

2006

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Statute Law Amendment Bill 2006

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Statute Law Amendment Bill 2006

A Bill for

An Act to amend certain legislation for the purpose of statute law revision

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 2006*.

3 **2 Commencement**

4 (1) This Act commences on the 21st day after its notification day.

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

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

11 (3) In this section:

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

15 **Example**

16 An amendment followed by ‘(commencement: 12 November 2005)’ means that
17 the amendment is taken to have commenced on 12 November 2005.

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

21 **3 Purpose**

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

25 **4 Notes**

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

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

1 **5** **Legislation amended—schs 1–3**

2 This Act amends the legislation mentioned in schedules 1 to 3.

1 **Schedule 1 Minor amendments**

2 (see s 5)

3 **Part 1.1 Emergencies Act 2004**

4 **[1.1] Section 123 (2)**

5 *substitute*

6 (2) The owner of land may burn any material (including wood, straw,
7 stubble, grass and herbage) on the land on any day outside the
8 bushfire season if—

9 (a) the land around the material to be burnt is clear of flammable
10 material for at least 5m in every direction; and

11 (b) at least 24 hours before burning the material, the owner has
12 given notice of the intended burning to every occupier of land
13 adjacent to the land where the material is to be burnt.

14 **Explanatory note**

15 Existing paragraph (a) ends with ‘or’ and allows burning off to be undertaken outside the
16 bushfire season if either paragraph (a) or paragraph (b) is satisfied. The intended effect of the
17 provision was that both paragraphs must be complied with before burning off may be
18 undertaken. This amendment changes the ‘or’ to an ‘and’.

1 **Schedule 2** **Structural amendments**

2 (see s 5)

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

4 **[2.1] Section 4 (2), example 2**

5 *omit*

6 , in writing,

7 **Explanatory note**

8 The example relates to the determination of fees under an Act. Fee determinations are
9 disallowable instruments (see s 9 (1) (b)). This amendment omits words that are now redundant
10 because of the effect of the Legislation Act, section 42 (2) which requires disallowable
11 instruments to be in writing.

12 **[2.2] Section 4 (2), note**

13 *substitute*

14 *Note 1* The determination of a fee by a Minister under an Act is a disallowable
15 instrument and must be in writing (see s 9 (1) (b) and s 42 (2)).

16 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
17 does not limit, the meaning of the provision in which it appears
18 (see s 126 and s 132).

19 **Explanatory note**

20 This amendment includes new note 1 to assist users of the Act.

21 **[2.3] Section 12**

22 *substitute*

23 **12** **Meaning of *legislative instrument***

24 (1) A legislative instrument is—

25 (a) a subordinate law; or

- 1 (b) a disallowable instrument; or
2 (c) a notifiable instrument; or
3 (d) a commencement notice.
4 (2) A reference to a *legislative instrument* includes a reference to a
5 provision of a legislative instrument.

6 **Explanatory note**

7 This amendment replaces the defined term *registrable instrument* with the defined term
8 *legislative instrument*. It has become apparent that users of the Legislation Act do not find the
9 term *registrable instrument* helpful. The amendment, therefore, replaces it with the equivalent
10 term used in the *Legislative Instruments Act 2003* (Cwlth).

11 **[2.4] Section 56 (3), note 1**

12 *substitute*

13 *Note 1* The determination of a fee by a Minister under an Act is a disallowable
14 instrument and must be in writing (see s 9 (1) (b) and s 42 (2)).

15 **Explanatory note**

16 This amendment brings the note into line with the new note for section 4 (2) which is inserted
17 by another amendment.

18 **[2.5] New section 75AA**

19 *before section 75A, insert*

20 **75AA Commencement of provisions identifying amended laws**

- 21 (1) This section applies if a law amends another law and includes a
22 provision (a *legislation amended provision*) identifying the
23 amended law.
24 (2) The legislation amended provision automatically commences (or is
25 taken to have automatically commenced)—
26 (a) on the commencement of the amendments; or
27 (b) if the amendments commence at different times—on the
28 commencement of the earlier or earliest of the amendments.

1 (2) This section is a determinative provision.

2 *Note* See s 5 for the meaning of determinative provision, and s 6 for their
3 displacement.

4 **Explanatory note**

5 This amendment includes a new section to ensure that provisions identifying legislation that is
6 amended commence when the amendments (or the earlier or earliest of the amendments)
7 commence.

8 **[2.6] Section 88 (1) and (2)**

9 *substitute*

10 (1) The continuing operation of a transitional law or validating law is
11 not affected only because the law is repealed.

12 (2) Subsection (1) does not apply to a law that is a transitional law or
13 validating law because of modifications that it makes to another law.

14 **Explanatory note**

15 This amendment and the next clarify and simplify provisions of section 88 (Repeal does not end
16 effect of transitional laws etc). To make existing section 88 (1) more readable, details of the
17 subsection are proposed to be moved to definitions inserted by the next amendment and the
18 language of the subsection brought more closely into line with Legislation Act, section 86 (2).
19 Existing section 88 (2) is only amended consequentially.

20 The Legislation Act, like other interpretation legislation in Australia, contains provisions
21 dealing with the effect of the repeal and amendment of laws (see chapter 9). Despite these
22 provisions and the general principle against the retrospective operation of legislation,
23 transitional provisions are commonly included in legislation, particularly in legislation moving
24 from one legislative scheme to another. It is readily apparent that not all of these transitional
25 provisions are, on a strict analysis, legally necessary.

26 Transitional provisions that may not be strictly legally necessary are commonly included for at
27 least 2 reasons. First, to put the intended effect of legislation during a transitional period
28 completely beyond doubt. Second, to have an express statement of the transitional effect of
29 provisions. Such a statement assists members of the Legislative Assembly and users of new or
30 amended legislation to arrive at a clear understanding of the intended effect of the new or
31 amended legislation.

32 In this regard the statement is educative rather than having an intended long-term legal effect.
33 Hence the practice in the ACT for a number of years has been to include transitional provisions
34 even though they may not be strictly necessary and to sunset the transitional provisions

1 (including those that may be legally necessary) after they have become known to users.
2 Sunsetting transitional provisions assists in avoiding unnecessary clutter in the statute book.
3 However, because the ACT legislation register provides ready access to versions of the law at
4 each point in time since the establishment of the register, these sunsetted transitional provisions
5 can be readily located by looking at a version of the law for the relevant point in time or at the
6 extensive endnotes provided for all ACT legislation. Because of the ACT drafting practice of
7 including transitional provisions for amended legislation by amendment into the legislation
8 being amended, it is unnecessary for users of ACT legislation to check amending legislation for
9 transitional provisions.

10 The ACT legislative drafting practice is supported by section 88 which enables transitional
11 provisions to be removed from current versions of legislation after a period sufficient to allow
12 users to become familiar with them, whether or not they may have a continuing legal effect.
13 The operation of this legislative drafting practice is reflected in the sunsetting of every
14 transitional provision that was included in the Legislation Act when it was enacted. It is also
15 demonstrated in many other Acts enacted by the Legislative Assembly in recent years. For
16 example, see—

- 17 • *Unit Titles Act 2001*, part 16
- 18 • *Food Act 2001*, part 12
- 19 • *Civil Law (Wrongs) Act 2002*, chapter 16 (previously ch 12)
- 20 • *Security Industry Act 2003*, part 6
- 21 • *Rates Act 2004*, part 9
- 22 • *Animal Diseases Act 2005*, part 9.

23 **[2.7] New section 88 (8) and (9)**

24 *insert*

25 (8) To remove any doubt and without limiting section 6 (Legislation
26 Act provisions must be applied), the application of this section to a
27 law is not displaced only because the law is repealed and, in
28 particular, the repeal of the law does not of itself imply an intention
29 to displace the application of this section to the law.

30 (9) In this section:

31 ***transitional law*** means—

- 1 (a) a law made or expressed to be made for a transitional purpose;
2 or
3 (b) a law that makes provision consequential on a law mentioned
4 in paragraph (a).

5 **Examples**

- 6 1 a provision stating that an existing licence under a repealed Act is taken to be
7 a licence of a particular kind under another Act and authorising the
8 imposition of conditions under the other Act
9 2 a provision stating that a provision applies to certain applications made
10 before the commencement of an amendment or only to applications made
11 after the commencement of an amendment
12 3 a declaration made for subsection (3)

13 *Note 1* **Transitional** is defined in the dictionary to include application and
14 savings.

15 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
16 does not limit, the meaning of the provision in which it appears
17 (see s 126 and s 132).

18 **validating law** means—

- 19 (a) a law that validates something that is or may be invalid; or
20 (b) a law that makes provision consequential on a law mentioned
21 in paragraph (a).

22 **Examples**

- 23 1 a provision declaring an instrument to have been validly made and acts done
24 in reliance on the instrument to have been validly done
25 2 a provision stating that an instrument that is declared valid is taken to have
26 been amended in a particular way

27 **Explanatory note**

28 This amendment inserts 2 new subsections into section 88.

29 Proposed section 88 (8) is included to ensure that the repeal or expiry of a transitional or
30 validating law does not, of itself, displace section 88 or give rise to an implication that
31 section 88 is intended to be displaced. As mentioned in the explanatory note to the previous
32 amendment of section 88, transitional provisions may be included in legislation even though

1 they may not be strictly legally necessary. Their repeal (or expiry) should not, therefore, give
2 rise to an implication that any legal effect that they had was to be ended.

