 (*Planning and Environment*) Act 1991, section 184C by Act 2001 No 80.

15 **[3.525] Regulation 24 (3)**

16 *substitute*

17 (3) This regulation does not apply in relation to the variation of a lease  
18 if any of the following regulations apply in relation to the variation:

19 (a) regulation 22 (Concessional lease increase—Act, s 184C (2));

20 (b) regulation 25 (Service station lease increase—Act, s 184C (2)).

21 **Explanatory note**

22 This amendment updates a provision references consequential on the amendment of the  
23 *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80 and the  
24 omission of regulation 23 by another amendment.

25 **[3.526] Regulation 25, heading**

26 *substitute*

27 **25 Service station lease increase—Act, s 184C (2)**

1    **Explanatory note**

2    This amendment updates a reference consequential on the amendment of the *Land*  
3    (*Planning and Environment*) Act 1991, section 184C by Act 2001 No 80.

4    **[3.527] Regulation 25 (2)**

5         *omit*

6         section 184C (3)

7         *substitute*

8         section 184C (2)

9    **Explanatory note**

10   This amendment updates a reference consequential on the amendment of the *Land*  
11   (*Planning and Environment*) Act 1991, section 184C by Act 2001 No 80.

12   **[3.528] Regulation 27, heading**

13         *substitute*

14   **27 Definitions for div 3.3**

15   **Explanatory note**

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

17   **[3.529] Regulation 27 (1)**

18         *omit*

19         (1) In this division:

20                 *substitute*

21                 In this division:

22   **Explanatory note**

23   This amendment is consequential on the omission of subregulation (2) by another  
24   amendment.

25   **[3.530] Regulation 27 (1), new definition of *lease***

26         *insert*

1           *lease*, over the largest parcel of land—see regulation 27A.

2   **Explanatory note**

3   This amendment is consequential on the insertion of new regulation 27A by another  
4   amendment.

5   **[3.531] Regulation 27 (2)**

6           *substitute*

7   **27A Meaning of *lease* over the largest parcel of land**

8       (1) This regulation applies if—

9           (a) a number of leases are surrendered in the course of a  
10           subdivision or consolidation; and

11           (b) the parcels of land over which the leases were granted are not  
12           of equal area; and

13           (c) there are 2 or more parcels of land of equal area that are larger  
14           than all the other parcels.

15       (2) In this division:

16           *lease*, over the largest parcel of land, means any of the leases over  
17           the equally large parcels mentioned in subregulation (1) (c).

18   **Explanatory note**

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

20   **[3.532] Regulation 28 (1)**

21           *omit*

22           whole of the

23           *substitute*

24           in full

25   **Explanatory note**

26   This amendment updates language.

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1    **[3.533] Regulation 28 (2) and (3)**

2      *omit*

3      s 187C (3)

4      *substitute*

5      s 187C (2)

6    **Explanatory note**

7    This amendment updates a reference consequential on the amendment of the *Land*  
8    (*Planning and Environment*) Act 1991, section 184C by Act 2001 No 80.

9    **[3.534] Regulation 32 (1)**

10     *substitute*

11     (1) The Minister may give written policy directions for determining the  
12     remission of change of use charges under the Act, section 187C (1),  
13     for consolidations or subdivisions of leases in circumstances  
14     prescribed by regulation 31.

15    **Explanatory note**

16    This amendment updates provision references consequential on the amendment of the  
17    *Land (Planning and Environment) Act 1991*, section 184C by Act 2001 No 80. It also  
18    removes references to *stated* consolidation or subdivisions of leases. These references are  
19    no longer necessary because the *Legislation Act 2001*, section 48. Under that section, the  
20    power to make a statutory instrument (eg Ministerial direction under regulation 32 (1)),  
21    includes, among other things, the power to make different provision with respect to  
22    different matters or different classes of matters.

23    **[3.535] Regulation 33, heading**

24     *substitute*

25    **33 Concessional lease increase—Act, s 187C (2)**

26    **Explanatory note**

27    This amendment updates a reference consequential on the amendment of the *Land*  
28    (*Planning and Environment*) Act 1991, section 184C by Act 2001 No 80.



1 **[3.536] Regulation 33 (2)**

2 *omit*

3 section 187C (3)

4 *substitute*

5 section 187C (2)

6 **Explanatory note**

7 This amendment updates a reference consequential on the amendment of the *Land*  
8 (*Planning and Environment*) Act 1991, section 184C by Act 2001 No 80.

9 **[3.537] Regulation 33 (6) and (7)**

10 *omit*

11 s 187C (3)

12 *substitute*

13 s 187C (2)

14 **Explanatory note**

15 This amendment updates a reference consequential on the amendment of the *Land*  
16 (*Planning and Environment*) Act 1991, section 184C by Act 2001 No 80.

17 **[3.538] Regulation 34, heading**

18 *substitute*

19 **34 Recently commenced lease increase—Act, s 187C (2)**

20 **Explanatory note**

21 This amendment updates a reference consequential on the amendment of the *Land*  
22 (*Planning and Environment*) Act 1991, section 184C by Act 2001 No 80.

23 **[3.539] Regulation 34 (2)**

24 *omit*

25 section 187C (3)

26 *substitute*

1            section 187C (2)

2      **Explanatory note**

3      This amendment updates a reference consequential on the amendment of the *Land*  
4      (*Planning and Environment*) Act 1991, section 184C by Act 2001 No 80.

5      **[3.540] Regulation 34 (4) and (5)**

6            *omit*

7            s 187C (3)

8            *substitute*

9            s 187C (2)

10     **Explanatory note**

11     This amendment updates a reference consequential on the amendment of the *Land*  
12     (*Planning and Environment*) Act 1991, section 184C by Act 2001 No 80.

13     **[3.541] Regulation 35, heading**

14            *substitute*

15     **35 Consolidation involving service station lease**  
16     **increase—Act, s 187C (2)**

17     **Explanatory note**

18     This amendment updates a reference consequential on the amendment of the *Land*  
19     (*Planning and Environment*) Act 1991, section 184C by Act 2001 No 80.

20     **[3.542] Regulation 35 (2)**

21            *omit*

22            section 187C (3)

23            *substitute*

24            section 187C (2)

25     **Explanatory note**

26     This amendment updates a reference consequential on the amendment of the *Land*  
27     (*Planning and Environment*) Act 1991, section 184C by Act 2001 No 80.

1 **[3.543] Regulation 36, heading**

2 *substitute*

3 **36 Subdivision involving service station lease**  
4 **increase—Act, s 187C (2)**

5 **Explanatory note**

6 This amendment updates a reference consequential on the amendment of the *Land*  
7 (*Planning and Environment*) Act 1991, section 184C by Act 2001 No 80.

8 **[3.544] Regulation 36 (2)**

9 *omit*

10 section 187C (3)

11 *substitute*

12 section 187C (2)

13 **Explanatory note**

14 This amendment updates a reference consequential on the amendment of the *Land*  
15 (*Planning and Environment*) Act 1991, section 184C by Act 2001 No 80.

16 **[3.545] Regulation 37 (4)**

17 *omit*

18 laid before

19 *substitute*

20 presented to

21 **Explanatory note**

22 This amendment updates language. *Present* is the drafting term now used in relation to  
23 the tabling of documents in the Legislative Assembly.

24 **[3.546] Dictionary, new notes**

25 *insert*

26 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
27 relevant to these regulations.



1 **Explanatory note**

2 This amendment is consequential on the amendment of the *Land (Planning and*  
3 *Environment) Act 1991* by other amendments.

4 **[3.549] Dictionary, new definitions**

5 *insert*

6 *further lease*—

7 (a) for division 3.2 (Variation of leases)—see regulation 15; and

8 (b) for division 3.3 (Consolidation and subdivision)—see  
9 regulation 27.

10 *lease*, over the largest parcel of land—

11 (a) for division 3.2 (Variation of leases)—see regulation 15A; and

12 (b) for division 3.3 (Consolidation and subdivision)—see  
13 regulation 27A.

14 **Explanatory note**

15 This amendment adds signpost definitions in accordance with current drafting practice.

16 **[3.550] Dictionary, definition of *market value***

17 *substitute*

18 *market value*—see the Act, section 159.

19 **Explanatory note**

20 The existing definition is the same as the definition of *market value* inserted in section 159  
21 by another amendment. This amendment changes the existing definition to a signpost  
22 definition in accordance with current drafting practice.

23 **[3.551] Dictionary, new definition**

24 *insert*

25 *regranted lease*—

26 (a) for division 3.2 (Variation of leases)—see regulation 15; and

1            (b) for division 3.3 (Consolidation and subdivision)—see  
2            regulation 27.

3      **Explanatory note**

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

5      **[3.552] Dictionary, definition of *relevant authority***

6            *omit*

7            section 222 (1)

8            *substitute*

9            section 222

10     **Explanatory note**

11     This amendment is consequential on the amendment of the *Land (Planning and*  
12     *Environment) Act 1991* by other amendments.

13     **[3.553] Dictionary, new definition**

14            *insert*

15            *subdivided lease*—

16            (a) for division 3.2 (Variation of leases)—see regulation 15; and

17            (b) for division 3.3 (Consolidation and subdivision)—see  
18            regulation 27.

19     **Explanatory note**

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

21     **[3.554] Dictionary, definitions of *subdivision* and *variation***

22            *substitute*

23            *subdivision*—see the Act, section 159.

24            *variation*—see the Act, section 222.

25     **Explanatory note**

26     This amendment is consequential on the amendment of the *Land (Planning and*  
27     *Environment) Act 1991* by other amendments.

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1 **Part 3.40** **Leases (Commercial and**  
2 **Retail) Act 2001**

3 **[3.555] Sections 25, 28 (1) and 30 (2), new note**

4 *insert*

5 *Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

6 **Explanatory note**

7 This amendment adds a standard note about service of documents.

8 **[3.556] Section 31**

9 *substitute*

10 **31 Form of disclosure statements**

11 A disclosure statement must—

12 (a) if the lessor's accounting period is not a financial year—state  
13 the accounting period; and

14 (b) contain a written estimate of the outgoings the tenant is  
15 required to contribute to under the lease that itemises the  
16 outgoings for the first accounting period of the lessor under the  
17 lease.

18 *Note* If a form is approved under section 157A (Approved forms) for a  
19 disclosure statement, the form must be used.

20 **Explanatory note**

21 This amendment omits subsection (1) which requires a disclosure statement to be in the  
22 approved form and adds a standard note about approved forms. Subsection (1) is no  
23 longer necessary because current drafting practice is to have a single approved forms  
24 provision (which is inserted by another amendment) that deals with approved forms for the  
25 Act.

1    **[3.557] Section 49 (1), new note**

2            *insert*

3            *Note*      For how documents may be served, see *Legislation Act 2001*, pt 19.5.

4    **Explanatory note**

5    This amendment adds a standard note about service of documents.

6    **[3.558] Section 52 (3) (a)**

7            *substitute*

8            (a) the lessor—

9                    (i) proposes to renew the lease and makes an offer to renew  
10                    the lease in response to a request under section 107  
11                    (Lessor’s intentions about renewal); or

12                    (ii) gives the tenant preference under section 108 (Rules of  
13                    conduct at end of lease term for shopping centre leases)  
14                    by making an offer to the tenant to renew the lease; or

15                    (iii) otherwise makes a renewal offer to the tenant before the  
16                    end of 12 months after the end of the existing lease; and

17    **Explanatory note**

18    This amendment changes the form of the paragraph in accordance with current drafting  
19    practice to improve its readability.

20    **[3.559] Sections 52 (4) and 57 (3), new notes**

21            *insert*

22            *Note 1*      For the making of appointments (including acting appointments), see  
23            *Legislation Act 2001*, pt 19.3.

24            *Note 2*      In particular, a person may be appointed for a particular provision of a  
25            law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
26            by naming a person or nominating the occupant of a position (see s 207).

27    **Explanatory note**

28    This amendment adds standard notes about appointments.



1 **[3.560] Section 67 (3)**

2 *substitute*

3 (3) In subsection (2) (b):

4 *amount spent*—if a lessor is using an accrual method of accounting,  
5 the *amount spent* by a lessor during a period includes a debt  
6 accrued by the lessor during the period.

7 **Explanatory note**

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

9 **[3.561] Section 88, new note**

10 *insert*

11 *Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

12 **Explanatory note**

13 This amendment adds a standard note about service of documents.

14 **[3.562] Section 116 (1)**

15 *omit*

16 in writing

17 **Explanatory note**

18 This amendment omits unnecessary words.

19 **[3.563] Sections 116 (1) and 122 (1), new note**

20 *insert*

21 *Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

22 **Explanatory note**

23 This amendment adds a standard note about service of documents.

1    **[3.564] Section 124 (1), note**

2            *omit*

3    **Explanatory note**

4    This amendment omits an unnecessary note about service of documents.

5    **[3.565] Section 125 (1) (a) and (b)**

6            *substitute*

- 7            (a) the day the lease is or was terminated; and
- 8            (b) that, if the tenant has not already vacated the premises, the
- 9                      tenant must vacate the premises on or before that day; and
- 10            (c) that, if the tenant has not already vacated the premises and does
- 11                      not vacate the premises on or before that day, either—
- 12                      (i) the lessor may apply to the Magistrates Court for the
- 13                              issue of a warrant for the eviction of the tenant; or
- 14                      (ii) the order will have effect as if it were a warrant for
- 15                              eviction.

16    **Explanatory note**

17    This amendment changes the form of the subsection in accordance with current drafting

18    practice to improve its readability.

19    **[3.566] New section 157A**

20            *insert*

21    **157A Approved forms**

- 22            (1) The Minister may, in writing, approve forms for this Act.
- 23            (2) If the Minister approves a form for a particular purpose, the
- 24                      approved form must be used for that purpose.

25            *Note*      For other provisions about forms, see *Legislation Act 2001*, s 255.

- 26            (3) An approved form is a notifiable instrument.

27            *Note*      A notifiable instrument must be notified under the *Legislation Act 2001*.

1 **Explanatory note**

2 This amendment adds the standard approved forms provision.

3 **[3.567] Division 16.1, heading**

4 *omit*

5 (commencement: the commencement of section 2 of this Act or  
6 1 July 2002, whichever is later)

7 **Explanatory note**

8 This amendment omits a heading that will become redundant on the automatic expiry of  
9 amending and repealing provisions.

10 **[3.568] Section 159, heading**

11 *substitute*

12 **159 Definitions for pt 16**

13 (commencement: the commencement of section 2 of this Act or  
14 1 July 2002, whichever is later)

15 **Explanatory note**

16 This amendment changes the section heading consequentially on the omission of the  
17 heading to division 16.1.

18 **[3.569] Section 171**

19 *substitute*

20 **171 Expiry of pt 16**

21 This part expires on 30 June 2004.

22 (commencement: the commencement of section 2 of this Act or  
23 1 July 2002, whichever is later)

24 **Explanatory note**

25 This amendment changes the section consequentially on the omission of the heading to  
26 division 16.1 and states the actual date the part will expire.



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1 **Part 3.42** **Legislative Assembly**  
2 **Precincts Act 2001**

3 **[3.573] Section 3, definitions**

4 *relocate to the dictionary*

5 **Explanatory note**

6 This amendment relocates the definitions to a new dictionary inserted by another  
7 amendment.

8 **[3.574] Section 3, remainder**

9 *substitute*

10 **3 Dictionary**

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

12 *Note 1* The dictionary at the end of this Act defines certain words and  
13 expressions used in this Act.

14 *Note 2* A definition in the dictionary applies to the entire Act unless the  
15 definition, or another provision of the Act, provides otherwise or the  
16 contrary intention otherwise appears (see *Legislation Act 2001*, s 155  
17 and s 156 (1)).

18 **Explanatory note**

19 This amendment adds a standard dictionary provision.

20 **[3.575] New dictionary**

21 *insert*

22 **Dictionary**

23 (see s 3)

24 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
25 relevant to this Act.



1 **[3.577] Schedule 1, amendment 1.3496**

2 *omit*

3 **Explanatory note**

4 This amendment omits an uncommenced amendment of the *Public Sector Management*  
5 *Act 1994*. The amendment is redundant because it was made in anticipation of an  
6 amendment of that Act that was not made.

7 **[3.578] Schedule 1, part 403**

8 *omit*

9 **Explanatory note**

10 This amendment omits amendments of the *University of Canberra Regulations* which are  
11 no longer in force in the ACT.

12 **Part 3.44 Liquor Act 1975**

13 **[3.579] Section 151, definition of *driver licence***

14 *substitute*

15 *driver licence means an Australian driver licence or a licence to*  
16 *drive a motor vehicle (however described) issued under the law of*  
17 *an external Territory or a foreign country.*

18 **Explanatory note**

19 This amendment simplifies the definition to take account of the definition of *Australian*  
20 *driver licence* in the *Legislation Act 2001*, dictionary, part 1.

21 **[3.580] Section 170 (5)**

22 *substitute*

23 *Note* For the Supreme Court scale, see *Supreme Court Rules*, sch 4, pt 4.8.

24 (5) The fees and expenses are payable—

25 (a) if the person attended the hearing, whether on summons or not,  
26 at the request of someone who is not a member of the  
27 board—by the person who made the request; or





1 **[3.582] Section 41 (2)**

2 *omit*

3 the firstmentioned requirement

4 *substitute*

5 the requirement mentioned in paragraph (a)

6 **Explanatory note**

7 This amendment updates language.

8 **[3.583] Section 43 (5)**

9 *omit*

10 **Explanatory note**

11 This amendment omits a reference definition of *keep* that is remade by another amendment  
12 in accordance with current drafting practice.

13 **[3.584] Section 43 (6)**

14 *insert*

15 *keep*, in relation to a subsidy record, includes make a subsidy  
16 record.

17 **Explanatory note**

18 This amendment remakes the form of the definition in accordance with current drafting  
19 practice. The definition does not include the reference in existing section 43 (5) to the  
20 keeping of records that do not correctly record or explain matters because these are  
21 elements of the relevant offences.

22 **[3.585] Section 43 (6)**

23 *renumber as section 43 (5)*

24 **Explanatory note**

25 This amendment is consequential on the omission of section 43 (5) by another amendment.



1 **[3.588] New section 134A**

2 *before section 135, insert*

3 **134A Authorised people for infringement notice offences**

- 4 (1) The administering authority for an infringement notice offence may  
5 appoint a person to be an authorised person to serve infringement  
6 notices or reminder notices.

7 *Note 1* For the making of appointments (including acting appointments), see  
8 *Legislation Act 2001*, pt 19.3.

9 *Note 2* In particular, a person may be appointed for a particular provision of a  
10 law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
11 by naming a person or nominating the occupant of a position (see s 207).

- 12 (2) The regulations may prescribe a person to be an authorised person  
13 for the service of infringement notices or reminder notices.

- 14 (3) In this part:

15 *authorised person* means—

- 16 (a) for an infringement notice for an infringement notice offence—

17 (i) the administering authority; or

18 (ii) a person who is appointed under this section by the  
19 administering authority to serve an infringement notice  
20 for the offence; or

21 (iii) anyone else who, under the regulations, may serve an  
22 infringement notice for the offence; or

- 23 (b) for a reminder notice for an infringement notice offence—

24 (i) the administering authority; or

25 (ii) a person who is appointed under this section by the  
26 administering authority to serve a reminder notice for the  
27 offence; or

28 (iii) anyone else who, under the regulations, may serve a  
29 reminder notice for the offence.

1    **Explanatory note**

2    New section 134A provides a specific power for an administering authority to appoint  
3    (rather than merely authorise) authorised persons and is consistent with the *Road*  
4    *Transport (General) Act 1999*, new section 53A that is inserted by another amendment.  
5    Standard appointments notes are also inserted.

6    **[3.589] Section 135**

7        *substitute*

8    **135 Delegation of administering authority's functions**

9        (1) The administering authority for an infringement notice offence may  
10        delegate the administering authority's functions under this part to an  
11        authorised person or a person prescribed under the regulations.

12        (2) A person prescribed under the regulations for subsection (1) may  
13        delegate the functions delegated to the person under that subsection  
14        to anyone else.

15        *Note*     For the making of delegations and the exercise of delegated functions,  
16        see *Legislation Act 2001*, pt 19.4.

17    **Explanatory note**

18    This amendment updates the delegation provisions as follows:

- 19    • the words 'in writing' have been omitted because the *Legislation Act 2001*,  
20        section 232 provides that a delegation must be made, or evidenced, in writing;
- 21    • the words 'all or any' (of the administering authority's or delegated person's  
22        functions) have been omitted because the *Legislation Act 2001*, section 234 provides  
23        that the delegation instrument may provide that the delegation has effect in stated  
24        circumstances or subject to stated conditions, limitations or directions or that all of the  
25        function, or a stated part of the function, is delegated.