3 Proposed section 88 (9) defines the terms *transitional law* and *validating law*. The details of
4 the definitions (including examples) are largely taken from existing section 88 (1).

5 **[2.8] Section 89 (1)**

6 *substitute*

7 (1) An amending law is automatically repealed on the day after—

8 (a) all of its provisions have commenced; or

9 (b) the last of its provisions that have not commenced are omitted
10 or cannot commence.

11 **Example of provision that can no longer commence**

12 The *ABC Act 2005* includes a provision that amends the *XYZ Act 2000*. Before
13 the provision commences, the *XYZ Act 2000* is repealed. The provision can,
14 therefore, no longer commence.

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

18 **Explanatory note**

19 This amendment makes it clear that an amending law is automatically repealed if the last of its
20 uncommenced amendments are repealed before they commence or can no longer commence.
21 Amendments can no longer commence if, for example, they amend a law or provisions that are
22 repealed before the amendments commence. The amendment will help to remove unnecessary
23 clutter from the statute book.

1 **[2.9] Section 151 (4)**

2 *before*

3 until

4 *insert*

5 to or

6 **Explanatory note**

7 Section 151 deals with working out periods of time generally. Section 151 (4) provides for the
8 inclusion of the last day of a stated period in that period. The amendment makes it clear that
9 section 151 (4) covers cases where the period is described as ‘to’ a stated day. For example, the
10 period described as ‘1 January 1974 to 31 December 1980’ means that 31 December 1980 is
11 included in the period.

12 **[2.10] New section 151 (6A)**

13 *insert*

14 (6A) Despite subsection (3), if, under an Act or statutory instrument,
15 something must or may be done within a particular period of time
16 after a stated day, the thing may be done on the stated day.

17 **Explanatory note**

18 This amendment makes it clear that, if something must or may be done, within a particular
19 period of time after a stated day, then, despite section 151 (3) (which would otherwise exclude
20 the day), the thing may be done on that day.

21 **[2.11] Section 151A (4), definition of *working day*,**
22 **paragraph (b) (ii)**

23 *substitute*

24 (ii) a public holiday at the place where the thing must or may
25 be done; or

- 1 (iii) if the thing is to be done by or in relation to an authorised
2 deposit-taking institution—a day observed by the
3 institution as a bank holiday at the place where the thing
4 must or may be done.

5 **Explanatory note**

6 This amendment amends the definition of *working day* in section 151A (Periods of time ending
7 on non-working days) to take into account the effect of bank holidays.

8 **[2.12] Section 255 (3), example**

9 *substitute*

10 **Example**

11 The X Act, section 23 provides for a person to apply for registration but makes no
12 mention of a form for the application. However, the Act, section 80 (1) provides:

13 (1) The Minister may approve forms for this Act.

14 Section 80 (3) provides that the approval of a form is a notifiable instrument.

15 Because section 80 (1) permits a form to be approved ‘for this Act’, this Act,
16 section 255 applies in relation to section 23 and the Minister may, in writing,
17 approve a form for the application.

18 *Note 1* Because the approval is a notifiable instrument, it must be in writing
19 (see s 42 (2)).

20 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
21 does not limit, the meaning of the provision in which it appears
22 (see s 126 and s 132).

23 **Explanatory note**

24 This amendment clarifies the example by including references to the approval being a notifiable
25 instrument.

1 **[2.13] Dictionary, part 1, definition of *change***

2 *substitute*

3 *change* includes change by alteration, omission, substitution or
4 addition.

5 **Explanatory note**

6 This amendment revises the definition of *change* to expressly include change by alteration.
7 Alteration is a common kind of change and its express inclusion in the definition should assist
8 users to better understand the scope of the definition.

9 **[2.14] Dictionary, part 1, definition of *foreign country***

10 *substitute*

11 *foreign country* means a country (whether or not an independent
12 sovereign country) outside Australia and the external territories, and
13 includes a state, province or other part of such a country.

14 **Explanatory note**

15 This amendment revises the definition of *foreign country* to ensure that a reference to a foreign
16 country includes a reference to a state, province or other part of the foreign country. The
17 amendment will, for example, ensure that a reference to the law of a foreign country includes,
18 for a foreign country that has states or provinces, a reference to the relevant law of the states or
19 provinces.

20 **[2.15] Dictionary, part 1, new definition of *legislative instrument***

21 *insert*

22 *legislative instrument*—see section 12.

23 **Explanatory note**

24 This amendment is consequential on another amendment in this part that replaces the defined
25 term *registrable instrument* with the defined term *legislative instrument*.

1 **[2.16] Dictionary, part 1, definition of *modification***

2 *substitute*

3 *modification* includes modification by alteration, omission,
4 substitution and addition.

5 **Explanatory note**

6 This amendment revises the definition of *modification* to expressly include modifications by
7 alteration. Alteration is a common kind of modification and its express inclusion in the
8 definition should assist users to better understand the scope of the definition.

9 **[2.17] Dictionary, part 1, definition of *registrable instrument***

10 *omit*

11 **Explanatory note**

12 This amendment is consequential on another amendment in this part that replaces the defined
13 term *registrable instrument* with the defined term *legislative instrument*.

14 **[2.18] Further amendments, mentions of *registrable instrument***

15 *omit*

16 registrable instrument

17 *substitute*

18 legislative instrument

19 *in*

- 20 • section 19 (11)
21 • section 42 (2)
22 • section 46 (3)
23 • section 59 (2) (b)
24 • sections 60 to 63
25 • section 73
26 • section 75 (3)
27 • section 75A
28 • section 81 (6) (a) and (8)

- 1 • section 89 (6) and (9)
2 • dictionary, part 1, definition of *notification*

3 **Explanatory note**

4 This amendment is consequential on another amendment in this part.

5 **[2.19] Further amendments, mentions of *registrable***
6 ***instruments***

7 *omit*

8 registrable instruments

9 *substitute*

10 legislative instruments

11 *in*

- 12 • section 19 (4), (5) and (7)
13 • part 6.4 heading
14 • section 59
15 • section 60 (1)
16 • section 61 heading
17 • section 63 heading
18 • section 255 (1), note
19 • section 302 (2) (b)

20 **Explanatory note**

21 This amendment is consequential on another amendment in this part.

1 **[2.23] Section 6 heading**

2 *substitute*

3 **6 Requirements about form of legislative instruments**
4 **(other than approved forms)—Act, s 61 (2)**

5 **Explanatory note**

6 This amendment is consequential on the amendment of the Legislation Act, section 12 in
7 part 2.1.

8 **[2.24] Section 6 (1) and (2)**

9 *omit*

10 registrable instrument

11 *insert*

12 legislative instrument

13 **Explanatory note**

14 This amendment is consequential on the amendment of the Legislation Act, section 12 in
15 part 2.1.

16 **[2.25] Dictionary, note 2**

17 *insert*

- 18
 - legislative instrument (see s 12)

19 **Explanatory note**

20 This amendment is consequential on the amendment of the Legislation Act, section 12 in
21 part 2.1.

22 **[2.26] Dictionary, note 2**

23 *omit*

- 24
 - registrable instrument

25 **Explanatory note**

26 This amendment is consequential on the amendment of the Legislation Act, section 12 in
27 part 2.1.

1 **[2.27] Dictionary, definition of *notification number***
2 *substitute*
3 *notification number*, for part 2 (Notification of legislative
4 instruments)—see section 5.

5 **Explanatory note**

6 This amendment is consequential on the amendment of the Legislation Act, section 12 in
7 part 2.1.

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

2 (see s 5)

3 **Part 3.1** **Births, Deaths and Marriages**
4 **Registration Act 1997**

5 **[3.1] Sections 67 (1) and 69 (1)**

6 *omit*

7 , in writing,

8 **Explanatory note**

9 This amendment omits words that are now redundant because of the effect of the Legislation
10 Act, section 42 (2) which requires disallowable and notifiable instruments to be in writing.

11 **[3.2] Dictionary, definition of *doctor***

12 *omit*

13 **Explanatory note**

14 This amendment omits a redundant signpost definition. The relevant definition was omitted by
15 an earlier amendment.

16 **Part 3.2** **Business Names Act 1963**

17 **[3.3] Section 9 (1)**

18 *substitute*

19 (1) Except with the Minister's consent, a business name must not be
20 registered under this Act if the business name is a name that is—

21 (a) in the registrar-general's opinion, undesirable; or

1 (b) unacceptable for registration under the *Corporations*
2 *Regulations 2001* (Cwlth).

3 **Explanatory note**

4 This amendment improves the structure of the subsection and updates the reference to the
5 relevant Commonwealth legislation.

6 **[3.4] Section 19 (1) (d)**

7 *substitute*

8 (d) if the business name is registered in relation to a corporation
9 only and the corporation is deregistered under the Corporations
10 Act or dissolved.

11 **Explanatory note**

12 This amendment brings the language of the paragraph into line with the Corporations Act.

13 **Part 3.3** **Canberra Institute of Technology**
14 **Act 1987**

15 **[3.5] Section 5 (3) and (4)**

16 *omit*

17 **Explanatory note**

18 This amendment omits subsections that were retained in this section in error when the Act was
19 amended by the *Financial Management Legislation Amendment Act 2005*, schedule 1, part 1.4.
20 The omitted subsections relate to directions given by the Minister to the Canberra Institute of
21 Technology. Directions are now dealt with in the *Canberra Institute of Technology 1987*,
22 section 6. The omitted subsections are inserted into that section by another amendment.