26    This amendment also adds standard notes about delegations.

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1 **Part 3.47** **Major Events Security Act**  
2 **2000**

3 **[3.590] Section 4 (1)**

4 *omit*

5 , in writing,

6 **Explanatory note**

7 This amendment omits unnecessary words. Section 4 (5) requires a declaration to be in  
8 writing.

9 **[3.591] Section 14, heading**

10 *substitute*

11 **14 Unauthorised entry to event venue**

12 **Explanatory note**

13 This amendment confirms a minor correction to the heading made under the *Legislation*  
14 *(Republication) Act 1996*.

15 **[3.592] Section 16 (d)**

16 *substitute*

17 (d) disrupt, interfere with, delay or obstruct the conduct of a major  
18 event, or an activity associated with the event, by throwing  
19 anything; or

20 **Explanatory note**

21 This amendment confirms a minor correction to the paragraph made under the *Legislation*  
22 *(Republication) Act 1996*.

23 **[3.593] Dictionary, new notes**

24 *insert*

25 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
26 relevant to this Act.



1 **3 Notes**

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

3 *Note* See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of  
4 notes.

5 **Explanatory note**

6 This amendment adds standard dictionary and notes provisions. The definitions are  
7 inserted into a new dictionary which is inserted by another amendment.

8 **[3.596] Section 5 (3), new note**

9 *insert*

10 *Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

11 **Explanatory note**

12 This amendment adds a standard note about giving notice.

13 **[3.597] Section 7 (2)**

14 *omit*

15 a mediator

16 *substitute*

17 the mediator

18 **Explanatory note**

19 This amendment clarifies the relationship between section 7 (1) and (2).

20 **[3.598] New dictionary**

21 *insert*

22 **Dictionary**

23 (see s 2)

24 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
25 relevant to this Act.





1 **Explanatory note**

2 This amendment omits a reference to the *Public Health (Private Hospitals) Regulations*  
3 which were repealed by the *Public Health Regulations 2000* SL No 1.

4 **Part 3.50 National Environment**  
5 **Protection Council Act 1994**

6 **[3.600] New section 13 (4)**

7 *insert*

8 (4) An instrument under section 13 (1) is a notifiable instrument.

9 *Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

10 **Explanatory note**

11 This amendment makes national environmental protection measures made by the council  
12 notifiable instruments in accordance with current drafting practice.

13 **Part 3.51 Plumbers, Drainers and**  
14 **Gasfitters Board Act 1982**

15 **[3.601] Section 42**

16 *substitute*

17 **42 Witness fees and travelling expenses**

18 (1) This section applies to a person (the *witness*) who attends a hearing  
19 of the board to give evidence (whether voluntarily or under a  
20 summons).

21 (2) The witness is entitled to receive the fees and travelling expenses  
22 that the chairperson directs in accordance with the scale and  
23 conditions applying to people who attend as witnesses before the  
24 Supreme Court.

25 *Note* For the Supreme Court scale, see *Supreme Court Rules*, sch 4, pt 4.8.



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1 **Part 3.53** **Prisoners' Interstate Leave Act**  
2 **1997**

3 **[3.603] Section 1**

4 *substitute*

5 **1 Name of Act**

6 This Act is the *Prisoners Interstate Leave Act 1997*.

7 **Explanatory note**

8 This amendment brings the name of the Act into line with current drafting practice by  
9 omitting the apostrophe.

10 **[3.604] Section 3**

11 *substitute*

12 **2 Dictionary**

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

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

18 For example, the signpost definition '*custodial officer*—see the *Remand*  
19 *Centres Act 1976*, section 3.' means that the expression 'custodial  
20 officer' is defined in that section and the definition applies to this Act.

21 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
22 the entire Act unless the definition, or another provision of the Act,  
23 provides otherwise or the contrary intention otherwise appears (see  
24 *Legislation Act 2001*, s 155 and s 156 (1)).

25 **2A Notes**

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

27 *Note* See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of  
28 notes.

1      **3      Functions of administration under corresponding laws**

2            If a corresponding law gives a function to the person responsible for  
3            the conduct of prisons in the ACT, the function may be exercised by  
4            the administrator.

5      **Explanatory note**

6      This amendment adds a standard dictionary provision consequential on the insertion of a  
7      new dictionary by another amendment. The definitions in section 3 (1) are inserted into  
8      the new dictionary. The substance of section 3 (2) is remade as new section 3. This  
9      amendment also adds a standard provision about the legal status of notes.

10     **[3.605]   Section 5**

11            *omit*

12     **Explanatory note**

13      This amendment is consequential on the inclusion of the definitions in a new dictionary  
14      which is inserted by another amendment. A provision reproducing section 5 (2), which  
15      provides that a reference to a condition or restriction on a permit which has been varied  
16      means the condition or restriction as varied, is unnecessary because of section 10  
17      (Variation of permits).

18     **[3.606]   Section 6 (1)**

19            *omit*

20            , being a purpose of a kind set out in subsection (2)

21     **Explanatory note**

22      This amendment is consequential on the insertion of a new section 6 (1A) by another  
23      amendment.

24     **[3.607]   New section 6 (1A)**

25            *insert*

26      (1A) However, the administrator must give a permit only for a purpose  
27      mentioned in subsection (2).

28     **Explanatory note**

29      This amendment relocates a qualification in existing section 6 (1) in accordance with  
30      current drafting practice.

1 **[3.608] Section 6**

2 *renumber subsections when Act next republished under Legislation*  
3 *Act 2001*

4 **Explanatory note**

5 This amendment provides for the renumbering of subsections.

6 **[3.609] Section 7 (1)**

7 *omit*

8 *deems*

9 *substitute*

10 *considers*

11 **Explanatory note**

12 This amendment updates language.

13 **[3.610] Section 9 (4)**

14 *omit*

15 **Explanatory note**

16 This amendment omits an unnecessary definition of *chief police officer*. The term is  
17 defined in the *Legislation Act 2001*, dictionary, part 1.

18 **[3.611] Section 13 (5)**

19 *substitute*

20 (5) In subsection (3):

21 *frisk search*—see the *Crimes Act 1900*, section 185.

22 *ordinary search*—see the *Crimes Act 1900*, section 185.

23 *seizable item*—see the *Crimes Act 1900*, section 185.

24 **Explanatory note**

25 This amendment substitutes signpost definitions to bring the form of the definitions into  
26 line with current drafting practice.

1    **[3.612] Section 14**

2            *omit*

3    **Explanatory note**

4    This amendment is consequential on the inclusion of the definitions in the new dictionary.

5    **[3.613] Section 16 (3)**

6            *omit*

7            shall cause the prisoner to be brought

8            *substitute*

9            must bring the prisoner

10   **Explanatory note**

11   This amendment updates language.

12   **[3.614] New dictionary**

13            *insert*

14   **Dictionary**

15   (see s 2)

16            *Note 1*    The *Legislation Act 2001* contains definitions and other provisions  
17                    relevant to this Act.

18            *Note 2*    In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
19                    terms:

- 20                    • ACT
- 21                    • chief police officer
- 22                    • custodial escort
- 23                    • police officer
- 24                    • remand centre
- 25                    • remand centre administrator
- 26                    • the Territory.

27            *administrator* means the remand centre administrator.

1        **assigned escort**, in relation to a permit or a prisoner who is absent  
2        from a remand centre under a permit, means the escort assigned to  
3        exercise functions in relation to the permit under section 9 (1).

4        **corresponding law** means a law of a participating jurisdiction that  
5        corresponds to this Act.

6        **custodial officer**—see the *Remand Centres Act 1976*, section 3.

7        **escort** means a custodial escort.

8        **interstate permit** means a permit, issued under a corresponding law,  
9        permitting a prisoner to travel in or through the ACT, and includes  
10       any condition or restriction to which the permit is subject.

11       **participating jurisdiction** means a State or another Territory in  
12       which there is in force a corresponding law.

13       **permit** means a permission under section 6.

14       **prisoner** means—

15       (a) for part 3 (Leave of absence for prisoners)—a person detained  
16       in a remand centre; and

17       (b) for part 4 (Interstate prisoners on leave of absence in the  
18       Territory)—a person in custody under the law of a  
19       participating jurisdiction.

20       **Explanatory note**

21       This amendment adds a new dictionary and brings the definitions in sections 3 (1), 5 (1)  
22       and 14 into line with current drafting practice. A definition of **remand centre** is  
23       unnecessary because the term is to be defined in the *Legislation Act 2001*, dictionary,  
24       part 1 (see schedule 1). A provision reproducing section 5 (2), which provides that a  
25       reference to a condition or restriction on a permit which has been varied means the  
26       condition or restriction as varied, is unnecessary because of section 10 (Variation of  
27       permits).





1 **[3.616] Section 3 (1), definitions of *child*, *drug of dependence***  
2 **and *public place***

3 *omit*

4 **Explanatory note**

5 *Child* is defined in the *Legislation Act 2001*, dictionary, part 1 and updated definitions of  
6 *drug of dependence* and *public place* are inserted into a new dictionary which is inserted  
7 by another amendment

8 **[3.617] Section 3 (1), remaining definitions**

9 *relocate to dictionary*

10 **Explanatory note**

11 This amendment relocates all the remaining definitions to the new dictionary which is  
12 inserted by another amendment.

13 **[3.618] Section 3, remainder**

14 *omit*

15 **Explanatory note**

16 The definition of *employing* in existing section 3 (2) is inserted into the new dictionary  
17 which is inserted by another amendment.

18 **[3.619] Section 5**

19 *substitute*

20 **5 Registrar of Brothels and Escort Agencies**

21 The chief executive must appoint a public servant as the Registrar of  
22 Brothels and Escort Agencies.

23 *Note 1* For the making of appointments (including acting appointments), see  
24 *Legislation Act 2001*, pt 19.3.

25 *Note 2* In particular, a person may be appointed for a particular provision of a  
26 law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
27 by naming a person or nominating the occupant of a position (see s 207).

1    **Explanatory note**

2    This amendment brings the section into line with current drafting practice. In particular, it  
3    removes the requirement that the chief executive must create and maintain an office of  
4    registrar in the public service. The *Legislation Act 2001*, section 207 provides that an  
5    appointment may be made by naming the person appointed or by nominating the occupant  
6    of a position (however described), at a particular time or from time to time. This  
7    amendment also adds a standard note about appointments.

8    **[3.620] Section 6 (3)**

9         *omit*

10        perform

11         *substitute*

12        exercise

13    **Explanatory note**

14    *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
15    perform the function. It is the drafting term that is now used in relation to functions.

16    **[3.621] Section 17 (3)**

17         *omit*

18        designated medical practitioner

19         *substitute*

20        doctor nominated in writing by the chief health officer for this  
21        section

22    **Explanatory note**

23    This amendment brings the section into line with current drafting practice. The  
24    *Legislation Act 2001*, dictionary, part 1, defines *doctor* and *chief health officer*.

25    **[3.622] Section 17 (4)**

26         *omit*

27    **Explanatory note**

28    This amendment is consequential on the amendment of section 17 (3) by another  
29    amendment.

1 **[3.623] New dictionary**

2 *insert*

3 **Dictionary**

4 (see s 2)

5 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
6 relevant to this Act.

7 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
8 terms:

- 9 • chief health officer
- 10 • child
- 11 • doctor
- 12 • exercise
- 13 • function
- 14 • police officer.

15 ***drug of dependence***—see the *Drugs of Dependence Act 1989*,  
16 section 3 (1).

17 ***employing*** a prostitute includes entering into a contract for services  
18 with a prostitute for the provision of commercial sexual services.

19 ***public place*** means any street, road, public park, reserve, or any  
20 building, premises or other place that the public are entitled to use or  
21 that is open to, or used by, the public (whether on payment or  
22 otherwise).

23 **Explanatory note**

24 This amendment adds a new dictionary. The definition of ***drug of dependence*** has been  
25 updated to bring it into line with the definition of this term in the *Drugs of Dependence Act*  
26 *1989*. Existing section 3 (2) is recast as the definition of ***employing*** in line with current  
27 drafting practice. The definition of ***public place*** is revised by omitting the reference to the  
28 repealed *Public Parks Act 1928* (see *Statute Law Amendment Act 2001* No 11, schedule 4,  
29 part 4.2).



1 **[3.627] Section 74**

2 *substitute*

3 **74 Service of emergency orders**

4 (1) A copy of an emergency order must be served on the respondent by  
5 a police officer.

6 (2) Service under subsection (1) must be personal service unless the  
7 Magistrates Court makes an order under section 98 (If service  
8 impracticable or impossible).

9 **Explanatory note**

10 This amendment removes any doubt that service under the section must be personal  
11 service.

12 **[3.628] Section 80, new note**

13 *insert*

14 *Note* For service of the notice, see pt 11 (Service).

15 **Explanatory note**

16 This amendment adds a note about service.

17 **[3.629] Section 96 (2), new note**

18 *insert*

19 *Note* For other provisions about forms, see *Legislation Act 2001*, s 255.

20 **Explanatory note**

21 This amendment adds a standard note about approved forms.

22 **[3.630] New section 97 (3)**

23 *insert*

24 (3) The *Legislation Act 2001*, part 19.5 (Service of documents) does not  
25 apply to the service of a document that is required to be served  
26 under this Act.

1    **Explanatory note**

2    This amendment makes it clear that the methods of service set out in the *Legislation Act*  
3    *2001*, part 19.5 are not additional to the methods set out in section 97.

4    **[3.631] Section 101 (2) (c)**

5         *omit*

6         performance

7         *substitute*

8         exercise

9    **Explanatory note**

10    *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
11    perform the function. It is the drafting term that is now used in relation to functions.

12    **[3.632] Section 108**

13         *omit*

14         For this Act:

15         *substitute*

16         In this part:

17    **Explanatory note**

18    This amendment limits the operation of the definitions in section 108 to part 14.

19    **[3.633] Dictionary, new notes**

20         *insert*

21         *Note 1*    The *Legislation Act 2001* contains definitions and other provisions  
22         relevant to this Act.

23         *Note 2*    In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
24         terms:

- 25                 • document  
26                 • exercise

- 1                   • Magistrates Court  
2                   • police officer  
3                   • Supreme Court.

4   **Explanatory note**

5   This amendment adds standard dictionary notes.

6   **[3.634] Further amendments, mentions of *may not be***

7         *omit*

8         *may*

9         *substitute*

10        *must*

11        *in*

- 12        • section 35 (3)  
13        • section 58 (3)  
14        • section 59 (1) (c)  
15        • section 59 (3)  
16        • section 60, note 1  
17        • section 68 (2).

18   **Explanatory note**

19   This amendment makes it clear that, in each of the provisions, the relevant requirement is  
20   mandatory.





1 **[3.638] Section 97 (1), note**

2 *substitute*

3 *Note* The *Legislation Act 2001* contains provisions about the making of  
4 determinations and regulations relating to fees (see pt 6.3).

5 **Explanatory note**

6 This amendment updates the note.

7 **[3.639] Section 98 (3)**

8 *omit*

9 may prescribe

10 *substitute*

11 may also prescribe

12 **Explanatory note**

13 This amendment brings this provision into line with current drafting practice.

14 **[3.640] Section 101 (2)**

15 *substitute*

16 (2) This section expires on 7 September 2002.

17 **Explanatory note**

18 This amendment brings this provision into line with current drafting practice by including  
19 the actual date of expiry of the section.

20 **[3.641] Dictionary, new notes**

21 *insert*

22 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
23 relevant to this Act.

24 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
25 terms:

- 26 • contravene  
27 • corporation  
28 • fail



1 **Explanatory note**

2 This amendment makes it clear that the requirement is mandatory.

3 **[3.645] Section 10 (5)**

4 *substitute*

5 (5) Subsection (4) and this subsection expire on 27 March 2006.

6 **Explanatory note**

7 This amendment brings the subsection into line with current drafting practice by including  
8 the actual expiry date.

9 **[3.646] Section 19, note**

10 *substitute*

11 *Note* A reference to an Act includes a reference to the statutory instruments  
12 made or in force under the Act, including regulations (see *Legislation*  
13 *Act 2001*, s 104).

14 **Explanatory note**

15 This amendment updates a standard note.

16 **[3.647] Section 50 (2) (b)**

17 *omit*

18 may not be

19 *substitute*

20 must not be

21 **Explanatory note**

22 This amendment makes it clear that the requirement is mandatory.

23 **[3.648] Section 66, new note**

24 *insert*

25 *Note* A provision of a law that gives an entity (including a person) a function  
26 also gives the entity powers necessary and convenient to exercise the  
27 function (see *Legislation Act 2001*, s 196 and dict, pt 1, def of *entity*).

1    **Explanatory note**

2    This amendment adds a standard note about the exercise of necessary and convenient  
3    powers in relation to functions.

4    **[3.649] Section 68 (1), notes**

5        *substitute*

6        *Note 1*    For the making of appointments (including acting appointments), see  
7        *Legislation Act 2001*, pt 19.3.

8        *Note 2*    Certain Ministerial appointments require consultation with an Assembly  
9        committee and are disallowable (see *Legislation Act 2001*, div 19.3.3).

10   **Explanatory note**

11   This amendment brings the appointments notes into line with current drafting practice.

12   **[3.650] Section 69**

13        *substitute*

14   **69 Term of appointment of members**

15   (1) A member of the board must be appointed for a term of not longer  
16   than 3 years.

17        *Note*      A person may be reappointed to a position if the person is eligible to be  
18        appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1,  
19        def of *appoint*).

20   (2) The instrument appointing, or evidencing the appointment of, a  
21   member of the board must state whether the person is appointed as  
22   chairperson, deputy chairperson or a non-judicial member.

23   **Explanatory note**

24   This amendment recasts the section in accordance with current drafting practice and adds a  
25   standard note about reappointment. This amendment also removes an unnecessary  
26   provision that requires the instrument of appointment to state the period of appointment.  
27   This requirement will be dealt with by a provision being inserted into the *Legislation Act*  
28   *2001* (new s 206 (2)) by an amendment in schedule 2 of this Act.

1 **[3.651] Section 72 (3)**

2 *substitute*

3 (3) The chairperson may delegate the functions of the board to a  
4 division.

5 *Note* For the making of delegations and the exercise of delegated functions,  
6 see *Legislation Act 2001*, pt 19.4.

7 **Explanatory note**

8 This amendment updates the delegation provision by omitting the words ‘all or any’ (of  
9 the board’s functions) because the *Legislation Act 2001*, section 234 provides that the  
10 delegation instrument may provide that the delegation has effect in stated circumstances or  
11 subject to stated conditions, limitations or directions or that all of the function, or a stated  
12 part of the function, is delegated. This amendment also adds a standard note about  
13 delegations.

14 **[3.652] Section 72 (4)**

15 *omit*

16 **Explanatory note**

17 This amendment omits an unnecessary provision because the *Legislation Act 2001*,  
18 section 239 (2) provides that all Territory laws apply to the delegate in the exercise of the  
19 delegation as if the delegate were the appointer.

20 **[3.653] Section 85 (1), new note**

21 *insert*

22 *Note* For how documents may be served, see *Legislation Act 2001*, pt 19.5.

23 **Explanatory note**

24 This amendment adds a standard note about service of documents.

25 **[3.654] Section 86 (1), new note**

26 *insert*

27 *Note* For the taking of an oath or the making of an affirmation, see the *Oaths*  
28 *and Affirmations Act 1984*.

29 **Explanatory note**

30 This amendment adds a standard note about the taking of an oath or affirmation.

1    **[3.655] Section 98 (1)**

2            *substitute*

3            (1) The Minister may, in writing, approve forms for this Act (other than  
4            forms for use in or in relation to a court).

5    **Explanatory note**

6    This amendment adds ‘, in writing,’ to bring the provision into line with the standard  
7    approved forms provision.

8    **[3.656] Section 98 (2), new note**

9            *insert*

10          *Note*      For other provisions about forms, see *Legislation Act 2001*, s 255

11   **Explanatory note**

12   This amendment adds a standard note about approved forms.

13   **[3.657] Section 100**

14            *substitute*

15   **100 Review of home detention provisions**

16            (1) The Minister must review the operation of the provisions of this Act  
17            relating to home detention as soon as is practicable after  
18            24 September 2003.

19            (2) A report on the outcome of the review must be presented by the  
20            Minister to Legislative Assembly before 24 March 2004.

21            (3) This section expires on 24 September 2004.

22   **Explanatory note**

23   This amendment brings the section into line with current drafting practice by including  
24   actual dates for things to be done and the expiry of the section.

1 **[3.658] Section 113**

2 *substitute*

3 **113 Expiry of ch 6**

4 This chapter expires on 24 September 2002.

5 **Explanatory note**

6 This amendment brings the section into line with current drafting practice by including the  
7 actual date.

8 **[3.659] Dictionary, new notes**

9 *insert*

10 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
11 relevant to this Act.

12 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
13 terms:

- 14 • another Territory
- 15 • fail
- 16 • found guilty
- 17 • function
- 18 • police officer
- 19 • public servant
- 20 • remand centre.

21 **Explanatory note**

22 This amendment adds standard dictionary notes.

23 **[3.660] Dictionary, definition of *remand centre***

24 *omit*

25 **Explanatory note**

26 This amendment omits the definition because the term is to be defined in the *Legislation*  
27 *Act 2001*, dictionary, part 1 (see schedule 1 amendments).





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1 **Part 3.62** **Roads and Public Places Act**  
2 **1937**

3 **[3.663] Section 1**

4 *substitute*

5 **1 Name of Act**

6 This Act is the *Roads and Public Places Act 1937*.

7 **Explanatory note**

8 This amendment brings the naming provision of the Act into line with current drafting  
9 practice.

10 **[3.664] Sections 2, 2A and 2B**

11 *substitute*

12 **2 Dictionary**

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

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

18 For example, the signpost definition '*retention area*—see the  
19 *Uncollected Goods Act 1996*, section 4.' means that the expression  
20 'retention area' is defined in that section and the definition applies to  
21 this Act.

22 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
23 the entire Act unless the definition, or another provision of the Act,  
24 provides otherwise or the contrary intention otherwise appears (see  
25 *Legislation Act 2001*, s 155 and s 156 (1)).

26 **2A Notes**

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

28 *Note* See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of  
29 notes.

1    **2B    Application of Act to Territory**

- 2    (1) The following sections do not bind the Territory:
- 3        • section 6 (Drains for surface water)
- 4        • section 7 (Damage to or interference with public places and
- 5                property on them).
- 6    (2) This section has effect despite the *Legislation Act 2001*, section 121
- 7                (Binding effect of Acts).

8    **2C    Road and public places officers**

9                The chief executive may appoint a public servant as a roads and

10                public places officer for this Act.

11                *Note 1* For the making of appointments (including acting appointments), see

12                        *Legislation Act 2001*, pt 19.3.

13                *Note 2* In particular, a person may be appointed for a particular provision of a

14                        law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made

15                        by naming a person or nominating the occupant of a position (see s 207).

16    **Explanatory note**

17                This amendment adds standard dictionary and notes provisions and brings section 2B into

18                line with current drafting practice.

19                This amendment also removes the requirement in existing section 2B that the chief

20                executive must create and maintain offices for roads and public places officers in the

21                public service. The *Legislation Act 2001*, section 207 provides that an appointment may

22                be made by naming the person appointed or by nominating the occupant of a position

23                (however described), at a particular time or from time to time. Standard notes about

24                appointments are also inserted.

25    **[3.665]    Section 3 (2)**

26                *substitute*

- 27    (2) The level of any public road proposed to be fixed or altered may
- 28                only be fixed or altered after an opportunity is given to people
- 29                interested in the proposal to be heard about the proposal.

30    **Explanatory note**

31                This amendment updates language.

1 **[3.666] Section 3 (6)**

2 *omit*

3 thereupon

4 *substitute*

5 on receiving the report

6 **Explanatory note**

7 This amendment updates language.

8 **[3.667] Section 5 (3)**

9 *omit*

10 forthwith

11 *substitute*

12 immediately

13 **Explanatory note**

14 This amendment updates language.

15 **[3.668] Section 6 (3)**

16 *omit*

17 deems

18 *substitute*

19 considers

20 **Explanatory note**

21 This amendment updates language.

1    **[3.669] Sections 7 (b) and 8**

2            *omit*

3            whereof

4            *substitute*

5            of which

6    **Explanatory note**

7    This amendment updates language.

8    **[3.670] Section 9**

9            *substitute*

10    **9      Permission to place culverts etc across, and to interfere**  
11    **with the surfaces of, public places**

12    (1) The Minister or a roads and public places officer may give  
13    permission to a person to make or place a culvert, bridge, crossing  
14    or drain across a watertable, watercourse or footpath in, or to open  
15    up or break the surface of, any public place.

16            *Note*      A fee may be determined under s 9A (Determination of fees) for this  
17            section.

18    (2) The permission may be given subject to such conditions as the  
19    Minister determines.

20    **Explanatory note**

21    This amendment brings the provision into line with current drafting practice. Reference  
22    to payment of a determined fee has been omitted consequential on the enactment of the  
23    *Legislation Act 2001*. The determination may deal with when a fee is not payable.

1 **[3.671] Section 9A**

2 *substitute*

3 **9A Determination of fees**

4 (1) The Minister may, in writing, determine fees for this Act.

5 *Note* The *Legislation Act 2001* contains provisions about the making of  
6 determinations and regulations relating to fees (see pt 6.3).

7 (2) A determination is a disallowable instrument.

8 *Note* A disallowable instrument must be notified, and presented to the  
9 Legislative Assembly, under the *Legislation Act 2001*.

10 **Explanatory note**

11 This amendment is consequential on the enactment of the *Legislation Act 2001*.

12 **[3.672] Section 10**

13 *omit*

14 thereof

15 *substitute*

16 of the public place

17 **Explanatory note**

18 This amendment updates language.

19 **[3.673] Section 12**

20 *omit*

21 by any means whatsoever

22 *substitute*

23 in any way

24 **Explanatory note**

25 This amendment updates language.

1    **[3.674] Section 12A**

2      *substitute*

3    **12A Code of practice for removable signs**

4      (1) The Minister may, in writing, approve a code of practice about the  
5          placement and keeping of moveable signs in public places.

6      (2) An approval is a disallowable instrument.

7          *Note*      A disallowable instrument must be notified, and presented to the  
8                      Legislative Assembly, under the *Legislation Act 2001*.

9    **Explanatory note**

10    This amendment is consequential on the enactment of the *Legislation Act 2001*.

11   **[3.675] Section 12C, penalty**

12      *substitute*

13      Maximum penalty:

14          (a) for a contravention of the code relating to  
15              insurance—50 penalty units; or

16          (b) in any other case—10 penalty units.

17    **Explanatory note**

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

19   **[3.676] Section 12E**

20      *omit*

21    **Explanatory note**

22    This amendment omits a provision about proof of the code in court proceedings. Formal  
23    proof of documents of a legislative character is generally not required (see the *Legislation*  
24    *Act 2001*, section 26 and the *Evidence Act 1995* (Cwlth), section 143). The *Evidence Act*  
25    *1995* (Cwlth) applies to proceedings under Territory laws.

1 **[3.677] Section 12F (4) (a) and (b)**

2 *omit*

3 shall be deemed

4 *substitute*

5 is taken

6 **Explanatory note**

7 This amendment updates language.

8 **[3.678] Section 12G**

9 *substitute*

10 **12G Prescribed objects—s 12F (5), def of *prescribed object***

11 (1) The Minister may, in writing, prescribe objects.

12 (2) An instrument under subsection (1) is a disallowable instrument.

13 *Note* A disallowable instrument must be notified, and presented to the  
14 Legislative Assembly, under the *Legislation Act 2001*.

15 **Explanatory note**

16 This amendment brings the section into line with current drafting practice.

17 **[3.679] Section 13 (3)**

18 *omit*

19 thereof

20 *substitute*

21 of such a thing

22 **Explanatory note**

23 This amendment updates language.





1 **[3.684] Section 15G (2)**

2 *omit*

3 or the delegate

4 **Explanatory note**

5 This amendment omits redundant text (see *Legislation Act 2001*, section 239 (2)).

6 **[3.685] Section 15K (1)**

7 *substitute*

8 (1) If the holder of a permit applies to the Minister for its renewal  
9 (whether the application is made before or after the end of the  
10 permit's term), the Minister must renew the permit.

11 *Note* A fee may be determined under s 9A (Determination of fees) for this  
12 section.

13 **Explanatory note**

14 This amendment omits a redundant reference to a determined fee and adds a standard  
15 explanatory note about fees.

16 **[3.686] Sections 15M (1) and 15N (2), new note**

17 *insert*

18 *Note* For the giving of documents, see *Legislation Act 2001*, pt 19.5.

19 **Explanatory note**

20 This amendment adds a standard note about service of documents.

21 **[3.687] Section 15P (1)**

22 *omit*

23 shall be deemed

24 *substitute*

25 is taken

26 **Explanatory note**

27 This amendment updates language.

1    **[3.688] Section 15Q**

2            *omit*

3    **Explanatory note**

4    This amendment omits a provision about service of notices consequentially on the  
5    enactment of the *Legislation Act 2001*, part 19.5 and the insertion of notes about service by  
6    another amendment.

7    **[3.689] Section 15R (1)**

8            *omit*

9            shall forthwith furnish

10          *substitute*

11          must immediately give

12    **Explanatory note**

13    This amendment updates language.

14    **[3.690] Section 16**

15          *substitute*

16    **15S Approved forms**

17    (1) The Minister may, in writing, approve forms for this Act.

18    (2) If the Minister approves a form for a particular purpose, the  
19    approved form must be used for that purpose.

20          *Note*      For other provisions about forms, see *Legislation Act 2001*, s 255.

21    (3) An approved form is a notifiable instrument.

22          *Note*      A notifiable instrument must be notified under the *Legislation Act 2001*.

23    **16 Regulation-making power**

24    The Executive may make regulations for this Act.

25          *Note*      Regulations must be notified, and presented to the Legislative  
26          Assembly, under the *Legislation Act 2001*.

1 **Explanatory note**

2 This amendment adds a standard provision about approved forms and brings the  
3 regulation-making power into line with current drafting practice.

4 **[3.691] New dictionary**

5 *insert*

6 **Dictionary**

7 (see s 2)

8 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
9 relevant to this Act.

10 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
11 terms:

- 12 • ACT  
13 • chief executive  
14 • document  
15 • the Territory.

16 *code of practice* means the code of practice approved by the  
17 Minister under section 12A (1).

18 *object* includes any item of movable personal property.

19 *owner*, of land, means the lessee of the land.

20 *permit* means a permit granted under this Act.

21 *public place* means unleased Territory land that the public are  
22 entitled to use or that is open to, or used by, the public, and includes  
23 every public road.

24 *public road* means any street, road, lane, thoroughfare, footpath, or  
25 place that is Territory land open to, or used by, the public.

26 *retention area*—see the *Uncollected Goods Act 1996*, section 4.



1 **Part 3.64** **Road Transport (Dimensions**  
2 **and Mass) Act 1990**

3 **[3.694] Dictionary, new notes**

4 *insert*

5 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
6 relevant to this Act.

7 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
8 terms:

- 9 • exercise
- 10 • function.

11 **Explanatory note**

12 This amendment adds standard dictionary notes.

13 **[3.695] Dictionary, definition of *authorised person***

14 *substitute*

15 ***authorised person***, for a provision of this Act, means—

- 16 (a) a person who is appointed as an authorised person under the  
17 *Road Transport (General) Act 1999*, section 19 for the  
18 provision; or
- 19 (b) a person who is, under regulations made under this Act or the  
20 *Road Transport (General) Act 1999*, an authorised person for  
21 the provision.

22 **Explanatory note**

23 This amendment adds into paragraph (a) a reference to the *Road Transport (General) Act*  
24 *1999*, section 19.

25 **[3.696] Dictionary, definition of *function***

26 *omit*

27 **Explanatory note**

28 This amendment omits an unnecessary definition. ***Function*** is defined in the *Legislation*  
29 *Act 2001*, dictionary, part 1.

1    **[3.697] Dictionary, definitions of *road* and *road related area***

2            *omit*

3            an order

4            *substitute*

5            a declaration

6    **Explanatory note**

7    This amendment brings the language of the definitions into line with the *Road Transport*  
8    (*General*) *Act 1999*, section 12.

9    **Part 3.65                      Road Transport (Dimensions**  
10    **and Mass) Regulations 2000**

11    **[3.698] Regulation 4 (2)**

12            *substitute*

13            (2) This regulation does not apply to a person who is given a unique  
14            number under the *Road Transport (Offences) Regulations 2001*,  
15            regulation 11 (People authorised for infringement notices etc to have  
16            unique number).

17    **Explanatory note**

18    This amendment updates the reference to the regulations about offences.

19    **[3.699] Regulation 5 (2) (b)**

20            *substitute*

21            (b) under the *Road Transport (Offences) Regulations 2001*,  
22            regulation 11 (People authorised for infringement notices etc to  
23            have unique number).

24    **Explanatory note**

25    This amendment updates the reference to the regulations about offences.

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1 **Part 3.66** **Road Transport (Driver**  
2 **Licensing) Act 1999**

3 **[3.700] New section 5 (3)**

4 *insert*

5 (3) Subsection (2), the notes mentioned in subsection (2) and this  
6 subsection expire on the commencement of this subsection.

7 **Explanatory note**

8 This amendment provides for the expiry of the notes in the headings to sections.

9 **[3.701] Division 2.1, heading**

10 *substitute*

11 **Division 2.1** **Functions of road transport**  
12 **authority generally**

13 **Explanatory note**

14 This amendment omits unnecessary words. *Function* is defined in the *Legislation Act*  
15 *2001*, dictionary, part 1, to include authority, duty and power.

16 **[3.702] Sections 15 (2), 18 (1), 19 (3), 20 (1) and 21 (3),**  
17 **new note**

18 *insert*

19 *Note* For how documents may be served, see *Legislation Act 2001*, pt 19.5.

20 **Explanatory note**

21 This amendment adds a standard note about service of documents.

1    **[3.703] Section 27**

2      *substitute*

3    **27 Regulations may apply certain documents etc**

4      (1) The regulations—

5          (a) may apply publications of the National Road Transport  
6              Commission approved, or of matters approved, by the  
7              Australian Transport Council, a law of another jurisdiction, or  
8              any other instrument, as in force from time to time; and

9          (b) may apply to a provision of the regulations, entirely or in part  
10              and with or without changes, the provisions of the Criminal  
11              Code (Cwlth), as in force from time to time.

12      *Note 1*    The text of an applied, adopted or incorporated law or instrument,  
13              whether applied as in force from time to time or as at a particular time,  
14              is taken to be a notifiable instrument if the operation of the *Legislation*  
15              *Act 2001*, s 47 (5) or (6) is not disapplied (see s 47 (7)).

16      *Note 2*    A notifiable instrument must be notified under the *Legislation Act 2001*.

17      (2) For the regulations, the regulations may define a word or expression  
18              (or apply a definition of a word or expression in a law or instrument  
19              mentioned in subsection (1) (a)) defined by this Act—

20          (a) in the same (or in substantially the same) way as it is defined  
21              by this Act; or

22          (b) by reference to a matter included in the word or expression as  
23              defined by this Act; or

24          (c) by reference to a combination of matters included in the word  
25              or expression as defined by this Act and in any other word or  
26              expression defined by this Act; or

27          (d) for applying a publication of the National Road Transport  
28              Commission approved, or of matters approved, by the  
29              Australian Transport Council—in the same way as it is defined  
30              in the publication despite anything in this Act or other road  
31              transport legislation.



1 (3) In this section:

2 *publication of the National Road Transport Commission* includes  
3 a document published on behalf of the National Road Transport  
4 Commission.

5 **Explanatory note**

6 This section is amended consequentially on the *Legislation Act 2001*, section 47 (Statutory  
7 instrument may make provision by applying a law or instrument) and to bring the section  
8 into line with current drafting practice.

9 This amendment also omits subsection (3) which provides for proof of applied instruments  
10 in court proceedings. Formal proof of documents of a legislative character is generally  
11 not required (see the *Legislation Act 2001*, section 26 and the *Evidence Act 1995* (Cwlth),  
12 section 143). The *Evidence Act 1995* (Cwlth) applies to proceedings under Territory  
13 laws.

14 **[3.704] Division 5.1, heading**

15 *omit*

16 **Explanatory note**

17 This amendment omits a redundant division heading consequentially on the expiry of the  
18 other divisions of part 5.

19 **[3.705] Section 37**

20 *omit everything before the definition of existing disqualification,*  
21 *substitute*

22 **37 Definitions for pt 5**

23 In this part:

24 **Explanatory note**

25 This amendment is consequential on the omission by another amendment of the heading to  
26 division 5.1.

1    **[3.706] Section 42**

2      *substitute*

3    **42 Expiry of pt 5**

4      This part expires on 1 March 2006.

5    **Explanatory note**

6    This amendment is consequential on the omission by another amendment of the heading to  
7    division 5.1.

8    **[3.707] Dictionary, new notes**

9      *insert*

10      *Note 1*    The *Legislation Act 2001* contains definitions and other provisions  
11      relevant to this Act.

12      *Note 2*    In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
13      terms:

- 14                    • ACT  
15                    • exercise  
16                    • function  
17                    • instrument.

18    **Explanatory note**

19    This amendment adds standard dictionary notes.

20    **[3.708] Dictionary, definitions of *exercise* and *function***

21      *omit*

22    **Explanatory note**

23    This amendment omits unnecessary definitions. The terms are defined in the *Legislation*  
24    *Act 2001*, dictionary, part 1.

1 **[3.709] Dictionary, definitions of *road* and *road related area***

2 *omit*

3 an order

4 *substitute*

5 a declaration

6 **Explanatory note**

7 This amendment brings the language of the definitions into line with the *Road Transport*  
8 *(General) Act 1999*, section 12.

9 **Part 3.67 Road Transport (Driver**  
10 **Licensing) Regulations 2000**

11 **[3.710] New regulation 4 (3)**

12 *insert*

13 (3) Subregulation (2), the notes mentioned in subregulation (2) and this  
14 subregulation expire on the commencement of this subregulation.

15 **Explanatory note**

16 This amendment provides for the expiry of the notes in the headings to regulations.

17 **[3.711] Regulation 45 (2), note 2**

18 *renumber as note 3*

19 **Explanatory note**

20 This amendment is consequential on the insertion of a new note 2 by another amendment.

21 **[3.712] Regulation 45 (2), new note 2**

22 *insert*

23 *Note 2* A person who is disqualified from holding or obtaining an Australian  
24 driver licence in another jurisdiction is not eligible to apply for a  
25 restricted licence (see *Road Transport (General) Act 1999*, s 66 (7)).

1    **Explanatory note**

2    This amendment adds a new note to help the reader.

3    **[3.713] Regulation 56 (2), note 1**

4        *omit*

5        *Note 1*

6        *substitute*

7        *Note*

8    **Explanatory note**

9    This amendment is consequential on the omission of note 2 by another amendment.

10   **[3.714] Regulation 56 (2), note 2**

11        *omit*

12   **Explanatory note**

13   This amendment omits a note for consistency with other parts of the road transport  
14   legislation.

15   **[3.715] Regulation 88 (2), note and regulation 103 (1), note**

16        *omit*

17   **Explanatory note**

18   This amendment omits notes for consistency with other parts of the road transport  
19   legislation.

20   **[3.716] Dictionary, definition of *authorised person***

21        *substitute*

22        *authorised person*, for a provision of these regulations, means a  
23        person who is appointed as an authorised person under the *Road*  
24        *Transport (General) Act 1999*, section 19 for the provision.

25   **Explanatory note**

26   This amendment adds into the definition a reference to the *Road Transport (General) Act*  
27   *1999*, section 19.

---

1 **Part 3.68** **Road Transport (General) Act**  
2 **1999**

3 **[3.717] New section 5 (3)**

4 *insert*

- 5 (3) Subsection (2), the notes mentioned in subsection (2) and this  
6 subsection expire on the commencement of this section.

7 **Explanatory note**

8 This amendment provides for the expiry of the notes in the headings to sections.

9 **[3.718] Section 16 (3)**

10 *omit*

11 performing

12 *substitute*

13 exercising

14 **Explanatory note**

15 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
16 perform the function. It is the drafting term that is now used in relation to functions.

17 **[3.719] Sections 17 and 18**

18 *substitute*

19 **17 Delegation of road transport authority's functions**

- 20 (1) The road transport authority may delegate the authority's functions  
21 under the road transport legislation to—

22 (a) the chief police officer; or

23 (b) a public employee; or

24 (c) a person prescribed under the regulations.