23 **[3.6] New section 6 (1)**

24 *omit*

25 , in writing,

26 **Explanatory note**

27 This amendment omits words that are now redundant because of the effect of the Legislation
28 Act, section 42 (2) which requires notifiable instruments to be in writing.

1 **[3.7] New section 6 (3) and (4)**

2 *insert*

3 (3) A direction is a notifiable instrument.

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

5 (4) If the Minister gives the institute a direction under this section, a
6 copy of the direction must be presented to the Legislative Assembly
7 within 5 sitting days after the day the direction is given.

8 **Explanatory note**

9 This amendment inserts provisions omitted from section 5 by another amendment.

10 **[3.8] Section 30 (5)**

11 *substitute*

12 (5) The members are to be appointed by the Minister.

13 *Note 1* For the making of appointments (including acting appointments), see
14 the Legislation Act, pt 19.3.

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

17 *Note 3* Certain Ministerial appointments require consultation with an Assembly
18 committee and are disallowable (see Legislation Act, div 19.3.3).

19 **Explanatory note**

20 This amendment omits from subsection (5) the requirement that appointments be in writing,
21 which is required by the Legislation Act, section 206 (1). The amendment also adds standard
22 appointment notes.

23 **[3.9] Section 51**

24 *omit*

25 **Explanatory note**

26 This amendment omits a redundant provision in relation to the employment and promotion of
27 staff of the institute. The section relates to equal employment opportunity and was inserted into
28 the Act when the staff of the institute were not public servants to give them similar protection to
29 Commonwealth employees under the *Public Service Act 1922* (Cwlth). In 1994 the staff of the

1 institute were brought under the *Public Sector Management Act 1994* which provides for equal
2 employment opportunity programs (see that Act, s 40).

3 **Part 3.4 Children and Young People Act**
4 **1999**

5 **[3.10] Section 403A (4) (a)**

6 *omit*
7 registrable instruments
8 *insert*
9 legislative instruments

10 **Explanatory note**

11 This amendment is consequential on the amendment of the Legislation Act, section 12 in
12 part 2.1.

13 **[3.11] Section 403A (4) (b)**

14 *omit*
15 registrable instrument
16 *insert*
17 legislative instrument

18 **Explanatory note**

19 This amendment is consequential on the amendment of the Legislation Act, section 12 in
20 part 2.1.

1 **Part 3.5** **Civil Law (Sale of Residential**
2 **Property) Regulation 2004**

3 **[3.12] Section 9 (1) (a)**

4 *substitute*

5 (a) a statement about any registration in the heritage register in
6 relation to the property;

7 **Explanatory note**

8 This amendment updates a reference to the heritage places register. The register is now called
9 the heritage register (see *Heritage Act 2004*, s 20) .

10 **[3.13] Section 9 (2)**

11 *omit*

12 **Explanatory note**

13 This amendment omits a redundant definition of *heritage places register*.

14 **[3.14] Section 11 (2) (b)**

15 *omit*

16 , in writing,

17 **Explanatory note**

18 This amendment omits words that are now redundant because of the effect of the Legislation
19 Act, section 42 (2) which requires disallowable instruments to be in writing.

20 **[3.15] Dictionary, note 2**

21 *insert*

- 22
 - heritage register

23 **Explanatory note**

24 This amendment is consequential on other amendments in this part. Dictionary note 2 is an aid
25 to users that lists examples of terms used in the regulation that are defined in the Legislation
26 Act, dictionary, part 1.

1 **Part 3.6 Coroners Act 1997**

2 **[3.16] Section 10 (1)**

3 *omit*

4 shall not perform a function or duty

5 *substitute*

6 must not exercise a function

7 **Explanatory note**

8 This amendment brings the subsection more closely into line with current drafting practice.
9 The Legislation Act, dictionary, part 1 defines *function* as including duty and power.

10 **[3.17] Section 21 heading**

11 *substitute*

12 **21 Directions to doctors to conduct post-mortem
13 examinations**

14 **Explanatory note**

15 This amendment updates language to bring it into line with current drafting practice.

16 **[3.18] Section 60 (1)**

17 *omit*

18 exercising a power or performing a function or duty under this Act

19 *substitute*

20 exercising a function under this Act

21 **Explanatory note**

22 This amendment brings the subsection more closely into line with current drafting practice.
23 The Legislation Act, dictionary, part 1 defines *function* as including duty and power.

1 **[3.19] New section 108**

2 *insert*

3 **108 Saving of transitional provisions**

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

6 **Explanatory note**

7 This amendment inserts a new provision into part 11 which deals with transitional matters in
8 relation to the repealed *Coroners Act 1956*. The provision ensures that any ongoing effect of
9 the transitional provisions is preserved after their repeal by the next amendment.

10 **[3.20] Part 11**

11 *omit*

12 **Explanatory note**

13 This amendment omits a redundant part dealing with transitional provisions in relation to the
14 repealed *Coroners Act 1956*. Any ongoing effect of the transitional provisions is preserved
15 after their repeal by this amendment.

16 **[3.21] Schedule 1 heading**

17 *substitute*

18 **Schedule 1 Oath or affirmation of office**

19 (see s 10)

20 **Explanatory note**

21 This amendment substitutes a descriptive a schedule heading in accordance with current
22 drafting practice.

1 **[3.22] Dictionary, note 2**

2 *insert*

- 3 • doctor
4 • lawyer
5 • registrar-general

6 **Explanatory note**

7 This amendment is consequential on other amendments in this part. Dictionary note 2 is an aid
8 to users that lists examples of terms used in the Act that are defined in the Legislation Act,
9 dictionary, part 1.

10 **[3.23] Dictionary, definition of *registrar-general***

11 *omit*

12 **Explanatory note**

13 This amendment omits a redundant definition. The term *registrar-general* is defined in the
14 Legislation Act, dictionary, part 1.

15 **[3.24] Further amendments, references to *legal practitioner***

16 *omit*

17 legal practitioner

18 *substitute*

19 lawyer

20 *in*

- 21 • section 39
22 • section 42
23 • section 72

24 **Explanatory note**

25 This amendment updates language to bring it into line with current drafting practice.

- 1 **[3.25] Further amendments, references to *medical practitioner***
2 *omit*
3 *medical practitioner*
4 *substitute*
5 *doctor*
6 *in*
7 • section 9 (3)
8 • section 13 (1) (f) and (g)
9 • sections 21 to 23
10 • section 25
11 • section 32
12 • section 70 (1) (d)

13 **Explanatory note**

14 This amendment updates language to bring it into line with current drafting practice.

15 **Part 3.7 Court Procedures Act 2004**

- 16 **[3.26] Section 81**
17 *omit*
18 *registrable instruments*
19 *substitute*
20 *legislative instruments*

21 **Explanatory note**

22 This amendment is consequential on the amendment of the Legislation Act, section 12 in
23 part 2.1.

1 **Part 3.8** **Crimes (Child Sex Offenders) Act**
2 **2005**

3 **[3.27] Section 3, note 1**

4 *substitute*

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

8 For example, the signpost definition '*witness protection program*—see
9 the *Witness Protection Act 1996*, dictionary.' means that the term
10 'witness protection program' is defined in that dictionary and the
11 definition applies to this Act.

12 **Explanatory note**

13 This amendment is consequential on the transfer, by another amendment, of definitions in the
14 *Witness Protection Act 1996* from a definitions section to a dictionary.

15 **[3.28] Section 119 (2)**

16 *omit*

17 *Witness Protection Act 1996*, section 3

18 *substitute*

19 *Witness Protection Act 1996*, dictionary

20 **Explanatory note**

21 This amendment is consequential on the transfer, by another amendment, of definitions in the
22 *Witness Protection Act 1996* from a definitions section to a dictionary.

23 **[3.29] Section 133 (1)**

24 *omit*

25 , in writing,

26 **Explanatory note**

27 This amendment omits words that are now redundant because of the effect of the Legislation
28 Act, section 42 (2) which requires notifiable instruments to be in writing.

1 **[3.30] Dictionary, definition of *witness protection program***

2 *omit*

3 *Witness Protection Act 1996*, section 3

4 *substitute*

5 *Witness Protection Act 1996*, dictionary

6 **Explanatory note**

7 This amendment is consequential on the transfer, by another amendment, of definitions in the
8 *Witness Protection Act 1996* from a definitions section to a dictionary.

9 **Part 3.9 Dangerous Substances Act 2004**

10 **[3.31] Sections 10 (1) (i) and 13 (2)**

11 *omit*

12 in writing

13 **Explanatory note**

14 This amendment omits words that are now redundant because of the effect of the Legislation
15 Act, section 42 (2) which requires disallowable instruments to be in writing.

16 **[3.32] Section 49 (1) (a)**

17 *substitute*

18 (a) the knowledge, experience and training of the person in
19 relation to the kinds of dangerous substances to which the
20 application relates;

21 **Explanatory note**

22 This amendment adds the words ‘to which the application relates’ to make it clear that it is only
23 the dangerous substances to which the application relates that are relevant.

1 **[3.33] Section 72 (5)**

2 *substitute*

3 (5) For the *Civil Law (Wrongs) Act 2002*, section 139 (Defences of fair
4 report of proceedings of public concern), the information published
5 by the chief executive under this section about disciplinary action is
6 taken to be a fair report of proceedings of public concern.

7 **Explanatory note**

8 This amendment updates a cross-reference and terminology consequent on the enactment of the
9 *Civil Law (Wrongs) Amendment Act 2006*.

10 **[3.34] Further amendments, references to *in writing***

11 *omit*

12 , in writing,

13 *in*

- 14 • section 218 (1)
15 • section 219 (1)
16 • section 221 (1)
17 • section 222 (1)

18 **Explanatory note**

19 This amendment omits words that are now redundant because of the effect of the Legislation
20 Act, section 42 (2) which requires disallowable and notifiable instruments to be in writing.

21 **Part 3.10 Duties Act 1999**

22 **[3.35] Section 96 (1), definition of *voting shares***

23 *substitute*

24 ***voting share***—see the Corporations Act, section 9.

25 **Explanatory note**

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

1 **[3.36] Section 175, new definition of *paid***

2 *insert*

3 *paid*, for a premium or an instalment of a premium—see
4 section 176.

5 **Explanatory note**

6 This amendment inserts a signpost definition of *paid* to assist users.

7 **[3.37] Section 208A, definition of *licensed vehicle dealer***

8 *omit*

9 **Explanatory note**

10 This definition, and the omission of section 220 by the amendment below, omits 2 separate (but
11 effectively identical) definitions of *licensed vehicle dealer* for different parts of the Act. The
12 definitions are made redundant by a new definition of the term for the Act which is inserted into
13 the dictionary by another amendment.

14 **[3.38] Section 220**

15 *omit*

16 **Explanatory note**

17 This amendment omits a definition of *licensed vehicle dealer* and is consequential on the
18 insertion of a new definition of the term into the dictionary by another amendment.

19 **[3.39] Dictionary, new definitions**

20 *insert*

21 *acquired*, for an interest in a landholding private corporation, for
22 part 3.2 (Acquisition of interests in certain landholders)—see
23 section 84.

24 *acquisition statement*, for chapter 3 (Certain transactions treated as
25 transfers)—see section 76.

1 *asset*, for part 3.6 (Voluntary transfers under Financial Sector
2 (Transfers of Business) Act 1999 (Cwlth))—see section 115A.

3 **Explanatory note**

4 This amendment inserts into the dictionary, in accordance with current drafting practice,
5 signpost definitions for terms defined elsewhere in the Act.

6 **[3.40] Dictionary, definition of *bankrupt***

7 *substitute*

8 *bankrupt* includes having executed a personal insolvency
9 agreement.

10 **Explanatory note**

11 The *Bankruptcy Legislation Amendment Act 2004* (Cwlth) amended the *Bankruptcy Act 1966*
12 (Cwlth) to replace the concepts of deed of assignment, deed of arrangement and composition
13 with the new single concept of personal insolvency agreement. This amendment brings the
14 paragraph into line with the new concept.

15 **[3.41] Dictionary, new definitions**

16 *insert*

17 *business*, for part 3.6 (Voluntary transfers under Financial Sector
18 (Transfers of Business) Act 1999 (Cwlth))—see section 115A.

19 *capital reduction*, for part 3.3 (Entitlements arising from capital
20 reductions or alterations of rights)—see section 96 (1).

21 *chapter 3 transaction*, for chapter 3 (Certain transactions treated as
22 transfers)—see section 76.

23 *company*, for part 3.3 (Entitlements arising from capital reductions
24 or alterations of rights)—see section 96 (1).

25 *consideration*—see section 21.

26 *declaration of trust*, for chapter 2 (Transactions concerning dutiable
27 property)—see section 6.

28 *demonstrator*, for part 9.2 (Exemptions)—see section 208A.

1 *dutiable entitlement*, for part 3.3 (Entitlements arising from capital
2 reductions or alterations of rights)—see section 96 (1).

3 *equipment financing arrangement*, for chapter 6 (Hire of goods)—
4 see section 151.

5 *first executed*, for an instrument (including a contract)—see
6 section 243.

7 *FS (TB) Act*, for part 3.6 (Voluntary transfers under Financial
8 Sector (Transfers of Business) Act 1999 (Cwlth))—see
9 section 115A.

10 *goods*, for chapter 6 (Hire of goods)—see section 151.

11 **Explanatory note**

12 This amendment inserts into the dictionary, in accordance with current drafting practice,
13 signpost definitions for terms defined elsewhere in the Act.

14 **[3.42] Dictionary, definition of *hire of goods***

15 *substitute*

16 *hire of goods*—see section 152 and section 153.

17 **Explanatory note**

18 This amendment adds a reference to section 153 which also deals with the meaning of *hire of*
19 *goods*.

20 **[3.43] Dictionary, definition of *hiring charges***

21 *substitute*

22 *hiring charges*—see section 155 and section 156.

23 **Explanatory note**

24 This amendment adds a reference to section 156 which also deals with the meaning of *hiring*
25 *charges*.

1 **[3.44] Dictionary, definition of *insurance intermediary***
2 *substitute*
3 *insurance intermediary*—see the *Insurance Contracts Act 1984*
4 (Cwlth), section 11.

5 **Explanatory note**

6 This amendment updates a signpost definition.

7 **[3.45] Dictionary, definition of *interest***
8 *substitute*
9 *interest*—

10 (a) includes an estate, an interest under a lease or a sublease, a
11 proprietary right and a beneficial interest; and

12 (b) for a private corporation, for part 3.2 (Acquisition of interests
13 in certain landholders)—see section 83 (1).

14 **Explanatory note**

15 The dictionary at present contains separate definitions of this term. The substituted definition
16 combines both in accordance with current drafting practice. It also updates a reference to a
17 land-rich corporation.

18 **[3.46] Dictionary, new definitions**
19 *insert*
20 *landholding*, for part 3.2 (Acquisition of interests in certain
21 landholders)—see section 80.
22 *lease instrument*, for chapter 5 (Lease instruments)—see
23 section 133.
24 *lessee*, for chapter 5 (Lease instruments)—see section 133.
25 *lessor*, for chapter 5 (Lease instruments)—see section 133.

1 *licensed vehicle dealer* means a licensed dealer under the *Sale of*
2 *Motor Vehicles Act 1977*.

3 **Explanatory note**

4 This amendment inserts into the dictionary, in accordance with current drafting practice,
5 signpost definitions for terms defined elsewhere in the Act. It also inserts a definition of
6 *licensed vehicle dealer* for the Act to replace the definitions in section 208A and section 220
7 which are omitted by other amendments.

8 **[3.47] Dictionary, definition of *life company***

9 *substitute*

10 *life company*—see the *Life Insurance Act 1995* (Cwlth), schedule.

11 **Explanatory note**

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

13 **[3.48] Dictionary, new definitions**

14 *insert*

15 *majority interest*, in a private corporation—see section 83 (2).

16 *paid*, for a premium or an instalment of a premium, for chapter 8
17 (Insurance)—see section 176.

18 *person*, for part 3.3 (Entitlements arising from capital reductions or
19 alterations of rights)—see section 96 (1).

20 *property transferred*, by a dutiable transaction—see section 8 (2).

21 *receiving body*, for part 3.6 (Voluntary transfers under Financial
22 Sector (Transfers of Business) Act 1999 (Cwlth))—see
23 section 115A.

24 *relevant acquisition*, for division 3.2.3 (Charging of duty)—see
25 section 86.

1 *rights alteration*, in relation to voting shares, for part 3.3
2 (Entitlements arising from capital reductions or alterations of
3 rights)—see section 96 (1).

4 **Explanatory note**

5 This amendment inserts into the dictionary, in accordance with current drafting practice,
6 signpost definitions for terms defined elsewhere in the Act.

7 **[3.49] Dictionary, definition of *solicitor***

8 *omit*

9 **Explanatory note**

10 This amendment omits an unnecessary definition. The term *solicitor* is defined in the
11 Legislation Act, dictionary, part 1.

12 **[3.50] Dictionary, definition of *subsidiary***

13 *substitute*

14 *subsidiary*—see section 81 (3) to (5).

15 **Explanatory note**

16 This amendment adds a reference to section 81 (5) which also deals with the meaning of
17 *subsidiary*.

18 **[3.51] Dictionary, new definition of *time***

19 *insert*

20 *time*, of transfer of dutiable property—see section 8 (2).

21 **Explanatory note**

22 This amendment inserts into the dictionary, in accordance with current drafting practice, a
23 signpost definition for a term defined elsewhere in the Act.

1 **[3.52] Dictionary, definition of *trading stock***

2 *substitute*

3 *trading stock*, for part 9.2 (Exemptions)—see section 208A.

4 **Explanatory note**

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

6 **[3.53] Dictionary, definition of *transfer***

7 *substitute*

8 *transfer*—

9 (a) includes—

10 (i) assignment; and

11 (ii) exchange; and

12 (iii) vesting of an interest in property under a law of the
13 Territory, the Commonwealth, a State or another
14 Territory, unless the interest does not exist before it is
15 vested; and

16 (iv) vesting of an interest in property under a court order,
17 unless the interest did not exist before it is vested; and

18 (b) for chapter 2 (Transactions concerning dutiable property)—see
19 section 6.

20 **Explanatory note**

21 This amendment updates the definition of *transfer* by adding to the definition, in accordance
22 with current drafting practice, a signpost definition to a term defined elsewhere in the Act.

23 **[3.54] Dictionary, new definitions**

24 *insert*

25 *transferee*, of dutiable property—see section 8 (2).

26 *unascertainable*, for an amount of a cost component, for part 5.4
27 (Unascertainable lease costs)—see section 143 (2).

1 ***voluntary transfer***, for part 3.6 (Voluntary transfers under Financial
2 Sector (Transfers of Business) Act 1999 (Cwlth))—see
3 section 115A.