25 *Note* For the making of delegations and the exercise of delegated functions,  
26 see *Legislation Act 2001*, pt 19.4.

- 1      (2) The chief police officer may delegate functions delegated to the  
2      chief police officer under subsection (1) to—
- 3      (a) a police officer; or
- 4      (b) a public employee; or
- 5      (c) a person prescribed under the regulations.
- 6      (3) A person mentioned in subsection (1) (c) may delegate a function  
7      delegated to the person under subsection (1) to—
- 8      (a) a public employee; or
- 9      (b) a person prescribed under the regulations.
- 10     (4) However, a delegation under subsection (1) may provide that a  
11     stated function must not be delegated.

12     **18      Delegation of chief police officer's functions**

13     The chief police officer may delegate the chief police officer's  
14     functions under the road transport legislation to—

- 15     (a) a police officer; or
- 16     (b) a public employee; or
- 17     (c) a person prescribed under the regulations.

18     *Note 1*    For the making of delegations and the exercise of delegated functions,  
19     see *Legislation Act 2001*, pt 19.4.

20     *Note 2*    For the chief police officer's power to delegate functions delegated by  
21     the road transport authority, see s 17 (2).

22     **Explanatory note**

23     This amendment updates the delegation provisions, as follows:

- 24     • the words 'in writing' have been omitted because the *Legislation Act 2001*,  
25     section 232 provides that a delegation must be made, or evidenced, in writing;
- 26     • the words 'all or any' (of the functions being delegated) have been omitted because  
27     the *Legislation Act 2001*, section 234 provides that the delegation instrument may  
28     provide that the delegation has effect in stated circumstances or subject to stated

1 conditions, limitations or directions or that all of the function, or a stated part of the  
2 function, is delegated.

3 This amendment also adds standard notes about delegations.

4 **[3.720] Section 19 (1)**

5 *substitute*

6 (1) The road transport authority may appoint a person to be an  
7 authorised person for the road transport legislation.

8 *Note 1* For the making of appointments (including acting appointments), see  
9 *Legislation Act 2001*, pt 19.3.

10 *Note 2* In particular, a person may be appointed for a particular provision of a  
11 law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
12 by naming a person or nominating the occupant of a position (see s 207).

13 **Explanatory note**

14 This amendment updates the provision, as follows:

- 15 • the reference to the appointment being made ‘in writing’ is omitted because the  
16 *Legislation Act 2001*, section 206 provides that an appointment must be made, or  
17 evidenced, in writing;
- 18 • the reference to ‘or a provision of the road transport legislation’ is omitted because the  
19 *Legislation Act 2001*, section 205 (1) provides that an appointment may be for a  
20 function under an Act.

21 This amendment also adds standard appointments notes.

22 **[3.721] New section 19 (4)**

23 *insert*

24 (4) However, this section does not authorise the road transport authority  
25 to appoint a person to be an authorised person for part 3  
26 (Infringement notices for certain offences).

27 **Explanatory note**

28 This amendment makes the operation of the section consistent with the definition of  
29 *authorised person* in the dictionary.

1    **[3.722] Section 23 (1) (c)**

2            *substitute*

3            (c) providing that all offences, or all offences except for stated  
4            offences, against an Act or subordinate law are infringement  
5            notice offences.

6    **Explanatory note**

7    This amendment brings this provision into line with the corresponding infringement notice  
8    provision that was inserted into the *Magistrates Court Act 1930* by the *Fair Trading*  
9    *Legislation Amendment Act 2001*.

10   **[3.723] Section 24 (1), new note**

11            *insert*

12            *Note*      For how documents may be served, see *Legislation Act 2001*, pt 19.5.

13   **Explanatory note**

14   This amendment adds a standard note about service of documents.

15   **[3.724] Section 26 (1) (a)**

16            *omit*

17            on which

18            *substitute*

19            when

20   **Explanatory note**

21   This amendment simplifies language in accordance with current drafting practice.

22   **[3.725] Sections 27 (a) and (c) and 28 (1)**

23            *after*

24            service

25            *insert*

26            of the notice



1 **Explanatory note**

2 This amendment brings these provisions into line with the corresponding infringement  
3 notice provision that was inserted into the *Magistrates Court Act 1930* by the *Fair Trading*  
4 *Legislation Amendment Act 2001*.

5 **[3.726] Section 31 (2) (b)**

6 *substitute*

7 (b) the infringement notice penalty (or part of it) has been paid for  
8 the offence; or

9 (c) the person has disputed liability for the infringement notice  
10 offence.

11 **Explanatory note**

12 This amendment brings this provision into line with the corresponding infringement notice  
13 provision that was inserted into the *Magistrates Court Act 1930* by the *Fair Trading*  
14 *Legislation Amendment Act 2001*.

15 **[3.727] Section 32 (3)**

16 *substitute*

17 (3) Guidelines are a disallowable instrument.

18 *Note* A disallowable instrument must be notified, and presented to the  
19 Legislative Assembly, under the *Legislation Act 2001*.

20 **Explanatory note**

21 This amendment brings this provision into line with the corresponding infringement notice  
22 provision that was inserted into the *Magistrates Court Act 1930* by the *Fair Trading*  
23 *Legislation Amendment Act 2001*.

24 **[3.728] Section 36 (3) and (4)**

25 *substitute*

26 *Note 1* For how documents may be served, see *Legislation Act 2001*, pt 19 .5

27 *Note 2* Subsections (3) and (4) provide additional ways for serving  
28 infringement notices (see *Legislation Act 2001*, s 251 (1)).

29 (3) If the infringement notice is to be served on a person under this  
30 section by post and the vehicle is registered under a law of another

1            jurisdiction corresponding to the *Road Transport (Vehicle*  
2            *Registration) Act 1999*, the notice may be served by sending it by  
3            prepaid post, addressed to the person, to the latest address of the  
4            person in the registration records kept under that law.

5            (4) An infringement notice for an offence involving a vehicle may be  
6            served by securely placing or attaching the notice, addressed to the  
7            responsible person (without further description), on or to the vehicle  
8            in a conspicuous position.

9            **Explanatory note**

10          This amendment omits the part of subsection (3) that provides for postal service of  
11          infringement notices in relation to vehicles registered in the ACT. It is made redundant  
12          by the *Legislation Act 2001*, part 19.5 (Service of documents). This amendment also  
13          omits from subsection (4) a reference to section 266 (about the service of documents)  
14          which is omitted by another amendment. This amendment also adds notes about service  
15          of documents.

16          **[3.729] Section 51 (1), new note**

17            *insert*

18            *Note*      For how documents may be given, see *Legislation Act 2001*, pt 19.5.

19          **Explanatory note**

20          This amendment adds a standard note about service of documents.

21          **[3.730] Section 51 (3)**

22            *after*

23            service

24            *insert*

25            of the infringement notice or reminder notice

26          **Explanatory note**

27          This amendment brings this provision into line with the corresponding infringement notice  
28          provision that was inserted into the *Magistrates Court Act 1930* by the *Fair Trading*  
29          *Legislation Amendment Act 2001*.

1 **[3.731] Section 54**

2 *substitute*

3 **53A Authorised persons for infringement notice offences**

- 4 (1) The administering authority for an infringement notice offence may  
5 appoint a person to be an authorised person to serve infringement  
6 notices or reminder notices for infringement notice offences or  
7 particular infringement notice offences.

8 *Note 1* For the making of appointments (including acting appointments), see  
9 *Legislation Act 2001*, pt 19.3.

10 *Note 2* In particular, a person may be appointed for a particular provision of a  
11 law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
12 by naming a person or nominating the occupant of a position (see s 207).

- 13 (2) The regulations may prescribe a person to be an authorised person  
14 for the service of infringement notices or reminder notices for  
15 infringement notice offences or particular infringement notice  
16 offences.

- 17 (3) In this part:

18 ***authorised person*** means—

- 19 (a) for an infringement notice for an infringement notice offence—

- 20 (i) the administering authority; or  
21 (ii) a person who is appointed under subsection (1) by the  
22 administering authority to serve an infringement notice  
23 for the offence; or  
24 (iii) anyone else who, under the regulations, may serve an  
25 infringement notice for the offence; or

- 26 (b) for a reminder notice for an infringement notice offence—

- 27 (i) the administering authority; or

1                   (ii) a person who is appointed under subsection (1) by the  
2                   administering authority to serve a reminder notice for the  
3                   offence; or

4                   (iii) anyone else who, under the regulations, may serve a  
5                   reminder notice for the offence.

6      **54      Delegation of administering authority's functions**

7      (1) The administering authority for an infringement notice offence may  
8      delegate the authority's functions under this part to—

9                   (a) the road transport authority; or

10                  (b) a person prescribed under the regulations; or

11                  (c) a person who is an authorised person under section 19.

12      *Note*      For the making of delegations and the exercise of delegated functions,  
13                   see *Legislation Act 2001*, pt 19.4.

14      (2) A person mentioned in subsection (1) (a) or (b) may delegate  
15      functions delegated to the person under subsection (1) to anyone  
16      else.

17      **Explanatory note**

18      New section 53A provides a specific power for an administering authority to appoint  
19      authorised persons (similar to section 19 for the road transport authority). The existing  
20      power to authorise people, which is given by the dictionary definition of *authorised*  
21      *person*, is omitted by another amendment.

22      Section 54 is amended to bring it into line with current drafting practice by omitting the  
23      words 'in writing' because the *Legislation Act 2001*, section 232 provides that a delegation  
24      must be made, or evidenced, in writing. This amendment also adds standard  
25      appointments and delegation notes.

1 **[3.732] Section 56 (3) (h)**

2 *substitute*

3 (h) a stated address or number was, on a stated date, the latest  
4 business, home or email address, or fax number, of a stated  
5 person recorded in a register or other record kept under a law  
6 of another jurisdiction corresponding to the *Road Transport*  
7 (*Vehicle Registration*) Act 1999;

8 **Explanatory note**

9 This amendment brings this provision into line with the corresponding infringement notice  
10 provision that was inserted into the *Magistrates Court Act 1930* by the *Fair Trading*  
11 *Legislation Amendment Act 2001*.

12 **[3.733] Section 61 (2), penalty**

13 *substitute*

14 Maximum penalty (subsection (2)): 20 penalty units.

15 **Explanatory note**

16 This amendment clarifies the application of the penalty.

17 **[3.734] Section 67 (5), note, 2nd dot point**

18 *substitute*

- 19 • s 66 (7) (which provides that a person who is disqualified from  
20 holding or obtaining an Australian driver licence in another  
21 jurisdiction is not eligible to apply for a restricted licence)

22 **Explanatory note**

23 This amendment revises the note so that it explains more clearly the operation of  
24 section 66 (7).

25 **[3.735] Section 215 (1), new notes**

26 *insert*

27 *Note 1* For the making of appointments (including acting appointments), see  
28 *Legislation Act 2001*, pt 19.3.



1 (b) may apply to a provision of the regulations, entirely or in part  
2 and with or without changes, the provisions of the Criminal  
3 Code (Cwlth), as in force from time to time.

4 *Note 1* The text of an applied, adopted or incorporated law or instrument,  
5 whether applied as in force from time to time or as at a particular time,  
6 is taken to be a notifiable instrument if the operation of the *Legislation*  
7 *Act 2001*, s 47 (5) or (6) is not disappplied (see s 47 (7)).

8 *Note 2* A notifiable instrument must be notified under the *Legislation Act 2001*.

9 (2) For the regulations, the regulations may define a word or expression  
10 (or apply a definition of a word or expression in a law or instrument  
11 mentioned in subsection (1) (a)) defined by this Act—

12 (a) in the same (or in substantially the same) way as it is defined  
13 by this Act; or

14 (b) by reference to a matter included in the word or expression as  
15 defined by this Act; or

16 (c) by reference to a combination of matters included in the word  
17 or expression as defined by this Act and in any other word or  
18 expression defined by this Act (but not in a way that exceeds  
19 the power to make regulations about those matters); or

20 (d) for applying a publication of the National Road Transport  
21 Commission approved, or of matters approved, by the  
22 Australian Transport Council—in the same way as it is defined  
23 in the publication despite anything in this Act or other road  
24 transport legislation.

25 (3) In this section:

26 ***publication of the National Road Transport Commission*** includes  
27 a document published on behalf of the National Road Transport  
28 Commission.

29 **Explanatory note**

30 This section is amended consequentially on *Legislation Act 2001*, section 47 (Statutory  
31 instrument may make provision by applying a law or instrument) and to bring the section  
32 into line with current drafting practice.

1 This amendment also omits subsection (3) which provides for proof of applied instruments  
2 in court proceedings. Formal proof of documents of a legislative character is generally  
3 not required (see the *Legislation Act 2001*, section 26 and the *Evidence Act 1995* (Cwlth),  
4 section 143). The *Evidence Act 1995* (Cwlth) applies to proceedings under Territory  
5 laws.

6 **[3.739] Section 233 (4)**

7 *substitute*

8 (4) In this section:

9 *another road transport Act* means an Act (other than this Act)  
10 mentioned in section 6 (What is the road transport legislation?).

11 *Note* A reference to an Act includes a reference to the statutory instruments  
12 made or in force under the Act, including regulations (see *Legislation*  
13 *Act 2001*, s 104).

14 **Explanatory note**

15 This amendment simplifies the definition by linking it to section 6.

16 **[3.740] Dictionary, new notes**

17 *insert*

18 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
19 relevant to this Act.

20 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
21 terms:

- 22 • chief police officer
- 23 • entity
- 24 • exercise
- 25 • function
- 26 • instrument
- 27 • public employee
- 28 • statutory declaration
- 29 • the Territory.

30 **Explanatory note**

31 This amendment adds standard dictionary notes.



1 **[3.741] Dictionary, definition of *administering authority***

2 *substitute*

3 *administering authority*, for an infringement notice offence, means  
4 the entity that, under the regulations, is the administering authority  
5 for the offence.

6 **Explanatory note**

7 This amendment brings this provision into line with the corresponding definition that was  
8 inserted into the *Magistrates Court Act 1930* by the *Fair Trading Legislation Amendment*  
9 *Act 2001*.

10 **[3.742] Dictionary, definition of *authorised person***

11 *substitute*

12 *authorised person* means—

13 (a) for part 3 (Infringement notices for certain offences)—see  
14 section 53A (3); and

15 (b) in any other case—

16 (i) a person who is appointed as an authorised person under  
17 section 19 for the provision; or

18 (ii) a person who, under the regulations, is an authorised  
19 person for the provision.

20 **Explanatory note**

21 This amendment revises the definition consequentially on the relocation of the power to  
22 appoint an authorised person for part 3 to section 53A. Section 53A is inserted by another  
23 amendment. This amendment also adds a reference to the section (section 19) under  
24 which an authorised person is appointed for another provision.

25 **[3.743] Dictionary, definitions of *exercise* and *function***

26 *omit*

27 **Explanatory note**

28 This amendment omits unnecessary definitions. The terms are defined in the *Legislation*  
29 *Act 2001*, dictionary, part 1.



1 authorised person

2 **Explanatory note**

3 This amendment brings the language of the regulations into line with the *Road Transport*  
4 *(General) Act 1999*.

5 **Part 3.70 Road Transport (Public**  
6 **Passenger Services) Act 2001**

7 **[3.748] Section 16 (2) (a)**

8 *omit*

9 network

10 *substitute*

11 services

12 **Explanatory note**

13 This amendment brings the language of the paragraph into line with the language of  
14 similar provisions of the Act.

15 **[3.749] Section 21**

16 *substitute*

17 **21 Pretending to be an accredited bus service operator**

18 A person must not pretend to be accredited under the regulations to  
19 operate a bus service.

20 Maximum penalty: 30 penalty units.

21 **Explanatory note**

22 This amendment brings this section into line with similar sections about other kinds of  
23 accreditations under the Act.

1    **[3.750] Section 62**

2      *substitute*

3    **62 Regulations may apply certain laws and instruments**

4      The regulations may apply a law of another jurisdiction or any other  
5      instrument, as in force from time to time.

6      *Note 1*    The text of an applied, adopted or incorporated law or instrument,  
7                whether applied as in force from time to time or as at a particular time,  
8                is taken to be a notifiable instrument if the operation of the *Legislation*  
9                *Act 2001*, s 47 (5) or (6) is not disappplied (see s 47 (7)).

10     *Note 2*    A notifiable instrument must be notified under the *Legislation Act 2001*.

11    **Explanatory note**

12      This section is amended consequentially on the *Legislation Act 2001*, section 47 (Statutory  
13      instrument may make provision by applying a law or instrument).

14    **[3.751] Section 69**

15     *substitute*

16    **69 Expiry of div 7.1**

17      This division expires on 1 June 2003.

18    **Explanatory note**

19      The section is amended to state the actual date when the division will expire.

20    **[3.752] Section 72**

21     *substitute*

22    **72 Expiry of div 7.2**

23      This division expires on 1 December 2002.

24    **Explanatory note**

25      The section is amended to state the actual date when the division will expire.

1 **[3.753] Section 80**

2 *substitute*

3 **80 Expiry of div 7.4**

4 This division expires on 1 December 2002.

5 **Explanatory note**

6 The section is amended to state the actual date when the division will expire.

7 **[3.754] Section 82**

8 *substitute*

9 **82 Expiry of div 7.5**

10 This division expires on 1 December 2002.

11 **Explanatory note**

12 The section is amended to state the actual date when the division will expire.

13 **[3.755] Section 84**

14 *substitute*

15 **84 Expiry of div 7.6**

16 This division expires on 1 June 2003.

17 **Explanatory note**

18 The section is amended to state the actual date when the division will expire.

19 **[3.756] Section 92**

20 *substitute*

21 **92 Expiry of div 7.7**

22 This division expires on 2 March 2003.

23 **Explanatory note**

24 The section is amended to state the actual date when the division will expire.



1           *substitute*

2           section 12

3   **Explanatory note**

4   This amendment corrects a reference to the *Road Transport (General) Act 1999*.

5   **Part 3.71                   Road Transport (Public**  
6                                   **Passenger Services) Act 2001**  
7                                   **No 62**

8   **[3.761] Schedule 1, amendments 1.29 and 1.31**

9           *omit*

10          (commencement: 10 September 2001)

11   **Explanatory note**

12   This amendment omits renumbering provisions that were of no effect because of the  
13   renumbering of the relevant provisions by another Act. This amendment is backdated to  
14   the notification of the Act.

15   **Part 3.72                   Road Transport (Safety and**  
16                                   **Traffic Management) Act 1999**

17   **[3.762] New section 5 (3)**

18           *insert*

19          (3) Subsection (2), the notes mentioned in subsection (2) and this  
20          subsection expire on the commencement of this subsection.

21   **Explanatory note**

22   This amendment provides for the expiry of the notes in the headings to sections.

23   **[3.763] Sections 10 (4), 10D (1), 22 (2) and 28 (2), new note**

24           *insert*

25          *Note*   For how documents may be served, see *Legislation Act 2001*, pt 19.5.

---

1    **Explanatory note**

2    This amendment adds a standard note about service of documents.

3    **[3.764] Section 34**

4        *substitute*

5    **34 Regulations may apply certain documents etc**

6        (1) The regulations—

7            (a) may apply publications of the National Road Transport  
8                      Commission approved, or of matters approved, by the  
9                      Australian Transport Council, a law of another jurisdiction, or  
10                     any other instrument, as in force from time to time; and

11            (b) may apply to a provision of the regulations, entirely or in part  
12                     and with or without changes, the provisions of the Criminal  
13                     Code (Cwlth), as in force from time to time.

14            *Note 1*    The text of an applied, adopted or incorporated law or instrument,  
15                     whether applied as in force from time to time or as at a particular time,  
16                     is taken to be a notifiable instrument if the operation of the *Legislation*  
17                     *Act 2001*, s 47 (5) or (6) is not disapplied (see s 47 (7)).

18            *Note 2*    A notifiable instrument must be notified under the *Legislation Act 2001*.

19        (2) For the regulations, the regulations may define a word or expression  
20                     (or apply a definition of a word or expression in a law or instrument  
21                     mentioned in subsection (1) (a)) defined by this Act—

22            (a) in the same (or in substantially the same) way as it is defined  
23                     by this Act; or

24            (b) by reference to a matter included in the word or expression as  
25                     defined by this Act; or

26            (c) by reference to a combination of matters included in the word  
27                     or expression as defined by this Act and in any other word or  
28                     expression defined by this Act; or

29            (d) for applying a publication of the National Road Transport  
30                     Commission approved, or of matters approved, by the



1 Australian Transport Council—in the same way as it is defined  
2 in the publication despite anything in this Act or other road  
3 transport legislation.