4 ***voting share***, for part 3.3 (Entitlements arising from capital
5 reductions or alterations of rights)—see the Corporations Act,
6 section 9.

7 **Explanatory note**

8 This amendment inserts into the dictionary, in accordance with current drafting practice,
9 signpost definitions for terms defined elsewhere in the Act.

10 **[3.55] Further amendments, references to *in writing***

11 *omit*

12 , in writing,

13 *in*

- 14 • section 4 (2)
- 15 • section 4A (1)
- 16 • section 70A (4)
- 17 • section 91A (4)
- 18 • section 115G (1)
- 19 • section 201A (1)
- 20 • section 208AA (4)
- 21 • section 214A (5)
- 22 • section 230 (2)
- 23 • section 252A (1)

24 **Explanatory note**

25 This amendment omits words that are now redundant because of the effect of the Legislation
26 Act, section 42 (2) which requires disallowable and notifiable instruments to be in writing.

1 **Part 3.11** **Guardianship and Management**
2 **of Property Act 1991**

3 **[3.56] Section 10 (2) (c)**

4 *substitute*

5 (c) is bankrupt or has executed a personal insolvency agreement
6 (and, if so, has given particulars to the tribunal).

7 **Explanatory note**

8 The *Bankruptcy Legislation Amendment Act 2004* (Cwlth) amended the *Bankruptcy Act 1966*
9 (Cwlth) to replace the concepts of deed of assignment, deed of arrangement and composition
10 with the new single concept of personal insolvency agreement. This amendment brings the
11 paragraph into line with the new concept.

12 **[3.57] Section 64 (2) (b)**

13 *substitute*

14 (b) if the member becomes bankrupt or executes a personal
15 insolvency agreement.

16 **Explanatory note**

17 The *Bankruptcy Legislation Amendment Act 2004* (Cwlth) amended the *Bankruptcy Act 1966*
18 (Cwlth) to replace the concepts of deed of assignment, deed of arrangement and composition
19 with the new single concept of personal insolvency agreement. This amendment brings the
20 paragraph into line with the new concept.

21 **[3.58] Section 75 (1)**

22 *omit*

23 , in writing,

24 **Explanatory note**

25 This amendment omits words that are now redundant because of the effect of the Legislation
26 Act, section 42 (2) which requires disallowable instruments to be in writing.

1 **[3.62] Section 5**

2 *substitute*

3 **5 Appointment of board of inquiry**

4 The Executive may appoint 1 or more people as a board of inquiry
5 to inquire into a matter stated in the instrument of appointment.

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

7 **Explanatory note**

8 This amendment updates the appointment section by removing the words ‘by instrument’
9 because the Legislation Act, section 206 provides that an appointment must be made, or
10 evidenced, by writing signed by the appointer.

11 The amendment also inserts a note about appointments.

12 **[3.63] Section 6 (4)**

13 *omit*

14 **Explanatory note**

15 This amendment omits a redundant provision about the appointment of a member not being
16 invalid because of a defect or irregularity in connection with the member’s appointment. The
17 provision is unnecessary because of the Legislation Act, section 212 which is to the same effect.

18 **[3.64] Section 9, new note**

19 *insert*

20 *Note* A member’s appointment also ends if the person resigns (see
21 Legislation Act, s 210).

22 **Explanatory note**

23 This amendment inserts a standard note about an appointment ending if a person resigns
24 consequent on the next amendment.

1 **[3.65] Section 10**

2 *omit*

3 **Explanatory note**

4 Section 10 is no longer necessary because of the Legislation Act, section 210 which deals with
5 resignation. A standard note about resignation is inserted in section 9 by another amendment.

6 **[3.66] Section 14B (3)**

7 *omit*

8 calendar month

9 *substitute*

10 month

11 **Explanatory note**

12 This amendment omits unnecessary words. The Legislation Act, dictionary, part 1, defines
13 *month* as meaning calendar month.

14 **[3.67] Section 16 (1)**

15 *omit*

16 performance or exercise of any function or power

17 *substitute*

18 exercise of any function

19 **Explanatory note**

20 This amendment brings the section more closely into line with current drafting practice. The
21 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function
22 and *function* to include power.

1 **[3.68] Section 17**

2 *omit*

3 performance or exercise of a function or power

4 *substitute*

5 exercise of a function

6 **Explanatory note**

7 This amendment brings the section more closely into line with current drafting practice. The
8 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function
9 and *function* to include power.

10 **[3.69] Section 17 (c)**

11 *omit*

12 furnished

13 *substitute*

14 provided

15 **Explanatory note**

16 This amendment updates language.

17 **[3.70] Section 23**

18 *substitute*

19 **23 Conduct of hearing**

20 Except as otherwise provided by this Act, the procedure at a hearing
21 may be decided by the board.

22 **Explanatory note**

23 This amendment updates language.

1 **[3.71] Section 37**

2 *substitute*

3 **37 Delegation by board**

4 A board may delegate any of its functions under this Act with the
5 written consent of the Chief Minister.

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

8 **Explanatory note**

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

10 **[3.72] Section 38 (1)**

11 *omit*

12 a proceeding of public concern for the *Civil Law (Wrongs)*
13 *Act 2002*, section 128

14 *substitute*

15 proceedings of public concern for the *Civil Law (Wrongs) Act 2002*,
16 section 139 (Defences of fair report of proceedings of public
17 concern)

18 **Explanatory note**

19 This amendment updates a cross-reference and terminology consequent on the enactment of the
20 *Civil Law (Wrongs) Amendment Act 2006*.

1 **[3.73] Section 38 (3)**

2 *omit*

3 *Civil Law (Wrongs) Act 2002*, section 129

4 *substitute*

5 *Civil Law (Wrongs) Act 2002*, section 138 (Defence for publication
6 of public documents)

7 **Explanatory note**

8 This amendment updates a cross-reference consequent on the enactment of the *Civil Law*
9 (*Wrongs) Amendment Act 2006*.

10 **[3.74] New Dictionary**

11 *insert*

12 **Dictionary**

13 (see s 2)

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

16 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 17 • Executive
18 • exercise
19 • function
20 • month
21 • under.

22 ***authorised person*** means a person declared in writing by the
23 chairperson to be an authorised person for this Act.

24 ***board*** means—

- 25 (a) a board of inquiry appointed under section 5; and
26 (b) in relation to an inquiry—the board of inquiry appointed to
27 conduct that inquiry.

- 1 *chairperson* means—
- 2 (a) the chairperson of a board appointed under section 6 (1) or (3);
- 3 or
- 4 (b) for a board constituted by 1 person—that person.
- 5 *member* means—
- 6 (a) for a board constituted by 1 person—that person; or
- 7 (b) for a board constituted by 2 or more people—each of those
- 8 people.
- 9 *premises* includes—
- 10 (a) a building or other structure; and
- 11 (b) an aircraft, vehicle or vessel; and
- 12 (c) a place, whether or not enclosed or built on.

13 **Explanatory note**

14 This amendment inserts a new dictionary consequent on the omission of the interpretation
15 provision (existing section 3) by another amendment. The language and structure of the
16 definitions is updated to bring them into line with current drafting practice.

17 **[3.75] Further amendments, references to *legal practitioner***

- 18 *omit*
- 19 legal practitioner
- 20 *substitute*
- 21 lawyer
- 22 *in*
- 23 • sections 15 to 17
- 24 • section 24 (c)

- 1 • section 25 (a)

2 **Explanatory note**

3 This amendment updates language.

4 **[3.76] Further amendments, references to *persons***

5 *omit*

6 persons

7 *substitute*

8 people

9 *in*

- 10 • section 6 (1) to (3)
11 • section 21 (3) and (4)
12 • section 24, heading

13 **Explanatory note**

14 This amendment updates language.

15 **Part 3.13 Intoxicated People (Care and**
16 **Protection) Act 1994**

17 **[3.77] Section 13**

18 *substitute*

19 **13 Protection of carers, managers and licensees**

20 A proceeding does not lie against a person who is or has been a
21 licensee, manager of a licensed place or carer in relation to anything
22 honestly done or omitted to be done by the person as licensee,
23 manager of a licensed place or carer for the exercise, or purported
24 exercise, of a function for this Act or another territory law.

25 **Explanatory note**

26 This amendment updates language.

1 **[3.78] Section 15 (2) (c) (i)**

2 *substitute*

- 3 (i) if the applicant is an individual—a written statement
4 signed by the applicant stating that the applicant has
5 never been bankrupt or executed a personal insolvency
6 agreement; or

7 **Explanatory note**

8 The *Bankruptcy Legislation Amendment Act 2004* (Cwlth) amended the *Bankruptcy Act 1966*
9 (Cwlth) to replace the concepts of deed of assignment, deed of arrangement and composition
10 with the new single concept of personal insolvency agreement. This amendment brings the
11 paragraph into line with the new concept.

12 **[3.79] Section 21 (2)**

13 *substitute*

- 14 (2) A condition takes effect 28 days after the day the licensee is given
15 notice of the condition or, if the notice states a later date of effect,
16 that date.

17 **Explanatory note**

18 This amendment brings the language of the provision more closely into line with current
19 drafting practice, particularly by ensuring that a condition does not take effect until the required
20 time after a licensee is given notice of the condition.

21 **[3.80] Section 23 (1) (a)**

22 *substitute*

- 23 (a) if the licensee is an individual—the licensee becomes bankrupt
24 or executes a personal insolvency agreement;

25 **Explanatory note**

26 The *Bankruptcy Legislation Amendment Act 2004* (Cwlth) amended the *Bankruptcy Act 1966*
27 (Cwlth) to replace the concepts of deed of assignment, deed of arrangement and composition
28 with the new single concept of personal insolvency agreement. This amendment brings the
29 paragraph into line with the new concept.

1 **[3.81] Section 23 (1) (c)**

2 *substitute*

3 (c) if the licensee is an incorporated association or any other kind
4 of entity—that the entity is unable to meet its debts;

5 **Explanatory note**

6 This amendment brings the language of the grounds on which a licence may be cancelled under
7 section 23 into line with the language of section 15 (2) (c) (iii) which is about applications for a
8 licence. In particular, the reference to ‘a body established by or under a law of the Territory or
9 elsewhere’ is changed to ‘any other kind of entity’.

10 **[3.82] Section 23 (2) (d) and (3)**

11 *substitute*

12 (d) inviting the licensee to make submissions to the Minister, not
13 later than 28 days after the day the licensee is given the notice,
14 why the licence should not be cancelled.

15 (3) After considering any submissions made in accordance with the
16 notice, the Minister may cancel the licence in relation to any
17 licensed place stated in the notice on any ground stated in the notice.

18 **Explanatory note**

19 This amendment brings the language of the provision more closely into line with current
20 drafting practice, particularly by ensuring that a licensee is given a minimum time to make
21 submissions about a proposed licence cancellation.

22 **[3.83] Sections 31 (1) and 38 (1)**

23 *omit*

24 , in writing,

25 **Explanatory note**

26 This amendment omits words that are now redundant because of the effect of the Legislation
27 Act, section 42 (2) which requires disallowable and notifiable instruments to be in writing.

1 **Part 3.14 Judicial Commissions Act 1994**

2 **[3.84] Section 1**

3 *substitute*

4 **1 Name of Act**

5 This Act is the *Judicial Commissions Act 1994*.

6 **Explanatory note**

7 This amendment brings the naming section into line with current drafting practice.

8 **[3.85] Section 3**

9 *substitute*

10 **2 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 terms used in this
13 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, s 155 and
17 s 156 (1)).

18 **Explanatory note**

19 This amendment inserts a standard dictionary provision consequent on the insertion of a new
20 dictionary by another amendment.

21 **[3.86] Sections 3A and 3B**

22 *renumber as sections 3 and 3A*

23 **Explanatory note**

24 This amendment renumbers sections.

- 1 **[3.87] Section 5 (3) (a)**
2 *omit*
3 laid a copy of that report before
4 *substitute*
5 presented a copy of the report to

6 **Explanatory note**
7 This amendment updates language.

- 8 **[3.88] Section 5 (3) (b) (i)**
9 *omit*
10 laid that statement before
11 *substitute*
12 presented the statement to

13 **Explanatory note**
14 This amendment updates language.

- 15 **[3.89] Section 6**
16 *substitute*

17 **6 Constitution of judicial commission**

18 A judicial commission must consist of a presiding member and
19 2 other members appointed by the Executive.

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

21 **Explanatory note**
22 This amendment updates the appointment section by removing the words ‘in writing’ because
23 the Legislation Act, section 206 provides that an appointment must be made, or evidenced, by
24 writing signed by the appointer.

25 The amendment also inserts a note about appointments.

1 **[3.90] Section 7 (4)**

2 *omit*

3 **Explanatory note**

4 This amendment omits a redundant provision about the appointment of a member not being
5 invalid because of a defect or irregularity in connection with the member's appointment. The
6 provision is unnecessary because of the Legislation Act, section 212 which is to the same effect.

7 **[3.91] Section 10, new note**

8 *insert*

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

11 **Explanatory note**

12 This amendment inserts a standard note about an appointment ending if a person resigns
13 consequent on the next amendment.

14 **[3.92] Section 11**

15 *omit*

16 **Explanatory note**

17 Section 11 is no longer necessary because of the Legislation Act, section 210 which deals with
18 resignation. A standard note about resignation is inserted in section 10 by another amendment.

19 **[3.93] Section 19 (1)**

20 *omit*

21 performing

22 *substitute*

23 exercising

24 **Explanatory note**

25 This amendment brings the section more closely into line with current drafting practice. The
26 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function.

1 **[3.94] Section 19 (2)**

2 *omit*

3 performance

4 *substitute*

5 exercise

6 **Explanatory note**

7 This amendment brings the section more closely into line with current drafting practice. The
8 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function.

9 **[3.95] Section 19 (2) (b)**

10 *omit*

11 laid the commission's report before

12 *substitute*

13 presented the commission's report to

14 **Explanatory note**

15 This amendment updates language.

16 **[3.96] Section 20 (1) and (2)**

17 *omit*

18 perform

19 *substitute*

20 exercise

21 **Explanatory note**

22 This amendment brings the section more closely into line with current drafting practice. The
23 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function.

1 **[3.97] Section 20 (3)**

2 *omit*

3 performs

4 *substitute*

5 exercises

6 **Explanatory note**

7 This amendment brings the section more closely into line with current drafting practice. The
8 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function.

9 **[3.98] Section 20 (3)**

10 *omit*

11 performed

12 *substitute*

13 exercised

14 **Explanatory note**

15 This amendment brings the section more closely into line with current drafting practice. The
16 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function.

17 **[3.99] Section 23 (1)**

18 *omit*

19 lay a copy of the report before

20 *substitute*

21 present a copy of the report to

22 **Explanatory note**

23 This amendment updates language.

1 **[3.100] Section 23 (2)**

2 *omit*

3 shall, on laying a copy of the report before

4 *substitute*

5 must, on presenting a copy of the report to

6 **Explanatory note**

7 This amendment updates language.

8 **[3.101] Section 24 (3)**

9 *omit*

10 laid the report before

11 *substitute*

12 presented the report to

13 **Explanatory note**

14 This amendment updates language.

15 **[3.102] Section 24 (4)**

16 *omit*

17 lay a copy of the statement before

18 *substitute*

19 present a copy of the statement to

20 **Explanatory note**

21 This amendment updates language.

1 **[3.103] Section 27 (1)**

2 *omit*

3 performance or exercise of any function or power

4 *substitute*

5 exercise of any function

6 **Explanatory note**

7 This amendment brings the section more closely into line with current drafting practice. The
8 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function
9 and *function* to include power.

10 **[3.104] Section 28 (2)**

11 *omit*

12 performance or exercise of a function or power

13 *substitute*

14 exercise of a function

15 **Explanatory note**

16 This amendment brings the section more closely into line with current drafting practice. The
17 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function
18 and *function* to include power.

19 **[3.105] Section 28 (2) (c)**

20 *omit*

21 furnished

22 *substitute*

23 provided

24 **Explanatory note**

25 This amendment updates language.

1 **[3.106] Section 29**

2 *omit*

3 furnish

4 *substitute*

5 give

6 **Explanatory note**

7 This amendment updates language.

8 **[3.107] Section 30 (1) (b)**

9 *omit*

10 performance

11 *substitute*

12 exercise

13 **Explanatory note**

14 This amendment brings the section more closely into line with current drafting practice. The
15 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function.

16 **[3.108] Division 5.3 heading, new note**

17 *insert*

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

21 **Explanatory note**

22 This amendment is consequent on the omission of section 36 by another amendment.

1 **[3.109] Section 35 (2)**

2 *omit*

3 refuses or

4 **Explanatory note**

5 This amendment omits unnecessary words. *Fail* is defined in the Legislation Act, dictionary,
6 part 1 to include refuse.

7 **[3.110] Section 36**

8 *omit*

9 **Explanatory note**

10 This amendment omits section 36 which states that a commission has power to do all things
11 necessary or incidental to the performance of its functions. This is unnecessary because the
12 Legislation Act, section 196 states that a provision of a law that gives an entity a function also
13 gives the entity powers necessary and convenient to exercise the function.

14 **[3.111] Section 39**

15 *substitute*

16 **39 Conduct of hearing**

17 Except as otherwise provided by this Act, the procedure at a hearing
18 may be decided by the commission.

19 **Explanatory note**

20 This amendment updates language.

1 **[3.112] Section 58**

2 *omit*

3 in good faith in performance or exercise or purported performance
4 or exercise of any function, power or authority conferred on

5 *substitute*

6 honestly in the exercise or purported exercise of any function—
7 given to

8 **Explanatory note**

9 This amendment brings the language of the section more closely into line with current drafting
10 practice. The Legislation Act, dictionary, part 1 defines *exercise* a function to include perform
11 the function and *function* to include authority and power.

12 **[3.113] Section 62 (1)**

13 *omit*

14 , in writing,

15 **Explanatory note**

16 This amendment omits words that are now redundant because of the effect of the Legislation
17 Act, section 42 (2) which requires notifiable instruments to be in writing.

18 **[3.114] Section 62 (2), new note**

19 *insert*

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

21 **Explanatory note**

22 This amendment inserts a standard note to bring the provision into line with current drafting
23 practice.

1 **[3.115] New dictionary**

2 *insert*

3 **Dictionary**

4 (see s 2)

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

7 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 8 • administrative appeals tribunal
- 9 • chief police officer
- 10 • Executive
- 11 • exercise
- 12 • fail
- 13 • function
- 14 • sitting day
- 15 • under.

16 ***authorised person*** means a person declared in writing by the
17 presiding member to be an authorised person for this Act.

18 ***commission*** means—

19 (a) a judicial commission appointed under section 16 (3) or
20 section 18; and

21 (b) for a complaint—the commission appointed to examine the
22 complaint.