4 (3) In this section:

5 *publication of the National Road Transport Commission* includes  
6 a document published on behalf of the National Road Transport  
7 Commission.

8 **Explanatory note**

9 This section is amended consequentially on the *Legislation Act 2001*, section 47 (Statutory  
10 instrument may make provision by applying a law or instrument) and to bring the section  
11 into line with current drafting practice.

12 This amendment also omits subsection (3) which provides for proof of applied instruments  
13 in court proceedings. Formal proof of documents of a legislative character is generally  
14 not required (see the *Legislation Act 2001*, section 26 and the *Evidence Act 1995* (Cwlth),  
15 section 143). The *Evidence Act 1995* (Cwlth) applies to proceedings under Territory  
16 laws.

17 **[3.765] Dictionary, new notes**

18 *insert*

19 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
20 relevant to this Act.

21 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
22 terms:

- 23 • ACT
- 24 • exercise
- 25 • function
- 26 • instrument.

27 **Explanatory note**

28 This amendment adds standard dictionary notes.

29 **[3.766] Dictionary, definition of *authorised person***

30 *substitute*

31 *authorised person*, for a provision of this Act, means—



- 1 (3) Subregulation (2), the notes mentioned in subregulation (2) and this  
2 subregulation expire on the commencement of this subregulation.

3 **Explanatory note**

4 This amendment provides for the expiry of the notes in the headings to regulations.

5 **[3.770] Regulation 56 (2), new note**

6 *insert*

7 *Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

8 **Explanatory note**

9 This amendment adds a standard note about service of documents.

10 **[3.771] Regulation 87 (1)**

11 *omit*

12 longer that

13 *substitute*

14 longer than

15 **Explanatory note**

16 This amendment corrects a minor typographical error.

17 **[3.772] Regulation 97 (1), new note**

18 *insert*

19 *Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

20 **Explanatory note**

21 This amendment adds a standard note about service of documents.

22 **[3.773] Dictionary, definition of *road***

23 *substitute*

24 *road*—see the Act, dictionary, and includes a road related area.

25 **Explanatory note**

26 This amendment adds a signpost definition to a term that is defined in the Act.



1 (a) may apply publications of the National Road Transport  
2 Commission approved, or of matters approved, by the  
3 Australian Transport Council, a law of another jurisdiction, or  
4 any other instrument, as in force from time to time; and

5 (b) may apply to a provision of the regulations, entirely or in part  
6 and with or without changes, the provisions of the Criminal  
7 Code (Cwlth), as in force from time to time.

8 *Note 1* The text of an applied, adopted or incorporated law or instrument,  
9 whether applied as in force from time to time or as at a particular time,  
10 is taken to be a notifiable instrument if the operation of the *Legislation*  
11 *Act 2001*, s 47 (5) or (6) is not disappplied (see s 47 (7)).

12 *Note 2* A notifiable instrument must be notified under the *Legislation Act 2001*.

13 (2) For the regulations, the regulations may define a word or expression  
14 (or apply a definition of a word or expression in a law or instrument  
15 mentioned in subsection (1) (a)) defined by this Act—

16 (a) in the same (or in substantially the same) way as it is defined  
17 by this Act; or

18 (b) by reference to a matter included in the word or expression as  
19 defined by this Act; or

20 (c) by reference to a combination of matters included in the word  
21 or expression as defined by this Act and in any other word or  
22 expression defined by this Act; or

23 (d) for applying a publication of the National Road Transport  
24 Commission approved, or of matters approved, by the  
25 Australian Transport Council—in the same way as it is defined  
26 in the publication despite anything in this Act or other road  
27 transport legislation.

28 (3) In this section:

29 ***publication of the National Road Transport Commission*** includes  
30 a document published on behalf of the National Road Transport  
31 Commission.

1      **Explanatory note**

2      This section is amended consequentially on the *Legislation Act 2001*, section 47 (Statutory  
3      instrument may make provision by applying a law or instrument) and to bring this section  
4      into line with current drafting practice.

5      This amendment also omits subsection (3) which provides for proof of applied instruments  
6      in court proceedings. Formal proof of documents of a legislative character is generally  
7      not required (see the *Legislation Act 2001*, section 26 and the *Evidence Act 1995* (Cwlth),  
8      section 143). The *Evidence Act 1995* (Cwlth) applies to proceedings under Territory  
9      laws.

10     **[3.778] Dictionary, new notes**

11             *insert*

12             *Note 1*      The *Legislation Act 2001* contains definitions and other provisions  
13                      relevant to this Act.

14             *Note 2*      In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
15                      terms:

- 16                      • ACT
- 17                      • exercise
- 18                      • function
- 19                      • instrument.

20     **Explanatory note**

21     This amendment adds standard dictionary notes.

22     **[3.779] Dictionary, definition of *authorised person***

23             *substitute*

24             ***authorised person***, for a provision of this Act, means—

- 25             (a) a person who is appointed as an authorised person under the  
26                      *Road Transport (General) Act 1999*, section 19 for the  
27                      provision; or
- 28             (b) a person who is, under the regulations made under this Act or  
29                      the *Road Transport (General) Act 1999*, an authorised person  
30                      for the provision.

1 **Explanatory note**

2 This amendment adds into paragraph (a) a reference to the *Road Transport (General) Act*  
3 *1999*, section 19.

4 **[3.780] Dictionary, definitions of *exercise and function***

5 *omit*

6 **Explanatory note**

7 This amendment omits unnecessary definitions. The terms are defined in the *Legislation*  
8 *Act 2001*, dictionary, part 1.

9 **[3.781] Dictionary, definitions of *road and road related area***

10 *omit*

11 an order

12 *substitute*

13 a declaration

14 **Explanatory note**

15 This amendment brings the language of the definitions into line with section 12 of the  
16 *Road Transport (General) Act 1999*.

17 **Part 3.75 Road Transport (Vehicle**  
18 **Registration) Regulations 2000**

19 **[3.782] New regulation 5 (3)**

20 *insert*

21 (3) Subregulation (2), the notes mentioned in subregulation (2) and this  
22 subregulation expire on the commencement of this subregulation.

23 **Explanatory note**

24 This amendment provides for the expiry of the notes in the headings to regulations.

25 **[3.783] Dictionary, new notes**

26 *insert*

---





1 of *Motor Vehicles Act 1977* made by the *Justice and Community Safety Legislation*  
2 *Amendment Act 2001* commenced on 14 March 2002. This amendment and the insertion  
3 of new definitions into the dictionary by another amendment in this part put the matter  
4 beyond doubt.

5 The definition of *hire-purchase agreement* is relocated from section 32A to the dictionary  
6 by another amendment.

7 An updated definition of *owner* is inserted into the dictionary by another amendment.

8 **[3.786] Dictionary, new definitions**

9 *insert*

10 *creditor*, for part 4A (Registration of interests in motor  
11 vehicles)—see section 32A.

12 *debtor*, for part 4A (Registration of interests in motor vehicles)—see  
13 section 32A.

14 *director-general*, for part 4A (Registration of interests in motor  
15 vehicles)—see section 32A.

16 *hirer*, for part 4A (Registration of interests in motor vehicles)—see  
17 section 32A.

18 *lease*, for part 4A (Registration of interests in motor vehicles)—see  
19 section 32A.

20 *non-dealer*, for part 4A (Registration of interests in motor  
21 vehicles)—see section 32A.

22 *notice*, for part 4A (Registration of interests in motor vehicles)—see  
23 section 32A.

24 *owner*, in relation to a motor vehicle—

25 (a) for part 4A (Registration of interests in motor vehicles)—see  
26 section 32A; and

27 (b) in any other case—

28 (i) includes a person—

- 1                    (A) who is the sole owner, joint owner or part owner of  
2                    the motor vehicle; or
- 3                    (B) who has possession of the motor vehicle under a  
4                    hire-purchase agreement, or bill of sale or similar  
5                    instrument; or
- 6                    (C) who has possession of the motor vehicle under a  
7                    contract of hire; and
- 8                    (ii) does not include a person—
- 9                    (A) mentioned in paragraph (b) (i) (A) who does not  
10                    have possession of the motor vehicle; or
- 11                    (B) who is entitled under a contract of hire,  
12                    hire-purchase agreement, or bill of sale or similar  
13                    instrument, to possession of the motor vehicle but  
14                    who does not have possession of it.
- 15                    *participating State*, for part 4A (Registration of interests in motor  
16                    vehicles)—see section 32A.
- 17                    *payment*, of a purchase price, for part 4A (Registration of interests  
18                    in motor vehicles)—see section 32A.
- 19                    *purchase*, for part 4A (Registration of interests in motor  
20                    vehicles)—see section 32A.
- 21                    *registered*, for part 4A (Registration of interests in motor  
22                    vehicles)—see section 32A.
- 23                    *register of interests*, for part 4A (Registration of interests in motor  
24                    vehicles)—see section 32A.
- 25                    *registrable interest*, for part 4A (Registration of interests in motor  
26                    vehicles)—see section 32A.
- 27                    *security interest*, for part 4A (Registration of interests in motor  
28                    vehicles)—see section 32A.
- 29                    *the NSW Act*, for part 4A (Registration of interests in motor  
30                    vehicles)—see section 32A.

1 **Explanatory note**

2 This amendment adds signpost definitions into the dictionary in accordance with current  
3 drafting practice and also adds an updated definition of *owner*.

4 **Part 3.77** **Smoke-free Areas (Enclosed**  
5 **Public Places) Regulations**  
6 **1994**

7 **[3.787] Regulation 5, penalty**

8 *substitute*

9 Maximum penalty: 5 penalty units.

10 **Explanatory note**

11 This amendment converts a penalty stated as an amount to penalty units.

12 **Part 3.78** **Stadiums Authority Act 2000**

13 **[3.788] Section 3**

14 *substitute*

15 **2 Dictionary**

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

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

21 For example, the signpost definition '*relevant person*, for division 5.1  
22 (Conduct of persons associated with the authority—see section 31.'  
23 means that the term 'relevant person' is defined in that section and the  
24 definition applies to that division.

25 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
26 the entire Act unless the definition, or another provision of the Act,  
27 provides otherwise or the contrary intention otherwise appears (see  
28 *Legislation Act 2001*, s 155 and s 156 (1)).

1      **3      Notes**

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

3              *Note*      See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of  
4                              notes.

5      **Explanatory note**

6      This amendment adds standard dictionary and notes provisions. A new dictionary is  
7      inserted by another amendment.

8      **[3.789] Section 5 (i) and (j)**

9              *substitute*

10             (i) to exercise any other function given to it under this Act or  
11                              another Territory law; and

12             (j) to carry out activities incidental to its other functions.

13             *Note*      A provision of a law that gives an entity (including a person) a function  
14                              also gives the entity powers necessary and convenient to exercise the  
15                              function (see *Legislation Act 2001*, s 196 and dict, pt 1, def of *entity*).

16      **Explanatory note**

17      This amendment brings the paragraphs into line with current drafting practice and adds a  
18      standard note about necessary and convenient powers related to a function. This  
19      amendment is consequential on the omission of section 6 by another amendment.

20      **[3.790] Section 6**

21              *omit*

22      **Explanatory note**

23      This section is no longer necessary because of the *Legislation Act 2001*, section 196 (1).  
24      That section provides that a provision of a law that gives a function to an entity also gives  
25      the entity the powers necessary and convenient to exercise the function.

26      **[3.791] Section 9 (2) (b)**

27              *omit*

28              performs

29              *substitute*

1 exercises

2 **Explanatory note**

3 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
4 perform the function. It is the drafting term that is now used in relation to functions.

5 **[3.792] Section 10**

6 *substitute*

7 **10 Constitution of board**

8 (1) The board consists of the directors.

9 (2) The directors of the authority are—

10 (a) the appointed directors; and

11 (b) the chief executive.

12 (3) However, the board consists of only the appointed directors when it  
13 is considering or deciding—

14 (a) the appointment, or the ending of the appointment, of the chief  
15 executive; or

16 (b) the chief executive's conditions of appointment.

17 **Explanatory note**

18 This amendment brings the section into line with current drafting practice and omits  
19 section 10 (4) which is no longer necessary because of the *Legislation Act 2001*,  
20 section 199 (4). That section provides that the exercise of a function of a body is not  
21 affected only because of vacancies in the body's membership.

22 **[3.793] Section 11 (1)**

23 *omit*

24 , by instrument,

25 **Explanatory note**

26 This amendment omits unnecessary words. The *Legislation Act 2001*, section 206  
27 provides that an appointment must be made, or evidenced, by writing.



1 **Explanatory note**

2 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
3 perform the function. It is the drafting term that is now used in relation to functions.

4 **[3.798] Section 14**

5 *omit*

6 **Explanatory note**

7 This provision is unnecessary because the *Legislation Act 2001*, section 210 provides for  
8 the resignation of a person from a statutory appointment.

9 **[3.799] Section 15, heading**

10 *substitute*

11 **15 Ending of appointment of director**

12 **Explanatory note**

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

14 **[3.800] Section 15 (1)**

15 *omit*

16 terminate

17 *substitute*

18 end

19 **Explanatory note**

20 *End* is the drafting term that is now used in relation to appointments.

21 **[3.801] Section 15 (1) (f) (i)**

22 *substitute*

23 (i) punishable by imprisonment for 1 year or more; or

24 **Explanatory note**

25 This amendment brings the language of the subparagraph into line with current drafting  
26 practice.

1    **[3.802] Section 15 (1), new note**

2            *insert*

3            *Note*      An appointed director's appointment also ends if the director resigns  
4                      (see *Legislation Act 2001*, s 210).

5    **Explanatory note**

6    This amendment adds a standard note about resignation from an appointment.

7    **[3.803] Section 15 (2)**

8            *omit*

9            terminate

10          *substitute*

11          end

12   **Explanatory note**

13   This amendment updates language by changing the references to the termination of an  
14   appointment to the ending of an appointment. *End* is the drafting term that is now used in  
15   relation to appointments.

16   **[3.804] Section 15 (2)**

17          *omit*

18          appointment of the director be terminated

19          *substitute*

20          director's appointment be ended

21   **Explanatory note**

22   This amendment brings the subsection into line with current drafting practice. *End* is the  
23   drafting term that is now used in relation to appointments.

24   **[3.805] Section 15 (3) (c)**

25          *omit*

26          member

27          *substitute*



1 director

2 **Explanatory note**

3 This amendment clarifies the operation of the provision.

4 **[3.806] Section 16 (1)**

5 *omit*

6 pecuniary

7 *substitute*

8 financial

9 **Explanatory note**

10 This amendment updates language.

11 **[3.807] Section 16 (5)**

12 *substitute*

13 (5) The Minister must present a copy of a statement under  
14 subsection (4) to the relevant committee of the Legislative  
15 Assembly within 14 days after the day the Minister receives the  
16 request.

17 **Explanatory note**

18 This amendment updates language. *Present* is the drafting term now used in relation to  
19 the tabling of documents in the Legislative Assembly.

20 **[3.808] Section 17**

21 *substitute*

22 **17 Calling meetings of board**

23 (1) The chairperson or, if the chairperson cannot do so, the deputy  
24 chairperson—

25 (a) may at any time call a meeting of the board; and

26 (b) must call a meeting of the board if asked by the Minister or at  
27 least 2 directors.

- 1 (2) A person who calls a meeting of the board must give the other  
2 directors reasonable notice of the time and place of the meeting.

3 **Explanatory note**

4 This amendment updates language and simplifies the section in accordance with current  
5 drafting practice.

6 **[3.809] Section 20**

7 *substitute*

8 **20 Appointment of chief executive**

- 9 (1) The Minister must appoint a person as the chief executive of the  
10 authority.

11 *Note 1* For the making of appointments (including acting appointments), see  
12 *Legislation Act 2001*, pt 19.3.

13 *Note 2* Certain Ministerial appointments require consultation with an Assembly  
14 committee and are disallowable (see *Legislation Act 2001*, div 19.3.3).

- 15 (2) The chief executive's conditions of appointment are the conditions  
16 agreed to between the authority and the chief executive.

- 17 (3) However, the authority may enter into an agreement mentioned in  
18 subsection (2) only after consultation between the Minister and the  
19 board.

- 20 (4) Despite any agreement under subsection (2), the authority may end  
21 the appointment of a chief executive without compensation if the  
22 chief executive contravenes section 21 (2) or division 5.1 (Conduct  
23 of persons associated with the authority).

24 *Note* The chief executive's appointment also ends if the chief executive  
25 resigns (see *Legislation Act 2001*, s 210).

26 **Explanatory note**

27 This amendment brings the section into line with current drafting practice and omits  
28 section 20 (2) which is no longer necessary because of the *Legislation Act 2001*,  
29 section 209 (1). That section provides that a power of appointment includes the power to  
30 make acting appointments during vacancies and when the person holding the position  
31 cannot exercise the functions of the position.

1 **[3.810] Section 21, heading**

2 *substitute*

3 **21 Functions of chief executive**

4 **Explanatory note**

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

6 **[3.811] Section 26 (1)**

7 *substitute*

- 8 (1) The Minister may give written directions to the authority in relation  
9 to the exercise of any of its functions.

10 **Explanatory note**

11 This amendment brings the subsection into line with current drafting practice by updating  
12 language. *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to  
13 include perform the function. It is the drafting term that is now used in relation to  
14 functions.

15 **[3.812] Section 26 (3)**

16 *substitute*

- 17 (3) The Minister must present a copy of a direction to the Legislative  
18 Assembly within 6 sitting days after the day the Minister makes it.

19 **Explanatory note**

20 This amendment brings the subsection into line with current drafting practice. *Present* is  
21 the drafting term now used in relation to the tabling of documents in the Legislative  
22 Assembly.

23 **[3.813] Section 27 (3)**

24 *substitute*

- 25 (3) The Minister must present a copy of each business plan given to the  
26 Minister under subsection (2) to the Legislative Assembly within  
27 6 sitting days after the day the Minister receives it.



1 **Explanatory note**

2 This amendment replaces a reference to the commencement day (of a provision of the Act)  
3 with a reference to the actual date the provision commenced.

4 **[3.817] New section 42**

5 *insert*

6 **42 Expiry of pt 6**

7 This part expires on 31 December 2003.

8 **Explanatory note**

9 This amendment adds a new section in accordance with current drafting practice that  
10 provides for the expiry of the transitional provisions.

11 **[3.818] New dictionary**

12 *insert*

13 **Dictionary**

14 (see s 2)

15 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
16 relevant to this Act.

17 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
18 terms:

- 19 • appoint  
20 • contravene  
21 • exercise  
22 • function.

23 ***appointed director*** means a person appointed to be a director of the  
24 authority under section 11 (1).

25 ***authority*** means the Stadiums Authority established under  
26 section 4 (1).

27 ***board*** means the board of management of the authority established  
28 under section 8.



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1 **[3.821] Section 9 (1)**

2 *omit*

3 conferred on

4 *substitute*

5 given to

6 **Explanatory note**

7 This amendment updates language.

8 **[3.822] Section 9 (2)**

9 *omit*

10 conferred

11 *substitute*

12 given

13 **Explanatory note**

14 This amendment updates language.

15 **[3.823] Section 10 (1)**

16 *omit*

17 conferred on

18 *substitute*

19 given to

20 **Explanatory note**

21 This amendment updates language.

22 **[3.824] Section 10 (2)**

23 *omit*

24 an order

25 *substitute*

1            a judgment

2      **Explanatory note**

3      This amendment makes the language of the section consistent with the other provisions  
4      about the jurisdiction of the court.

5      **[3.825] Section 10 (2)**

6            *omit*

7            conferred

8            *substitute*

9            given

10     **Explanatory note**

11     This amendment updates language.

12     **[3.826] Section 10 (3)**

13            *omit*

14            the order

15            *substitute*

16            the judgment

17     **Explanatory note**

18     This amendment makes the language of the section consistent with the other provisions  
19     about the jurisdiction of the court.

20     **[3.827] Section 13 (4)**

21            *substitute*

22     (4) If an order has been made under subsection (2) or (3) in relation to a  
23     matter—

24            (a) the jurisdiction of the court in the matter must, subject to the  
25            rules of court, be exercised by the Full Court; and

26            (b) the court may give the directions it considers appropriate about  
27            the procedure to be followed in the further conduct of the



1 proceeding, including directions about the use (if any) of any  
2 evidence received before the making of the order.