23 ***complaint*** means—

24 (a) a complaint made in accordance with section 14 (1) and (2); or

25 (b) an allegation, notice of which has been given to the
26 Attorney-General in accordance with section 14 (3) (b).

-
- 1 ***head of jurisdiction*** means—
- 2 (a) for a judge or the master of the Supreme Court—the Chief
3 Justice; or
- 4 (b) for a magistrate—the Chief Magistrate; or
- 5 (c) for a member of the administrative appeals tribunal—the
6 president of the tribunal.
- 7 ***judge***—
- 8 (a) means—
- 9 (i) a judge of the Federal Court or Family Court; or
- 10 (ii) a judge of the Supreme Court of a State or the Northern
11 Territory; and
- 12 (b) includes a person who is an additional judge appointed under
13 the *Supreme Court Act 1933*, section 4A.
- 14 ***judicial officer*** means—
- 15 (a) a judge of the Supreme Court, other than a person who is an
16 additional judge appointed under the *Supreme Court Act 1933*,
17 section 4A; or
- 18 (b) the master of the Supreme Court; or
- 19 (c) a magistrate; or
- 20 (d) a member of the administrative appeals tribunal, other than a
21 person who is also a member of the Commonwealth
22 administrative appeals tribunal.
- 23 ***magistrate*** does not include a registrar.
- 24 ***member***, of a commission, means a member of the commission, and
25 includes the presiding member.
- 26 ***premises*** includes—
- 27 (a) a building or other structure; and
-

- 1 (b) an aircraft, vehicle or vessel; and
2 (c) a place, whether or not enclosed or built on.

3 *presiding member* means the presiding member of a commission
4 appointed under section 6 or section 7 (3).

5 **Explanatory note**

6 This amendment inserts a new dictionary consequent on the omission of the interpretation
7 provision (existing section 3) by another amendment. The language and structure of the
8 definitions is updated to bring them into line with current drafting practice.

9 **[3.116] Further amendments, references to *laid before***

- 10 *omit*
11 laid before
12 *substitute*
13 presented to
14 *in*
15 • section 5 (2) (b)
16 • section 22 (3) and (5)
17 • section 23 (5)

18 **Explanatory note**

19 This amendment updates language.

20 **[3.117] Further amendments, references to *legal practitioner***

- 21 *omit*
22 legal practitioner
23 *substitute*
24 lawyer
25 *in*
26 • section 5 (3) (c)

- 1 • sections 26 to 28
2 • sections 40 to 42

3 **Explanatory note**

4 This amendment updates language.

5 **[3.118] Further amendments, references to *persons***

6 *omit*

7 persons

8 *substitute*

9 people

10 *in*

- 11 • section 5 (4)
12 • section 24 (2)
13 • section 37 (3) and (4)
14 • section 41 heading

15 **Explanatory note**

16 This amendment updates language.

17 **Part 3.15 Limitation Act 1985**

18 **[3.119] New sections 2 and 3**

19 *insert*

20 **2 Dictionary**

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

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

25 For example, the signpost definition ‘*government*—see the *Legislation*
26 *Act 2001*, section 121 (Binding effect of Acts).’ means that the term

Schedule 3 Technical amendments
Part 3.15 Limitation Act 1985

Amendment [3.120]

1 ‘government’ is defined in that section and the definition applies to this
2 Act.

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

7 **3 Notes**

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

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

11 **Explanatory note**

12 This amendment inserts standard dictionary and notes provisions consequent on the insertion of
13 a new dictionary by another amendment.

14 **[3.120] Section 4 (a) and (b)**

15 *omit*

16 (other than a law repealed or omitted by this Act)

17 **Explanatory note**

18 This amendment removes redundant words.

19 **[3.121] Section 5 (b)**

20 *omit*

21 a purchaser of the goods in good faith

22 *substitute*

23 an honest purchaser of the goods

24 **Explanatory note**

25 This amendment updates language.

1 **[3.122] Section 7 (5), new definition of *mineral***

2 *insert*

3 *mineral* includes petroleum.

4 **Explanatory note**

5 This amendment relocates the definition to the relevant provision in accordance with current
6 drafting practice.

7 **[3.123] Section 8**

8 *substitute*

9 **8 Derived rights and agency**

10 For this Act—

11 (a) a person claims through someone else in relation to any
12 property or right if the person is entitled to the property or a
13 right by, through, under or by the act of the other person, but a
14 person entitled to property or a right because of an appointment
15 under a special power of appointment does not, because of the
16 appointment, claim the property or right through the appointor;
17 and

18 (b) a thing done to or by or suffered by an agent is done to or by or
19 suffered by the agent's principal.

20 **8A Application of provisions relating to accrual date**

21 The provisions of this Act that relate to the date of accrual of a
22 cause of action have effect for this Act but not for any other
23 purpose.

24 **Explanatory note**

25 This amendment omits the interpretation section. The definitions in section 8 (1) (with 1
26 exception), and a new definition of person *under a disability* based on section 8 (3), are
27 included in the new dictionary which is inserted by another amendment. The exception is the
28 definition of *mineral*, which is included in section 7 by another amendment.

1 Section 8 (2) and (4) are remade in accordance with current drafting practice as new sections 8
2 and 8A.

3 **[3.124] Section 19 (1)**

4 *substitute*

- 5 (1) An action on a cause of action to enforce a claim or lien against a
6 vessel (the *former vessel*) or its owners in relation to any damage or
7 loss to another vessel, its cargo or freight, or any property on board
8 the other vessel, or damage for loss of life or personal injuries
9 suffered by anyone on board the other vessel, caused by the fault of
10 the former vessel, whether the former vessel, is completely or partly
11 at fault, is not maintainable if brought after the end of a limitation
12 period of 2 years running from the date when the damage, loss or
13 injury is caused.

14 **Explanatory note**

15 This amendment updates language.

16 **[3.125] Section 19 (4)**

17 *substitute*

- 18 (4) In this section:

19 *freight* includes passage money and hire.

20 *vessel* means a vessel used in navigation, other than air navigation,
21 and includes a barge, lighter or similar vessel.

- 22 (5) In this section, a reference to damage or loss caused by the fault of a
23 vessel includes salvage or other expenses, consequent on that fault,
24 recoverable at law by way of damages.

25 **Explanatory note**

26 This amendment brings the language and structure of existing subsection (4) more closely into
27 line with current drafting practice.

1 **[3.126] Section 21 (3)**

2 *omit*

3 (including a law repealed or omitted by this Act)

4 **Explanatory note**

5 This amendment removes redundant words.

6 **[3.127] Section 21A (4), definition of *revenue amount***

7 *omit everything after paragraph (b), substitute*

8 if the amount would have been legally owing if the provision under
9 which it was paid had been valid.

10 **Explanatory note**

11 This amendment updates language.

12 **[3.128] Section 36 (3)**

13 *omit*

14 (without derogating from the generality of the foregoing)

15 *substitute*

16 , for example,

17 **Explanatory note**

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

1 **[3.129] Section 36 (3) (f)**

2 *substitute*

3 (f) the steps (if any) taken by the plaintiff to obtain medical, legal
4 or other expert advice and the nature of the advice the plaintiff
5 may have received.

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

9 **Explanatory note**

10 This amendment updates language and inserts a standard example note.

11 **[3.130] Section 38 (2)**

12 *omit*

13 (without derogating from the generality of the foregoing)

14 *substitute*

15 , for example,

16 **Explanatory note**

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

18 **[3.131] Section 38 (2), new note**

19 *after paragraph (g), insert*

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

23 **Explanatory note**

24 This amendment inserts a standard example note.

1 **[3.132] Section 39 (3)**

2 *omit*

3 (without derogating from the generality of the foregoing)

4 *substitute*

5 , for example,

6 **Explanatory note**

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

8 **[3.133] Section 39 (3) (g)**

9 *substitute*

10 (g) the steps (if any) taken by the person to obtain, for the cause of
11 action, medical, legal or other expert advice, and the nature of
12 the advice.

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

16 **Explanatory note**

17 This amendment updates language and inserts a standard example note.

18 **[3.134] Section 39 (5)**

19 *omit*

20 (without derogating from the generality of the foregoing)

21 *substitute*

22 , for example,

23 **Explanatory note**

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

1 **[3.135] Section 40 (2)**

2 *omit*

3 (without derogating from the generality of the foregoing)

4 *substitute*

5 , for example,

6 **Explanatory note**

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

8 **[3.136] Section 40 (2), new note**

9 *after paragraph (e), insert*

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

13 **Explanatory note**

14 This amendment inserts a standard example note.

15 **[3.137] Section 49 (2) (a) to (c)**

16 *substitute*

17 (a) gives it to the party to whom it is to be given; or

18 (b) leaves it at the usual or last known business or residential
19 address of the party to whom it is to be given; or

20 (c) posts it to the person to whom it is to be given at the person's
21 usual or last-known business or residential address; or

22 **Explanatory note**

23 This amendment updates language.

1 **[3.138] Section 54 (2), definition of *revenue amount***

2 *omit everything after paragraph (b), substitute*

3 if the amount would have been legally owing if the provision under
4 which it was paid had been valid.

5 **Explanatory note**

6 This amendment updates language.

7 **[3.139] Section 58 (1)**

8 *omit*

9 , in writing,

10 **Explanatory note**

11 This amendment omits words that are now redundant because of the effect of the Legislation
12 Act, section 42 (2) which requires notifiable instruments to be in writing.