3 **Explanatory note**

4 This amendment updates language and brings the drafting of the subsection into line with  
5 current drafting practice.

6 **[3.828] Section 19**

7 *omit*

8 proceeding to perform

9 *substitute*

10 exercising

11 **Explanatory note**

12 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
13 perform the function. It is the drafting term that is now used in relation to functions.  
14 This amendment also omits unnecessary words.

15 **[3.829] Section 19 (a)**

16 *omit*

17 the schedule, part 1

18 *substitute*

19 schedule 1, part 1.1

20 **Explanatory note**

21 This amendment updates a reference.

22 **[3.830] Section 19 (b)**

23 *omit*

24 the schedule, part 2

25 *substitute*

26 schedule 1, part 1.2

1    **Explanatory note**

2    This amendment updates a reference.

3    **[3.831] Section 30 (5) (b)**

4        *substitute*

5        (b) subject to any other conditions the court considers just.

6    **Explanatory note**

7    This amendment updates language.

8    **[3.832] Section 34 (1)**

9        *substitute*

10       (1) At any stage of a proceeding, the court may grant an injunction  
11           (interlocutory or otherwise) on the conditions the court considers  
12           appropriate if the court considers it just to do so.

13   **Explanatory note**

14   This amendment updates language.

15   **[3.833] Section 34A**

16        *substitute*

17   **34A Receivers**

18       (1) At any stage of a proceeding, the court may appoint a receiver if the  
19           court considers it just to do so.

20       (2) The appointment may be made on the conditions the court considers  
21           appropriate.

22   **Explanatory note**

23   This amendment updates language and brings the section into line with current drafting  
24   practice.

1 **[3.834] Section 34B (2)**

2 *substitute*

3 (2) In a proceeding in the court for any relief or remedy of a kind  
4 mentioned in subsection (1), the court may, instead of directing the  
5 issue of the relevant writ, grant the relief or remedy sought by  
6 making an order to the same effect.

7 **Explanatory note**

8 This amendment simplifies and updates language (see *Legislation Act 2001*, section 146).

9 **[3.835] Section 35**

10 *substitute*

11 **35 Rules of practice and procedure—judicial discretion**

12 In a proceeding, if no provision about a matter of practice or  
13 procedure of the court is made under this Act or another Territory  
14 law, the court may give the directions about practice and procedure  
15 that it considers appropriate.

16 **Explanatory note**

17 This amendment updates language and brings the section into line with current drafting  
18 practice.

19 **[3.836] Section 36 (1) (ba) to (d)**

20 *renumber as section 36 (1) (c) to (e)*

21 **Explanatory note**

22 This amendment renumbers paragraphs so that they form a single sequence.

23 **[3.837] Section 36 (2) (g)**

24 *omit*

25 *thereof*

26 *substitute*

27 *of them*

1    **Explanatory note**

2    This amendment updates language.

3    **[3.838] Section 37A (2)**

4        *omit*

5        performing

6        *substitute*

7        exercising

8    **Explanatory note**

9    *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
10 perform the function. It is the drafting term that is now used in relation to functions.

11 **[3.839] Section 37B (2) (c) (v)**

12        *omit*

13        the following Acts: or

14        *substitute*

15        the following Acts:

16 **Explanatory note**

17 This amendment omits an unnecessary word.

18 **[3.840] Section 37B (2) (c) (v) (A) and (B)**

19        *omit*

20        or

21 **Explanatory note**

22 This amendment omits an unnecessary word.

1 **[3.841] Section 37B (2) (c) (v) (D)**

2 *substitute*

3 (C) the *Protection Orders Act 2001*;

4 **Explanatory note**

5 This amendment updates a reference to legislation and renumbers the provision.

6 **[3.842] Section 37B (2) (c) (v) (E) and (G)**

7 *omit*

8 or

9 **Explanatory note**

10 This amendment omits an unnecessary word.

11 **[3.843] Section 37B (2) (c) (v) (E), (G) and (H)**

12 *renumber as section 37B (2) (c) (v) (D), (E) and (F)*

13 **Explanatory note**

14 This amendment renumbers the provisions so that they form a single sequence.

15 **[3.844] Part 2B, heading**

16 *substitute*

17 **Part 2B** **Remuneration, allowances and**  
18 **other entitlements of judges**

19 **Explanatory note**

20 This amendment revises the heading so that it more accurately reflects the contents of the  
21 part.

22 **[3.845] Section 37U (1)**

23 *omit*

24 , being an appointment made

1    **Explanatory note**

2    This amendment omits unnecessary text.

3    **[3.846] Section 39**

4        *substitute*

5    **39 Functions of master**

6        The master has power to administer oaths and may exercise the  
7        other functions given to the master under this Act, another Territory  
8        law or a special order of the court.

9    **Explanatory note**

10    This amendment brings the section into line with current drafting practice, particularly by  
11    removing references to powers and duties. *Exercise* a function is defined in the  
12    *Legislation Act 2001*, dictionary, part 1 to include perform the function and function is  
13    defined to include power and duty.

14    **[3.847] Section 40 (1), new note**

15        *insert*

16        *Note*    For the making of appointments (including acting appointments), see  
17        *Legislation Act 2001*, pt 19.3.

18    **Explanatory note**

19    This amendment adds a standard note about appointments.

20    **[3.848] Section 40 (3)**

21        *substitute*

22        (3) A person who is 70 years old or older must not be appointed as the  
23        master.

24    **Explanatory note**

25    This amendment brings the language of the subsection into line with current drafting  
26    practice.

1 **[3.849] Section 41**

2 *substitute*

3 **41 Term of appointment of master**

4 (1) The master must be appointed either—

- 5 (a) for a term of not longer than 7 years; or  
6 (b) until the master turns 70 years old.

7 (2) A term mentioned in subsection (1) (a) must not end after the master  
8 turns 70 years old.

9 *Note* A person may be reappointed to a position if the person is eligible to be  
10 appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1,  
11 def of *appoint*).

12 **Explanatory note**

13 This amendment brings the section into line with current drafting practice. The reference  
14 in existing section 41 (1) (b) (i) to reappointment is omitted because the *Legislation Act*  
15 *2001*, s 208 provides for the reappoint of a person. A standard reappointments note is  
16 inserted into the new section.

17 **[3.850] Section 41A**

18 *substitute*

19 **41A Extension of master's term of appointment**

20 (1) The Executive may, in writing, extend the term of the master's  
21 appointment for a stated period.

22 (2) An extension must be made before the term of appointment  
23 (including that term as previously extended) ends.

24 (3) The period of an extension must not end after the master turns  
25 70 years old.

26 (4) In this section:

27 *extend* includes further extend.

1    **Explanatory note**

2    This amendment simplifies language and brings the section into line with current drafting  
3    practice.

4    **[3.851] Section 41B**

5        *substitute*

6    **41B Conditions of appointment generally**

7        The master holds the position on the conditions not provided for by  
8        this Act or any other Territory law that are decided by the  
9        Executive.

10   **Explanatory note**

11   This amendment brings the section into line with current drafting practice.

12   **[3.852] Section 42**

13        *omit*

14        proceeding to perform

15        *substitute*

16        exercising

17   **Explanatory note**

18   *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
19   perform the function. It is the drafting term that is now used in relation to functions.  
20   This amendment also omits unnecessary words.

21   **[3.853] Section 42 (a)**

22        *omit*

23        the schedule, part 1

24        *substitute*

25        schedule 1, part 1.1

26   **Explanatory note**

27   This amendment updates a reference.



1 **[3.854] Section 42 (b)**

2 *omit*

3 the schedule, part 2

4 *substitute*

5 schedule 1, part 1.2

6 **Explanatory note**

7 This amendment updates a reference.

8 **[3.855] Section 45**

9 *omit*

10 **Explanatory note**

11 This amendment omits an unnecessary provision about acting appointments for the  
12 following reasons:

- 13 • section 45 (1) and (3) are unnecessary because the *Legislation Act 2001*,  
14 section 209 (1) provides that a power to make an appointment includes power to  
15 appoint a person to act in the position during a vacancy, whether or not an  
16 appointment had previously been made and during any periods when the person  
17 holding the position cannot exercise the functions of the position;
- 18 • section 45 (2) is unnecessary because the *Legislation Act 2001*, section 221 (1)  
19 provides that a person may not act for more than 1 year;
- 20 • section 45 (4) is unnecessary because the *Legislation Act 2001*, section 220 provides  
21 that an acting appointee has the functions of the position and that Territory laws apply  
22 to the acting appointee as if the appointee were the occupant of the position;
- 23 • section 45 (5) is unnecessary because the *Legislation Act 2001*, section 219 provides  
24 that an appointer may decide the conditions of an acting appointment;
- 25 • section 45 (7) is unnecessary because the *Legislation Act 2001*, section 225 provides  
26 that an acting appointment, or anything done under an acting appointment, is not  
27 invalid only because of a defect or irregularity in the appointment.

1    **[3.856] Section 46 (1), new notes**

2            *insert*

3            *Note 1* For the making of appointments (including acting appointments), see  
4            *Legislation Act 2001*, pt 19.3.

5            *Note 2* In particular, a person may be appointed for a particular provision of a  
6            law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
7            by naming a person or nominating the occupant of a position (see s 207).

8            *Note 3* Certain Ministerial appointments require consultation with an Assembly  
9            committee and are disallowable (see *Legislation Act 2001*, div 19.3.3).

10    **Explanatory note**

11    This amendment adds standard notes about appointments.

12    **[3.857] Section 46A**

13            *omit*

14    **Explanatory note**

15    This amendment omits an acting provision for reasons similar to the omission of  
16    section 45 by another amendment.

17    **[3.858] Section 47**

18            *substitute*

19    **47 Functions of registrar and deputy registrars**

20            (1) The registrar has power to administer oaths and may exercise the  
21            other functions given to the registrar under this Act, another  
22            Territory law or a special order of the court.

23            (2) Subject to this Act and to any directions of the registrar, a deputy  
24            registrar may exercise the functions of the registrar under this Act or  
25            another Territory law.

26            *Note*      A reference to an Act includes a reference to the statutory instruments  
27            made or in force under the Act, including regulations and rules of court  
28            (see *Legislation Act 2001*, s 104).

29            (3) The exercise of a function by a deputy registrar does not affect the  
30            power of the registrar to exercise the function.

1 **Explanatory note**

2 This amendment updates the section, as follows:

- 3 • subsection (1) is brought into line with new section 39 (inserted by another  
4 amendment) which is about the functions of the master;
- 5 • subsections (2) and (3) are amended to refer to the exercise of functions. *Exercise* a  
6 function is defined in the *Legislation Act 2001*, dictionary, part 1 to include perform  
7 the function. It is the drafting term that is now used in relation to functions.

8 **[3.859] Section 48**

9 *omit*

10 proceeding to perform

11 *substitute*

12 exercising

13 **Explanatory note**

14 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
15 perform the function. It is the drafting term that is now used in relation to functions.  
16 This amendment also omits unnecessary words.

17 **[3.860] Section 48 (a)**

18 *omit*

19 the schedule, part 3

20 *substitute*

21 schedule 1, part 1.3

22 **Explanatory note**

23 This amendment updates a reference.

1    **[3.861] Section 48 (b)**

2            *omit*

3            the schedule, part 4

4            *substitute*

5            schedule 1, part 1.4

6    **Explanatory note**

7    This amendment updates a reference.

8    **[3.862] Section 49 (1)**

9            *omit*

10          When

11          *substitute*

12          If

13    **Explanatory note**

14    This amendment makes it clear that a direction under the section need not be made at the  
15    same time as the winding up order is made.

16    **[3.863] Section 49 (2) (c) and (d)**

17          *substitute*

18          (c) the master or registrar may refer to the court any matter in  
19          relation to the winding-up that the master or registrar considers  
20          should be decided by the court; and

21          (d) an appeal lies to the court from any judgment made by the  
22          master or registrar in relation to the winding-up.

23    **Explanatory note**

24    This amendment brings the paragraphs into line with current drafting practice, particularly  
25    by updating language.

---

1 **[3.864] Section 49 (3)**

2 *substitute*

- 3 (3) A deputy registrar must not exercise a function of the registrar under  
4 this section.

5 **Explanatory note**

6 This amendment brings the section into line with current drafting practice and, in  
7 particular, revises the section to refer to the exercise of functions. *Exercise* a function is  
8 defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It  
9 is the drafting term that is now used in relation to functions.

10 **[3.865] Section 51**

11 *substitute*

12 **51 Deputy sheriffs**

- 13 (1) Subject to this Act and the directions of the sheriff, a deputy sheriff  
14 may exercise the functions of the sheriff under this Act or another  
15 Territory law.

16 *Note* A reference to an Act includes a reference to the statutory instruments  
17 made or in force under the Act, including regulations and rules of court  
18 (see *Legislation Act 2001*, s 104).

- 19 (2) In exercising the functions of the sheriff, a deputy sheriff has all the  
20 rights, privileges, immunities and liabilities of the sheriff.
- 21 (3) The exercise of a function by a deputy sheriff does not affect the  
22 power of the sheriff to exercise the function.

23 **Explanatory note**

24 This amendment brings the section into line with current drafting practice and, in  
25 particular, revises the section to refer to the exercise of functions. *Exercise* a function is  
26 defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It  
27 is the drafting term that is now used in relation to functions.

1    **[3.866] Section 52 (3)**

2            *omit*

3            performing

4            *substitute*

5            exercising

6    **Explanatory note**

7    *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
8    perform the function. It is the drafting term that is now used in relation to functions.

9    **[3.867] Section 53**

10           *substitute*

11    **53 Sheriff's assistants**

- 12    (1) The sheriff may appoint public servants to assist in the exercise of  
13    the sheriff's functions.

14           *Note 1* For the making of appointments (including acting appointments), see  
15           *Legislation Act 2001*, pt 19.3.

16           *Note 2* In particular, a person may be appointed for a particular provision of a  
17           law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
18           by naming a person or nominating the occupant of a position (see s 207).

- 19    (2) A person appointed under subsection (1) (a *sheriff's assistant*)—

20           (a) may exercise any function given to the sheriff, subject to this  
21           Act and any directions of the sheriff; and

22           (b) has the rights, privileges, immunities and liabilities of the  
23           sheriff.

- 24    (3) Anything done by a sheriff's assistant is taken to have been done by  
25    the sheriff.

26    **Explanatory note**

27    This amendment brings the section into line with current drafting practice and, in  
28    particular, revises the section to refer to the exercise of functions. *Exercise* a function is

1 defined in the *Legislation Act 2001*, dictionary, part 1 to include perform the function. It  
2 is the drafting term that is now used in relation to functions.

3 **[3.868] Section 53A (5)**

4 *omit*

5 in good faith

6 *substitute*

7 honestly

8 **Explanatory note**

9 This amendment updates language.

10 **[3.869] Section 54, heading**

11 *substitute*

12 **54 How evidence must be given**

13 **Explanatory note**

14 This amendment updates language.

15 **[3.870] Section 54**

16 *omit*

17 shall

18 *substitute*

19 must

20 **Explanatory note**

21 This amendment updates language.

22 **[3.871] Section 55 (2) and (3)**

23 *substitute*

24 (2) The court may order that all or part of the evidence in a civil matter  
25 may or must be given by affidavit.

1        (3) An order under subsection (2) may be made subject to any  
2            conditions the court considers appropriate, including, for example,  
3            the following:

4            (a) that a copy of an affidavit be served on a party in the matter;

5            (b) that a person whose evidence is given by affidavit attend the  
6            hearing to be available for cross-examination.

7        **Explanatory note**

8        This amendment simplifies the subsections and clarifies the court's power in civil matters  
9        to permit or require evidence to be given by affidavit.

10      **[3.872] Section 55A (3)**

11            *substitute*

12      (3) This section does not apply in relation to a child.

13      **Explanatory note**

14      This amendment simplifies the subsection and brings it into line with current drafting  
15      practice.

16      **[3.873] Section 57 (c)**

17            *omit*

18            touching

19            *substitute*

20            about

21      **Explanatory note**

22      This amendment updates language.

23      **[3.874] Section 57 (d)**

24            *substitute*

25      (d) authorise a party to the suit or civil matter to give in evidence  
26            testimony taken under this section on the conditions (if any)  
27            the court directs.



1 **Explanatory note**

2 This amendment simplifies the language of the paragraph and brings it into line with  
3 current drafting practice.

4 **[3.875] Section 58 (1A)**

5 *renumber as section 58 (2)*

6 **Explanatory note**

7 This amendment provides for the renumbering of a subsection.

8 **[3.876] Section 58 (2)**

9 *substitute*

- 10 (3) If, in a suit of which the court has jurisdiction, a defendant is not a  
11 resident of, or in, Australia and does not voluntarily appear in the  
12 suit, the court may nevertheless exercise its jurisdiction after notice  
13 to the defendant, and on the conditions, prescribed by rules of court.

14 **Explanatory note**

15 This amendment brings the language of the subsection into line with current drafting  
16 practice.

17 **[3.877] Section 58A (2)**

18 *substitute*

19 (2) In this section:

20 *depositions*, of a witness, means—

- 21 (a) if a record of the depositions was made in accordance with the  
22 *Magistrates Court Act 1930*, section 54A (2)—a transcript of  
23 the record certified in accordance with that Act,  
24 section 255B (2); or  
25 (b) if the depositions were taken down in writing and signed in  
26 accordance with the *Magistrates Court Act 1930*,  
27 section 54A (3)—the depositions taken down and signed.

28 **Explanatory note**

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

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1    **[3.878] Section 59**

2            *substitute*

3    **59 Amendment of defects**

4            (1) The court may at any time amend a defect or error in a proceeding  
5            in the court.

6            (2) The amendment may be made on the conditions the court considers  
7            just.

8            (3) An amendment under this section is to be made for the purpose of  
9            deciding the real questions in issue in the proceeding.

10   **Explanatory note**

11   This amendment updates language and brings the section into line with current drafting  
12   practice.

13   **[3.879] Section 60A (4)**

14            *omit*

15            and effectual

16   **Explanatory note**

17   This amendment omits unnecessary words.

18   **[3.880] Section 67A (4)**

19            *substitute*

20            (4) A declaration may be expressed to be subject to the conditions the  
21            court considers appropriate.

22   **Explanatory note**

23   This amendment updates language.

1 **[3.881] Section 67A (6)**

2 *substitute*

3 (6) If the court gives leave to a person for subsection (5) (a), it may  
4 impose the conditions it considers appropriate.

5 **Explanatory note**

6 This amendment updates language.

7 **[3.882] Section 69 (1) (a)**

8 *omit*

9 such rate as the court thinks fit

10 *substitute*

11 the rate the court considers appropriate

12 **Explanatory note**

13 This amendment updates language.

14 **[3.883] Section 69 (1) (a)**

15 *omit*

16 as of which

17 *substitute*

18 when

19 **Explanatory note**

20 This amendment updates and simplifies language.

21 **[3.884] Section 69 (1) (b), (2) (a) and (3)**

22 *omit*

23 in lieu

24 *substitute*

25 instead

1    **Explanatory note**

2    This amendment updates language.

3    **[3.885] Section 74A**

4            *renumber subsections when Act next republished under Legislation*  
5            *Act 2001*

6    **Explanatory note**

7    This amendment provides for the renumbering of subsections.

8    **[3.886] Section 75 (2), new note**

9            *insert*

10          *Note*      For other provisions about forms, see *Legislation Act 2001*, s 255.

11   **Explanatory note**

12   This amendment adds a standard note about approved forms.

13   **[3.887] Dictionary, new notes**

14          *insert*

15          *Note 1*      The *Legislation Act 2001* contains definitions and other provisions  
16                  relevant to this Act.

17          *Note 2*      In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
18                  terms:

- 19                  • exercise  
20                  • function  
21                  • police officer  
22                  • the Territory.

23   **Explanatory note**

24   This amendment adds standard dictionary notes.

25   **[3.888] Dictionary, definition of *entitlements***

26          *substitute*

27          *entitlements*, for part 2B (Remuneration, allowances and other  
28                  entitlements of judges)—see section 37T.

1 **Explanatory note**

2 This amendment amends the definition of *entitlements* consequentially on another  
3 amendment.

4 **[3.889] Dictionary, definition of *president* (of the**  
5 **administrative appeals tribunal)**

6 *omit*

7 **Explanatory note**

8 This amendment omits a redundant definition.

9 **Part 3.81 Surveyors Act 2001**

10 **[3.890] New section 2**

11 *insert*

12 **2 Dictionary**

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

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

18 For example, the signpost definition '*disciplinary notice*—see  
19 section 29.' means that the term 'disciplinary notice' is defined in that  
20 section.

21 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
22 the entire Act unless the definition, or another provision of the Act,  
23 provides otherwise or the contrary intention otherwise appears (see  
24 *Legislation Act 2001*, s 155 and s 156 (1)).

25 **Explanatory note**

26 This amendment adds a standard dictionary provision consequential on the insertion of a  
27 new dictionary by another amendment.

1    **[3.891] Section 4, definitions**

2            *relocate to the dictionary*

3    **Explanatory note**

4    This amendment relocates the definitions to the new dictionary which is inserted by  
5    another amendment.

6    **[3.892] Section 4, remainder**

7            *omit*

8    **Explanatory note**

9    This amendment omits the remainder of existing section 4 consequential on the insertion  
10   of the new dictionary by another amendment.

11   **[3.893] Section 6 (d) (iii)**

12            *omit*

13            and powers

14   **Explanatory note**

15   This amendment omits unnecessary words. *Function* is defined in the *Legislation Act*  
16   *2001*, dictionary, part 1 to include authority, duty and power.

17   **[3.894] Section 7**

18            *substitute*

19   **7 Appointment of commissioner**

20   (1) The commissioner is appointed by the Minister.

21        *Note*    For the making of appointments (including acting appointments), see  
22            *Legislation Act 2001*, pt 19.3.

23   (2) The *Legislation Act 2001*, division 19.3.3  
24   (Appointments—Assembly consultation) applies to the appointment  
25   of a public servant as commissioner.

26        *Note*    Certain Ministerial appointments require consultation with an Assembly  
27            committee and are disallowable (see *Legislation Act 2001*, div 19.3.3).

1 (3) Subsection (2) has effect despite the *Legislation Act 2001*,  
2 section 227 (2) (a) (Application of div 19.3.3).

3 **Explanatory note**

4 This amendment adds an updated reference to the *Legislation Act 2001*, division 19.3.3  
5 and updates the appointments notes.

6 **[3.895] Section 8**

7 *substitute*

8 **8 Term of appointment**

9 The commissioner must be appointed for a term of not longer than  
10 5 years.

11 *Note* A person may be reappointed to a position if the person is eligible to be  
12 appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1,  
13 def of *appoint*).

14 **Explanatory note**

15 This amendment brings the section into line with current drafting practice. In particular, it  
16 removes a provision that requires the instrument of appointment to state the period of  
17 appointment because the *Legislation Act 2001*, section 206 (2) provides that, if a law  
18 provides for a maximum period of appointment, the period of appointment must be stated  
19 in the instrument of appointment.

20 **[3.896] Sections 10 and 11**

21 *substitute*

22 **10 Conditions of appointment generally**

23 The commissioner holds the position on the conditions not provided  
24 by this Act or another Territory law that are decided by the Minister.

25 **11 Leave of absence**

26 The Minister may give the commissioner leave of absence on  
27 conditions about remuneration and other matters decided by the  
28 Minister.

1    **Explanatory note**

2    This amendment updates the language of these provisions to bring them into line with  
3    current drafting practice.

4    **[3.897] Section 13**

5        *substitute*

6    **13 Delegation by commissioner**

7        The commissioner may delegate the commissioner's functions under  
8        this Act or another Territory law to a public servant.

9        *Note*      For the making of delegations and the exercise of delegated functions,  
10        see *Legislation Act 2001*, pt 19.4.

11   **Explanatory note**

12   This amendment updates the delegation provision.

13   **[3.898] Section 30, new note**

14        *insert*

15        *Note*      For how documents may be served, see *Legislation Act 2001*, pt 19.5.

16   **Explanatory note**

17   This amendment adds a standard note about service of documents.

18   **[3.899] Section 33 (4), new note**

19        *insert*

20        *Note*      For the taking of an oath or the making of an affirmation, see the *Oaths*  
21        and *Affirmations Act 1984*.

22   **Explanatory note**

23   This amendment adds a standard note about the taking of an oath or affirmation.



---

1 **[3.900] Section 51 (2), new note**

2 *insert*

3 *Note* For other provisions about forms, see *Legislation Act 2001*, s 255.

4 **Explanatory note**

5 This amendment adds a standard note about approved forms.

6 **[3.901] Section 60**

7 *substitute*

8 **60 Expiry of pt 7**

9 This part expires on 26 July 2002.

10 **Explanatory note**

11 This amendment states the actual date when the part will expire.

12 **[3.902] New dictionary**

13 *insert*

14 **Dictionary**

15 (see s 2)

16 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
17 relevant to this Act.

18 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
19 terms:

- 20 • appoint  
21 • exercise  
22 • function.

23 **Explanatory note**

24 This amendment adds a dictionary consequent on the omission of the definition section  
25 (section 4) by another amendment.

1      **Part 3.82                      Tobacco Act 1927**

2      **[3.903] Section 2, definition of *functions***

3                      *omit*

4      **Explanatory note**

5      This amendment omits an unnecessary definition. *Function* is defined in the *Legislation*  
6      *Act 2001*, dictionary, part 1 to include authority, duty and power.

7      **[3.904] Section 2, remaining definitions**

8                      *relocate to the dictionary*

9      **Explanatory note**

10     This amendment relocates to a new dictionary (inserted by another amendment) all  
11     definitions that do not need amendment.

12     **[3.905] Section 2, remainder**

13                      *substitute*

14     **2              Dictionary**

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

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

20                      For example, the signpost definition '*price ticket*—see section 3.'  
21                      means that the expression 'price ticket' is defined in that section.

22                      *Note 2*     A definition in the dictionary (including a signpost definition) applies to  
23                      the entire Act unless the definition, or another provision of the Act,  
24                      provides otherwise or the contrary intention otherwise appears (see  
25                      *Legislation Act 2001*, s 155 and s 156 (1)).

26     **2A            Notes**

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

28                      *Note*       See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of  
29                      notes.

1 **Explanatory note**

2 This amendment adds standard dictionary and notes provisions.

3 **[3.906] Section 14, heading**

4 *substitute*

5 **14 Supply of smoking product to under 18 year olds**

6 (commencement: 5 October 2000)

7 **Explanatory note**

8 This amendment confirms a correction of the heading made under the *Legislation*  
9 *(Republication) Act 1996*.

10 **[3.907] Sections 51 (5) and 52 (3)**

11 *omit*

12 **Explanatory note**

13 This amendment omits expired transitional provisions.

14 **[3.908] New dictionary**

15 *insert*

16 **Dictionary**

17 (see s 2)

18 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
19 relevant to this Act.

20 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
21 terms:

- 22
- 23 • contravene
  - 24 • exercise
  - 25 • function.

25 **Explanatory note**

26 This amendment adds a new dictionary consequent on the omission of the definition  
27 section (section 2) by another amendment.



1 **[3.913] Section 22 (1)**

2 *substitute*

3 (1) The adviser must be appointed for a term of not longer than 1 year.

4 *Note* A person may be reappointed to a position if the person is eligible to be  
5 appointed to the position (see *Legislation Act 2001*, s 208 and dict, pt 1,  
6 def of *appoint*).

7 **Explanatory note**

8 This amendment removes an unnecessary requirement that the instrument of appointment  
9 state the period of appointment (see *Legislation Act 2001*, section 206 (2)).

10 **[3.914] Sections 25 and 26**

11 *substitute*

12 **25 Definitions for pt 5**

13 In this part:

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

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

19 *occupier*, of premises, includes—

- 20 (a) a person believed on reasonable grounds to be an occupier of  
21 the premises; and  
22 (b) a person apparently in charge of the premises.

23 *Note* The dictionary defines *premises* as including land.

24 *offence* includes an offence that there are reasonable grounds for  
25 believing has been, is being, or will be committed.

26 **Explanatory note**

27 This amendment recasts the form of the definitions in accordance with current drafting  
28 practice.

1    **[3.915] Section 27 (1)**

2            *omit*

3            , in writing,

4    **Explanatory note**

5    This amendment omits unnecessary words. The *Legislation Act 2001*, section 206  
6    provides that an appointment must be made, or evidenced, in writing.

7    **[3.916] Section 27 (1), new notes**

8            *insert*

9            *Note 1* For the making of appointments (including acting appointments), see  
10          *Legislation Act 2001*, pt 19.3.

11          *Note 2* In particular, a person may be appointed for a particular provision of a  
12          law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
13          by naming a person or nominating the occupant of a position (see s 207).

14    **Explanatory note**

15    This amendment adds standard appointments notes.

16    **[3.917] Sections 48 to 50**

17            *substitute*

18    **48 Determination of fees**

19          (1) The Minister may, in writing, determine fees for this Act.

20          *Note* The *Legislation Act 2001* contains provisions about the making of  
21          determinations and regulations relating to fees (see pt 6.3).

22          (2) A determination is a disallowable instrument.

23          *Note* A disallowable instrument must be notified, and presented to the  
24          Legislative Assembly, under the *Legislation Act 2001*.

25    **Explanatory note**

26    This amendment omits provisions that are unnecessary because the matters dealt with in  
27    the provisions are now dealt with in the *Legislation Act 2001*, part 6.3 and replaces them  
28    with the standard determination of fees provision.

1 **[3.918] Section 51 (2), new note**

2 *insert*

3 *Note* For other provisions about forms, see *Legislation Act 2001*, s 255

4 **Explanatory note**

5 This amendment adds a standard note about approved forms.

6 **[3.919] New section 51 (3)**

7 *insert*

8 (3) An approved form is a notifiable instrument.

9 *Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

10 **Explanatory note**

11 This amendment inserts a standard provision and note about approved forms.

12 **[3.920] Section 52 (1)**

13 *omit*

14 , in writing,

15 **Explanatory note**

16 This amendment omits unnecessary words. The *Legislation Act 2001*, section 232  
17 provides that a delegation must be made, or evidenced, in writing.

18 **[3.921] Section 52 (1), new note**

19 *insert*

20 *Note* For the making of delegations and the exercise of delegated functions,  
21 see *Legislation Act 2001*, pt 19.4.

22 **Explanatory note**

23 This amendment adds a standard note about delegations.

1    **[3.922] Section 52 (2)**

2            *omit*

3            may not

4            *substitute*

5            must not

6    **Explanatory note**

7    This amendment makes it clear that the requirement is mandatory.

8    **[3.923] Sections 51 to 53**

9            *renumber as sections 49 to 51 when Act next republished under*  
10           *Legislation Act 2001*

11   **Explanatory note**

12   This amendment is consequential on the omission of sections 49 and 50 by another  
13   amendment in this part.

14   **[3.924] Dictionary, new notes**

15            *insert*

16            *Note 1*    The *Legislation Act 2001* contains definitions and other provisions  
17            relevant to this Act.

18            *Note 2*    In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
19            terms:

- 20                    • appoint  
21                    • contravene  
22                    • exercise  
23                    • function.

24   **Explanatory note**

25   This amendment adds standard dictionary notes.



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1 **Part 3.84** **Unit Titles Act 2001**

2 **[3.925] Section 79**

3 *substitute*

4 **79 Service of documents on owners corporation**

5 For this Act (including an application for a court order under this  
6 Act) a document may be served on an owners corporation by—

- 7 (a) if the address for service is the postal address of a building on  
8 the parcel—by placing it in the letterbox mentioned in  
9 section 78 (2); or
- 10 (b) serving it in another way approved by the corporation by  
11 ordinary resolution.

12 *Note* The methods of service provided for in this section are in addition to  
13 methods of service provided for in the *Legislation Act 2001*, pt 19.5.

14 **Explanatory note**

15 This amendment omits provisions relating to methods of service that are provided for in  
16 the *Legislation Act 2001* and removes references to ‘giving’ documents which are  
17 unnecessary when the expression ‘served’ is used (see *Legislation Act 2001*, section 245).

18 **[3.926] Section 80 (1)**

19 *substitute*

20 (1) For this Act (including an application for a court order under this  
21 Act) a document may be served on a unit owner, a part-owner of a  
22 unit or anyone else with an interest in a unit or the common property  
23 on a units plan—

- 24 (a) by sending it by prepaid post as a letter to the relevant address  
25 for correspondence recorded on the corporate register; or
- 26 (b) if the latest address for correspondence recorded in the  
27 corporate register is the postal address of a building or unit on  
28 the parcel—by placing it in a letterbox for mail addressed to  
29 the building or unit; or

1            (c) by serving it in another way directed by the person to be  
2            served.

3            *Note*      The methods of service provided for in this section are in addition to  
4            methods of service provided for in the *Legislation Act 2001*, pt 19.5.

5            **Explanatory note**

6            This amendment omits provisions relating to methods of service that are provided for in  
7            the *Legislation Act 2001* and removes references to ‘giving’ documents which are  
8            unnecessary when the expression ‘served’ is used (see *Legislation Act 2001*, section 245).

9            **[3.927] Section 80 (2) to (5)**

10           *omit*

11           given to, or served on,

12           *substitute*

13           served on

14           **Explanatory note**

15           This amendment removes references to a document being given to a person which is  
16           unnecessary when the expression ‘served’ is used (see *Legislation Act 2001*, section 245).

17           **[3.928] Section 89**

18           *substitute*

19           **89 Delegation by executive committee**

20           (1) An executive committee may delegate its functions to 1 or more  
21           executive members.

22           *Note*      For the making of delegations and the exercise of delegated functions,  
23           see *Legislation Act 2001*, pt 19.4.

24           (2) An owners corporation may, by ordinary resolution, impose  
25           conditions or restrictions on its executive committee’s powers of  
26           delegation.

27           **Explanatory note**

28           This amendment updates the delegation provision, as follows:

- 29           • Existing section 89 (1):

- 1       • the words ‘in writing’ have been omitted because the *Legislation Act 2001*,  
2       section 232 provides that a delegation must be made, or evidenced, in writing;
- 3       • the words ‘(except this power of delegation)’ have been omitted because the  
4       *Legislation Act 2001*, section 236 provides that a person cannot delegate the  
5       power to delegate unless the legislation creating the power authorises the  
6       delegation;
- 7       • the words ‘either generally or as provided by the delegation’ have been omitted  
8       because the *Legislation Act 2001*, section 234 provides that the delegation  
9       instrument may provide that the delegation has effect in stated circumstances or  
10      subject to stated conditions, limitations or directions or that all of the function, or  
11      a stated part of the function, is delegated.
- 12      • Existing section 89 (3) is unnecessary because the *Legislation Act 2001*, section 239  
13      provides that a delegate must exercise the delegation subject to conditions, limitations  
14      etc in the delegation instrument.
- 15      • Existing section 89 (4) has been omitted because:
- 16      • the words ‘a delegation is revocable at will’ are not necessary because the  
17      *Legislation Act 2001*, section 237 provides that the person who has delegated can  
18      amend or revoke the delegation in whole or part;
- 19      • the words ‘(a delegation) does not prevent the executive committee from  
20      exercising a delegated function’ are not necessary because the *Legislation Act*  
21      *2001*, section 240 provides that the person who has delegated a function can  
22      exercise the delegated function.

23 This amendment also adds a standard note about delegations.

24 **[3.929] Section 113 (6), penalty**

25 *substitute*

26 Maximum penalty (subsection (6)): 5 penalty units.

27 (commencement: 5 October 2001)

28 **Explanatory note**

29 This amendment confirms a minor correction to the penalty provision made under the  
30 *Legislation (Republication) Act 1996*.

31 **[3.930] Section 121 (1)**

32 *omit*

1            may not

2            *substitute*

3            must not

4      **Explanatory note**

5      This amendment makes it clear that the requirement is mandatory.

6      **[3.931] Section 142 (1), new note**

7            *insert*

8            *Note*      For the making of appointments (including acting appointments), see  
9                      *Legislation Act 2001*, pt 19.3.

10     **Explanatory note**

11     This amendment adds a standard appointments note.

12     **[3.932] Section 145**

13            *substitute*

14     **145 Delegation by administrator**

15            The administrator of an owners corporation may delegate the  
16            administrator's functions to anyone else.

17            *Note*      For the making of delegations and the exercise of delegated functions,  
18                      see *Legislation Act 2001*, pt 19.4 .

19     **Explanatory note**

20     This amendment updates the delegation provision and brings it into line with section 89  
21     which is updated by another amendment.

22     **[3.933] Section 180 (2)**

23            *insert*

24            *Note*      For other provisions about forms, see *Legislation Act 2001*, s 255.

25     **Explanatory note**

26     This amendment adds a standard note about approved forms.

1 **[3.934] Section 194**

2 *substitute*

3 **194 Expiry of pt 16**

4 This part expires on 5 April 2003.

5 **Explanatory note**

6 This amendment states the actual date when the part expires.

7 **[3.935] Dictionary, new notes**

8 *insert*

9 *Note 1* The *Legislation Act 2001* contains definitions and other provisions  
10 relevant to this Act.

11 *Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
12 terms:

- 13 • appoint
- 14 • contravene
- 15 • exercise
- 16 • function.

17 **Explanatory note**

18 This amendment adds standard dictionary notes.

19 **Part 3.85 Unit Titles Regulations 2001**

20 **[3.936] Regulation 18 (2)**

21 *substitute*

22 (2) On request, the Minister may appoint a conciliator to help the  
23 owners corporation to resolve the dispute.

24 *Note* For the making of appointments (including acting appointments), see  
25 *Legislation Act 2001*, pt 19.3.

1    **Explanatory note**

2    This amendment brings the appointment provision into line with current drafting practice  
3    and adds a standard note about appointments. The *Legislation Act 2001*, section 206  
4    provides that an appointment must be made, or evidenced, in writing.

5    **[3.937] Regulation 20 (2)**

6        *substitute*

7        (2) On request, the Minister may appoint a conciliator to help the  
8        owners corporation to resolve the matters set out in the request.

9    **Explanatory note**

10    This amendment brings the appointment provision into line with current drafting practice  
11    and adds a standard note about appointments. The *Legislation Act 2001*, section 206  
12    provides that an appointment must be made, or evidenced, in writing.

13    **[3.938] Schedule 2, clause 2 (1), new note**

14        *insert*

15        *Note*      For how documents may be served, see *Legislation Act 2001*, pt 19.5.

16    **Explanatory note**

17    This amendment adds a standard note about service of documents.

18    **[3.939] Schedule 3, clause 3 (1), new note**

19        *insert*

20        *Note*      For how documents may be served, see *Legislation Act 2001*, pt 19.5.

21    **Explanatory note**

22    This amendment adds a standard note about service of documents.

23    **Part 3.86**                      **University of Canberra Act**  
24    **1989**

25    **[3.940] Title**

26        *substitute*

27        An Act about the University of Canberra

---

1 **Explanatory note**

2 This amendment revises the long title to reflect the fact that the university has already been  
3 established.

4 **[3.941] Section 1**

5 *substitute*

6 **1 Name of Act**

7 This Act is the *University of Canberra Act 1989*.

8 **2 Dictionary**

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

10 *Note 1* The dictionary at the end of this Act defines certain words and  
11 expressions used in this Act.

12 *Note 2* A definition in the dictionary applies to the entire Act unless the  
13 definition, or another provision of the Act, provides otherwise or the  
14 contrary intention otherwise appears (see *Legislation Act 2001*, s 155  
15 and s 156 (1)).

16 **3 Notes**

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

18 *Note* See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of  
19 notes.

20 **Explanatory note**

21 This amendment brings the naming provision of the Act into line with current drafting  
22 practice and adds standard dictionary and notes provisions. A new dictionary is inserted  
23 by another amendment.

24 **[3.942] Section 3, definitions**

25 *relocate to the dictionary*

26 **Explanatory note**

27 This amendment relocates the definitions to a new dictionary which is inserted by another  
28 amendment.

1    **[3.943] Section 3, remainder**

2            *omit*

3    **Explanatory note**

4    This amendment omits the remainder of existing section 3 consequentially on the insertion  
5    of a dictionary by another amendment.

6    **[3.944] Section 4 (5)**

7            *omit*

8    **Explanatory note**

9    This amendment omits a provision that requires judicial notice to be taken of the  
10    university's seal on a document. It is unnecessary because the *Evidence Act 1995*  
11    (Cwlth), section 150 provides that if the imprint of a seal appears on a document and  
12    purports to be the imprint of the seal of a stated kind of body, including a body created  
13    under a Territory law, it is presumed that the imprint is the imprint of that seal and that the  
14    document was duly sealed. The *Evidence Act 1995* (Cwlth) applies to proceedings under  
15    Territory laws.

16   **[3.945] Sections 6 (2), 6A (e) and 7 (1)**

17            *omit*

18            performance

19            *substitute*

20            exercise

21   **Explanatory note**

22   *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
23   perform the function. It is the drafting term that is now used in relation to functions.

24   **[3.946] Section 7 (2) (p) and (q)**

25            *substitute*

26            (p) to exercise any other function given to it under this Act or  
27            another Territory law; and

28            (q) to do anything incidental to its functions.



1 **Explanatory note**

2 This amendment brings the paragraphs into line with current drafting practice.

3 **[3.947] Section 7 (4)**

4 *substitute*

5 (4) The functions of the university may be exercised outside the ACT  
6 and Australia.

7 **Explanatory note**

8 This amendment brings the subsection into line with current drafting practice.

9 **[3.948] Section 11 (2)**

10 *omit*

11 perform

12 *substitute*

13 exercise

14 **Explanatory note**

15 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
16 perform the function. It is the drafting term that is now used in relation to functions.

17 **[3.949] Section 11 (2), new note**

18 *insert*

19 *Note* For the making of appointments (including acting appointments), see  
20 *Legislation Act 2001*, pt 19.3.

21 **Explanatory note**

22 This amendment adds a note about appointments.

23 **[3.950] Section 15 (1) (f)**

24 *omit*

25 **Explanatory note**

26 This amendment omits a redundant provision that refers to section 11 (1) (c). That  
27 paragraph was omitted by the *University of Canberra (Transfer) Act 1997*, section 7 (b).  
28 Republication 2 of the *University of Canberra Act 1989* renumbered the paragraphs of

1 section 11 (1) so that they formed a single sequence. Accordingly, the paragraph  
2 numbered section 11 (1) (c) in that republication is not the paragraph to which section 15  
3 (1) (f) refers.

4 **[3.951] Section 15 (1) (g) and (h)**

5 *renumber as section 15 (1) (f) and (g)*

6 **Explanatory note**

7 This amendment is consequential on the omission of section 15 (1) (f).

8 **[3.952] Sections 17 and 18**

9 *substitute*

10 **17 Delegation by council**

11 (1) The council may delegate its functions under this Act to—

12 (a) a member of the council; or

13 (b) a committee that includes a member of the council.

14 *Note* For the making of delegations and the exercise of delegated functions,  
15 see *Legislation Act 2001*, pt 19.4.

16 (2) However, the council must not delegate its power to make statutes.

17 (3) A function delegated to a committee mentioned in subsection (1) (b)  
18 must be exercised by a majority of the members of the committee  
19 acting together.

20 **Explanatory note**

21 This amendment brings the delegation provisions into line with current drafting practice.  
22 In particular:

- 23 • the words ‘in writing’ have been omitted because the *Legislation Act 2001*,  
24 section 232 provides that a delegation must be made, or evidenced, in writing;
- 25 • the references to ‘powers’ have been omitted because *function* is defined in the  
26 *Legislation Act 2001*, dictionary, part 1 to include power and duty;
- 27 • the provisions for the revocation of delegations have been omitted because the  
28 *Legislation Act 2001*, section 237 (1) provides that a delegation may be amended or  
29 revoked by the person giving the delegation.

1 This amendment also adds a standard note about delegations.

2 **[3.953] Sections 20, 24 (1) and 24A (1), new note**

3 *insert*

4 *Note* For the making of appointments (including acting appointments), see  
5 *Legislation Act 2001*, pt 19.3.

6 **Explanatory note**

7 This amendment adds a standard note about appointments.

8 **[3.954] Section 24A (3) (b)**

9 *omit*

10 perform

11 *substitute*

12 exercise

13 **Explanatory note**

14 *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
15 perform the function. It is the drafting term that is now used in relation to functions.

16 **[3.955] Section 25 (2) (b)**

17 *omit*

18 powers and duties

19 *substitute*

20 functions

21 **Explanatory note**

22 This amendment brings the section into line with current drafting practice by removing a  
23 reference to powers and duties. *Function* is defined in the *Legislation Act 2001*,  
24 dictionary, part 1 to include power and duty.

25 **[3.956] Section 27**

26 *omit*

1    **Explanatory note**

2    This amendment omits an unnecessary provision about acting appointments for the  
3    following reasons:

- 4    • section 27 (1) is unnecessary because the *Legislation Act 2001*, section 209 (1)  
5    provides that a power to make an appointment includes power to appoint a person to  
6    act in the position during a vacancy, whether or not an appointment had previously  
7    been made and during any periods when the person holding the position cannot  
8    exercise the functions of the position;
- 9    • section 27 (2) is unnecessary because the *Legislation Act 2001*, section 221 (1)  
10   provides that a person may not act for more than 1 year;
- 11   • section 27 (3) is unnecessary because the *Legislation Act 2001*, section 225 provides  
12   that an acting appointment, or anything done under an acting appointment, is not  
13   invalid only because of a defect or irregularity in the appointment.

14   **[3.957] Section 29 (2)**

15       *omit*

16       on the ground that

17       *substitute*

18       because of

19   **Explanatory note**

20   This amendment updates language.

21   **[3.958] Section 29 (2) (c) and (d)**

22       *substitute*

23       (c) a defect in the convening of a meeting.

24   **Explanatory note**

25   Section 29 (2) (d) is unnecessary because the *Legislation Act 2001*, section 199 (4)  
26   provides that the exercise of a function by a body is not affected only because of a vacancy  
27   in the body's membership.

28   **[3.959] Section 29A**

29       *omit*

30       in good faith in the performance or purported performance

---

1           *substitute*

2           honestly in the exercise, or purported exercise,

3   **Explanatory note**

4   *Exercise* a function is defined in the *Legislation Act 2001*, dictionary, part 1 to include  
5 perform the function. It is the drafting term that is now used in relation to functions.  
6 This amendment also updates language.

7   **[3.960] Section 35**

8           *substitute*

9   **35 Application of Financial Management Act, pt 6 and pt 8**

10   (1) The *Financial Management Act 1996*, part 6 (Borrowing and  
11 guarantees) applies in relation to the university as if section 45  
12 (Loans to be paid into Territory banking account) were omitted.

13   (2) The *Financial Management Act 1996*, part 8 (Financial provisions  
14 relating to Territory authorities) applies in relation to the university  
15 as if—

16       (a) a reference in that part to the chief executive officer of a  
17 Territory authority were a reference to the council; and

18       (b) the part were modified as set out in schedule 1.

19   **Explanatory note**

20   This amendment brings the section into line with current drafting practice and is  
21 consequent on the insertion of new schedule 1 by another amendment.

22   **[3.961] Section 40 (2) (e) (iv)**

23           *substitute*

24           (iv) the appointment and functions of a chairperson at a  
25 meeting; and

26   **Explanatory note**

27   This amendment removes references to powers and duties. *Function* is defined in the  
28 *Legislation Act 2001*, dictionary, part 1 to include power and duty.

1    **[3.962] Section 40 (2) (e) (vii)**

2            *substitute*

- 3            (vii) the quorum for a committee meeting and the functions of  
4            a committee;

5    **Explanatory note**

6    This amendment removes references to powers and duties. *Function* is defined in the  
7    *Legislation Act 2001*, dictionary, part 1 to include power and duty.

8    **[3.963] Section 41**

9            *substitute*

10   **41 Statutes about traffic**

- 11    (1) The council may make statutes for the regulation or control of traffic  
12    (a *traffic statute*) on land occupied by the university in the ACT,  
13    including—

- 14            (a) the parking, stopping, standing or leaving of vehicles; and  
15            (b) the erection and effect of signs and markings.

- 16    (2) A traffic statute may create offences for contraventions of a traffic  
17    statute and prescribe maximum penalties of not more than 2 penalty  
18    units for the offences.

- 19    (3) A traffic statute must not be inconsistent with another Territory law.

- 20    (4) However, a traffic statute must not be treated as being inconsistent  
21    with another Territory law only because it makes provision in  
22    relation to a matter dealt with by the other Territory law if the  
23    provision can be complied with without contravening the other law.

24   **Explanatory note**

25   This amendment brings the section into line with current drafting practice, including  
26   changing a reference to a maximum fine of \$200 to 2 penalty units.

27   **[3.964] Section 42 (1) (b)**

28            *omit*

---

1 shall transmit

2 *substitute*

3 must send

4 **Explanatory note**

5 This amendment updates language.

6 **[3.965] Section 42 (3) and (5)**

7 *substitute*

8 (3) A statute that has been approved by the Executive has the force of  
9 law from the day after the statute is notified under the *Legislation*  
10 *Act 2001*.

11 **Explanatory note**

12 This amendment brings the commencement of the university's statutes into line with the  
13 *Legislation Act 2001*, section 73. It also omits subsection (5) which provides for proof of  
14 university's statutes in court proceedings. Formal proof of documents of a legislative  
15 character is generally not required (see the *Legislation Act 2001*, section 26 and the  
16 *Evidence Act 1995* (Cwlth), section 143). The *Evidence Act 1995* (Cwlth) applies to  
17 proceedings under Territory laws.

18 **[3.966] New schedule 1**

19 *insert*

20 **Schedule 1 Modifications of Financial**  
21 **Management Act 1996, part 8**

22 (see s 35 (2) (b))

23 **[1.1] Section 54 (3) (b) and (d)**

24 *omit*

25 **[1.2] Section 55 (3)**

26 *omit*

1    **[1.3] Section 56 (1) (d)**

2        *substitute*

- 3        (d) in any investment prescribed under the financial management  
4                guidelines for this paragraph; or
- 5        (e) on deposit with an eligible money market dealer under the  
6                Corporations Act; or
- 7        (f) in bills of exchange that—
- 8                (i) have been accepted by an authorised deposit-taking  
9                        institution (an *ADI*); and
- 10                (ii) have been endorsed by 1 or more such institutions; and
- 11                (iii) have not been endorsed by anyone other than an ADI.

12    **[1.4] Section 58**

13        *omit*

14    **[1.5] Section 59 (1) and (2)**

15        *substitute*

- 16        (1) A Territory authority must prepare annual financial statements  
17                relating to its operations during each year.
- 18        (2) The annual financial statements for a year must be prepared  
19                within—
- 20                (a) 2 months after 31 December in each year; or
- 21                (b) any further period that the Minister allows in writing.
- 22        (3) The annual financial statements must be prepared in accordance  
23                with generally accepted accounting practice.

24    **[1.6] Section 59 (3) (b)**

25        *omit*



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1 **[1.7] Section 59 (4)**

2 *omit*

3 **[1.8] Section 61 (1)**

4 *substitute*

- 5 (1) The chief executive officer of a Territory authority must give a copy  
6 of each annual financial statement to the auditor-general within  
7 2 weeks after preparing the statement.

8 **[1.9] Section 63 (1)**

9 *substitute*

- 10 (1) The responsible Minister may, in writing, direct the chief executive  
11 officer of a Territory authority to provide the Minister with financial  
12 statements relating to the authority.

- 13 (1A) The Minister must present a copy of the direction to the Legislative  
14 Assembly within 5 sitting days after the day when the Minister gives  
15 the direction.

16 **Explanatory note**

17 This amendment updates the modifications of the *Financial Management Act 1996* to the  
18 university to bring them into line with current drafting practice and by:

- 19 • omitting a redundant modification of section 56 (1) (c);  
20 • updating the modification made by the insertion of section 56 (1) (e) consequential on  
21 the *Corporations Act 2001* (Cwlth);  
22 • revising the modifications made by the insertion of section 56 (1) (f) and (4) to bring  
23 them into line with current drafting practice;  
24 • updating the modification of section 59 (3) consequential on an amendment made by  
25 the *Financial Management Amendment Act 2001 (No 3)* No 95.



1 **Explanatory note**

2 This amendment remakes the paragraph omitting the definition of *reticulated service*  
3 which is relocated to section 6 (2) by another amendment.

4 **[3.970] Section 6 (2), definition of *defined guideline or***  
5 ***standard***

6 *omit*

7 regulation 21 (2)

8 *substitute*

9 regulation 40 (2)

10 **Explanatory note**

11 This amendment is consequential on the renumbering of a regulation in the regulations  
12 referred to in the section (definition of *defined guideline or standard*).

13 **[3.971] Section 6 (2), new definition of *reticulated services***

14 *insert*

15 *reticulated services*—see the *Land (Planning and Environment)*  
16 *Regulations 1992*, dictionary.

17 **Explanatory note**

18 This amendment relocates a definition that was in section 6 (1) (a) and changes it to a  
19 signpost definition in line with current drafting practice.

20 **[3.972] Section 10 (1) (b)**

21 *omit*

22 use the facility

23 *insert*

24 to use the facility

25 **Explanatory note**

26 This amendment corrects a minor omission.

1    **[3.973] Section 12**

2      *substitute*

3    **12 Service of notices**

4      A notice under section 11 may be served on a land-holder as  
5      follows:

6      (a) by leaving it in the letterbox on the land;

7      (b) by securing it in a conspicuous place on the land.

8      *Note*      For other ways of serving documents, see *Legislation Act 2001*, pt 19.5.

9    **Explanatory note**

10    This amendment updates the section to take account of the *Legislation Act 2001*, part 19.5.

11   **[3.974] Section 18 (1)**

12      *omit*

13      , in writing,

14    **Explanatory note**

15    This amendment omits unnecessary words. The *Legislation Act 2001*, section 206  
16    provides that an appointment must be made, or evidenced, in writing.

17   **[3.975] Section 18 (1), new note**

18      *insert*

19      *Note*      For the making of appointments (including acting appointments), see  
20      *Legislation Act 2001*, pt 19.3.

21    **Explanatory note**

22    This amendment adds a standard note about appointments.

23   **[3.976] Dictionary, new notes**

24      *insert*

25      *Note 1*    The *Legislation Act 2001* contains definitions and other provisions  
26      relevant to this Act.



- 1            (d) improved valuation and pricing of environmental resources.
- 2            *the inter-generational equity principle* means that the present  
3            generation should ensure that the health, diversity and productivity  
4            of the environment is maintained or enhanced for the benefit of  
5            future generations.
- 6            *the precautionary principle* means that, if there is a threat of serious  
7            or irreversible environmental damage, a lack of full scientific  
8            certainty should not be used as a reason for postponing measures to  
9            prevent environmental degradation.

10    **Explanatory note**

11    This amendment breaks a definition up into several definitions in line with current drafting  
12    practice.

13    **[3.979] Section 11 (1), new note**

14            *insert*

15            *Note*      For how documents may be given, see *Legislation Act 2001*, pt 19.5.

16    **Explanatory note**

17    This amendment adds a standard note about service of documents.

18    **[3.980] Section 11 (5), new penalty**

19            *insert*

20            Maximum penalty (for each day): 50 penalty units.

21    **Explanatory note**

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

23    **[3.981] Section 11 (6)**

24            *omit*

25    **Explanatory note**

26    This amendment omits a subsection that is unnecessary because of the amendment of  
27    section 11 (5) by another amendment.

1 **[3.982] Section 18 (1), new note**

2 *insert*

3 *Note* For how documents may be given, see *Legislation Act 2001*, pt 19.5.

4 **Explanatory note**

5 This amendment adds a standard note about service of documents.

6 **[3.983] Section 18 (6), new penalty**

7 *insert*

8 Maximum penalty (for each day): 50 penalty units.

9 **Explanatory note**

10 This amendment brings a penalty provision into line with current drafting practice.

11 **[3.984] Section 18 (7)**

12 *omit*

13 **Explanatory note**

14 This amendment omits a subsection that is unnecessary because of the amendment of  
15 section 18 (6) by another amendment.

16 **[3.985] Section 28 (1)**

17 *substitute*

18 (1) The chief executive may appoint a person as an authorised person  
19 for this Act.

20 *Note 1* For the making of appointments (including acting appointments), see  
21 *Legislation Act 2001*, pt 19.3.

22 *Note 2* In particular, a person may be appointed for a particular provision of a  
23 law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
24 by naming a person or nominating the occupant of a position (see s 207).

25 **Explanatory note**

26 This amendment updates the provision, as follows:

- 27 • the reference to the appointment being made ‘in writing’ is omitted because the  
28 *Legislation Act 2001*, section 206 provides that an appointment must be made, or  
29 evidenced, in writing;

**Schedule 3**      Technical amendments  
**Part 3.90**      Waste Minimisation Act 2001

Amendment [3.986]

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- 1      • the reference to ‘or a provision of this Act’ is omitted because the *Legislation Act*  
2          *2001*, section 205 (1) provides that an appointment may be for a function under an  
3          Act.

4      This amendment also adds standard appointments notes.

5      **[3.986] Section 46 (2), new note**

6          *insert*

7          *Note*      For other provisions about forms, see *Legislation Act 2001*, s 255.

8      **Explanatory note**

9      This amendment adds a standard note about approved forms.

10     **[3.987] Section 47**

11          *omit*

12          , in writing,

13     **Explanatory note**

14     This amendment omits unnecessary words. The *Legislation Act 2001*, section 232  
15     provides that a delegation must be made, or evidenced, in writing.

16     **[3.988] Section 47, new note**

17          *insert*

18          *Note*      For the making of delegations and the exercise of delegated functions,  
19          see *Legislation Act 2001*, pt 19.4.

20     **Explanatory note**

21     This amendment adds a standard note about delegations.

22     **[3.989] Dictionary, new notes**

23          *insert*

24          *Note 1*      The *Legislation Act 2001* contains definitions and other provisions  
25          relevant to this Act.

26          *Note 2*      In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
27          terms:

- 28              • contravene



- 1                   • corporation  
2                   • individual.

3 **Explanatory note**

4 This amendment adds standard dictionary notes.

5 **Part 3.91**                   **Waste Minimisation**  
6                                   **Regulations 2001**

7 **[3.990] Regulation 11 (2), new note**

8                   *insert*

9                   *Note*     For how documents may be given, see *Legislation Act 2001*, pt 19.5.

10 **Explanatory note**

11 This amendment adds a standard note about service of documents.

12 **[3.991] Dictionary, new notes**

13                   *insert*

14                   *Note 1*    The *Legislation Act 2001* contains definitions and other provisions  
15                   relevant to these regulations.

16                   *Note 2*    In particular, the *Legislation Act 2001*, dict, pt 1, defines the following  
17                   terms:

- 18                   • contravene  
19                   • the Territory.

20 **Explanatory note**

21 This amendment adds standard dictionary notes.



1 **[3.994] Section 9J (5)**

2 *substitute*

3 (5) In this section:

4 *public transport* means a public bus or taxi within the meaning of  
5 the *Road Transport (Public Passenger Services) Act 2001*.

6 (commencement: 1 July 2002)

7 **Explanatory note**

8 This amendment updates the references to public vehicles.

9 **[3.995] Dictionary, new definition of *committee***

10 *insert*

11 *committee*, for a matter arising under the Act between an employer  
12 and the employer's workers, means a committee that represents the  
13 employer and workers that has the power to decide the matter.

14 (commencement: 1 July 2002)

15 **Explanatory note**

16 This amendment adds a definition for an undefined term used in the Act.

17



## Part 4.3 Amending Acts with substantive provisions

### Explanatory note for pt 4.3

The *Financial Sector Reform (ACT) Act 1999* is an amending Act that, in conjunction with complementary Commonwealth legislation, transferred the regulation of building societies and credit unions from the ACT to the Commonwealth. The *Legislation Act 2001*, section 88 (1) saves the effect of transitional provisions that are repealed. However, to remove any doubt about the ongoing operation of savings and transitional provisions, the effect of the Act is saved by the application of the *Legislation Act 2001*, section 88 (see section 6 (2) of this Act).

The *University of Canberra (Transfer) Act 1997* is an amending Act providing for the transfer of responsibility for the University from the Commonwealth to the Territory. The remaining substantive provisions deal with savings and transitional matters. The *Legislation Act 2001*, section 88 (1) saves the effect of transitional provisions that are repealed. However, to remove any doubt about the ongoing operation of savings and transitional provisions, the effect of the Act is saved by the application of the *Legislation Act 2001*, section 88 (see section 6 (2) of this Act).

The *Utilities (Consequential Provisions) Act 2000* includes a regulation-making power. Accordingly, the *Legislation Act 2001*, section 89, which provides for the automatic repeal of amending and repealing Acts enacted after 1 January 2000 when all their provisions have commenced, does not apply to it. No regulations have been made under the Act.

*Financial Sector Reform (ACT) Act 1999* No 33

*University of Canberra (Transfer) Act 1997* No 74

*Utilities (Consequential Provisions) Act 2000* No 66

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## Endnote

### Republications of amended laws

1 For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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