13 **[3.140] New dictionary**

14 *insert*

15 **Dictionary**

16 (see s 2)

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

19 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 20 • ACT
- 21 • Commonwealth
- 22 • instrument (see s 14)
- 23 • interest
- 24 • under.

25 *action* includes any proceeding in a court.

26 *administrator*—see the *Administration and Probate Act 1929*,
27 section 5.

- 1 **cause of action** means the fact or combination of facts that gives
2 rise to a right to bring a civil proceeding.
- 3 **deed** includes—
- 4 (a) an instrument having the effect of a deed under a law in force
5 in the ACT; or
- 6 (b) for an instrument executed under the law of any of the
7 following jurisdictions—an instrument having the effect of a
8 deed under the law under which it is executed:
- 9 (i) the Commonwealth;
- 10 (ii) a State;
- 11 (iii) another Territory;
- 12 (iv) the United Kingdom;
- 13 (v) New Zealand;
- 14 **defendant** means a person against whom a cause of action lies,
15 whether or not a proceeding has been started for the cause of action.
- 16 **government**—see the *Legislation Act 2001*, section 121 (Binding
17 effect of Acts).
- 18 **income** includes interest on a judgment and other interest, rent,
19 annuities and dividends, but does not include arrears of interest
20 secured by a mortgage and lawfully treated as principal.
- 21 **judgment** includes a judgment of a court of the ACT and of any
22 other place.
- 23 **land**—see the *Land Titles Act 1925*, section 6 (1).
- 24 **mortgage** includes—
- 25 (a) a charge or lien on any property for securing money or
26 money's worth, other than a possessory lien on goods or any
27 binding effect on property arising under an enforcement order
28 of a court; and

- 1 (b) for land registered under the *Land Titles Act 1925*—a charge
2 within the meaning of that Act.
- 3 **mortgagee** includes a person claiming a mortgage through an
4 original mortgagee.
- 5 **mortgagor** includes a person claiming property subject to a
6 mortgage through an original mortgagor.
- 7 **personal injury** includes any disease and any impairment of the
8 physical or mental condition of a person.
- 9 **personal representative**—see the *Civil Law (Wrongs) Act 2002*,
10 dictionary.
- 11 **plaintiff** means a person who has a cause of action, whether or not a
12 proceeding has been started for the cause of action.
- 13 **principal money**, for a mortgage, means all money secured by the
14 mortgage, including arrears of interest lawfully treated as principal,
15 but does not include other interest.
- 16 **successor**, for a person liable on a cause of action, means someone
17 on whom the person's liability devolves, whether or not—
- 18 (a) as personal representative or otherwise on death; or
- 19 (b) bankruptcy, disposition of property, or ending of a limited
20 interest in property.
- 21 **trust**—
- 22 (a) includes—
- 23 (i) an express, implied and constructive trust, whether or not
24 the trustee has a beneficial interest in the trust property,
25 and whether or not the trust arises only because of a
26 transaction impeached; and
- 27 (ii) the duties incident to the office of personal
28 representative; but

1 (b) does not include the duties incident to the estate or interests of
2 a mortgagee in mortgaged property.

3 ***under a disability***—a person is ***under a disability***—

4 (a) while the person is under 18 years old; or

5 (b) while the person is, for a continuous period of 28 days or
6 longer, incapable of, or substantially impeded in, the
7 management of his or her affairs in relation to the cause of
8 action in relation to the limitation period for which the question
9 of disability arises because of—

10 (i) intellectual retardation or disability, mental illness or
11 disorder, brain damage, senility or physical disability; or

12 (ii) war or warlike operations; or

13 (iii) circumstances arising out of war or warlike operations.

14 **Explanatory note**

15 This amendment inserts a new dictionary consequent on the omission of the interpretation
16 provision (existing section 8 (1)) by another amendment. The language and structure of the
17 definitions is updated to bring them into line with current drafting practice.

18 The significant changes are:

- 19 • a new definition of ***under a disability*** for a person (based on section 8 (3)) is included;
- 20 • the definition of mineral is not included in the dictionary because it is inserted in the
21 provision where it is used (section 7) by another amendment;
- 22 • the definition of trustee is omitted because of the Legislation Act, section 157 which
23 provides that, for a defined term, other parts of speech and grammatical forms have a
24 corresponding meaning.

1 **Part 3.16** **Notaries Public Act 1984**

2 **[3.141] Section 10 (1)**

3 *omit*

4 Supreme Court, in accordance with the form in schedule 2.

5 *substitute*

6 Supreme Court.

7 *Note 1* If a form is approved under the *Court Procedures Act 2004*, s 8 for this
8 provision, the form must be used.

9 *Note 2* A fee for the application may be determined under the *Court*
10 *Procedures Act 2004*, section 13.

11 **Explanatory note**

12 This amendment is consequential on the *Court Procedures Act 2004* and brings the provision
13 into line with current drafting practice.

14 **[3.142] Schedule 1 heading**

15 *substitute*

16 **Schedule 1** **Oath or affirmation of office**

17 (see s 9)

18 **Explanatory note**

19 This amendment substitutes a descriptive schedule heading in accordance with current drafting
20 practice.

1 **[3.143] Schedule 1**

2 *omit*

3 I shall know

4 *substitute*

5 I know

6 **Explanatory note**

7 This amendment updates language.

8 **[3.144] Schedule 2**

9 *omit*

10 **Explanatory note**

11 This amendment is consequential on the amendment of section 10 (1) by another amendment.

12 **Part 3.17 Payroll Tax Act 1987**

13 **[3.145] Section 2D (2) (c)**

14 *omit*

15 deemed

16 *substitute*

17 taken

18 **Explanatory note**

19 This amendment updates language.

20 **[3.146] Section 3 heading**

21 *substitute*

22 **3 Meaning of *benefit* and *value* of benefits**

23 **Explanatory note**

24 This amendment bring the heading into line with current drafting practice.

1 **[3.147] Section 3 (2)**

2 *omit*

3 For this Act, the value of any benefits

4 *substitute*

5 For this Act, the *value* of any benefits

6 **Explanatory note**

7 This amendment brings the reference to ‘value’ into line with current drafting practice.

8 **[3.148] Dictionary, new definition of *value***

9 *insert*

10 *value*, of benefits—see section 3.

11 **Explanatory note**

12 This amendment inserts a signpost definition of *value* of benefits into the dictionary.

13 **[3.149] Further amendments, references to *shall be deemed***

14 *omit*

15 shall be deemed

16 *substitute*

17 are taken

18 *in*

- 19 • section 2D (2) and (3)
20 • section 5 (1) (b) and (c)

21 **Explanatory note**

22 This amendment updates language.

1 **[3.151] Schedule 1, amendment 1.4**

2 *omit*

3 **Section 255 (2) (c)**

4 *substitute*

5 **Section 255 (2) (d)**

6 (commencement: 12 November 2005)

7 **Explanatory note**

8 Amendment 1.4 amends the *Land (Planning and Environment) Act 1991*, section 255 which
9 states the entities to whom notice of a proposal to make an order on the planning and land
10 authority's initiative must be given. Until it was amended by the *Pest Plants and Animals*
11 *Act 2005*, the Land (Planning and Environment) Act dealt with the control of pest plants and
12 animals and an order could be made under it in relation to their control. The Pest Plants and
13 Animals Act commenced on 12 November 2005.

14 The *Heritage Act 2004* amended the Land (Planning and Environment) Act, section 255 (2) by
15 inserting a new paragraph (ba) which, under another amendment, was renumbered as
16 paragraph (c). The amendments related to the giving of notice to the heritage council of a
17 proposed order relating to a place or object registered, or nominated for provisional registration,
18 under the Heritage Act. The effect of the renumbering was to renumber then paragraph (c),
19 which dealt with the giving of notice of orders for the control of pest plants and animals, as
20 paragraph (d).

21 The *Pest Plants and Animals Act 2005*, schedule 1 consequentially amended the Land (Planning
22 and Environment) Act to remove pest plants and animals from the orders regime. However, the
23 relevant amendment omitted section 255 (2) (c) (about heritage matters) rather than
24 paragraph (d) (about pest plants and animals). Accordingly, by editorial amendment under the
25 Legislation Act, section 114, the reference to section 255 (2) (c) was changed to a reference to
26 section 255 (2) (d). This ensured that the correct paragraph was omitted..

27 This amendment confirms the editorial amendment.

1 **[3.152] Further amendments, references to *in writing***

2 *omit*

3 , in writing,

4 *in*

- 5 • section 7 (1)
6 • section 16 (1)
7 • section 51 (1)
8 • section 52 (1)

9 **Explanatory note**

10 This amendment omits words that are now redundant because of the effect of the Legislation
11 Act, section 42 (2) which requires disallowable and notifiable instruments to be in writing.

12 **Part 3.19 Racing Act 1999**

13 **[3.153] Section 18 heading**

14 *substitute*

15 **18 Racing club—reports and accounts**

16 **Explanatory note**

17 This amendment gives the section a unique heading within the Act.

18 **[3.154] Section 20 heading**

19 *substitute*

20 **20 Racing club—appointment of administrator**

21 **Explanatory note**

22 This amendment gives the section a unique heading within the Act.

1 **[3.155] Section 20 (1), new note**

2 *insert*

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

4 **Explanatory note**

5 This amendment inserts a standard note about the making of appointments.

6 **[3.156] New section 20 (3)**

7 *insert*

8 (3) To remove any doubt, the Legislation Act, division 19.3.3 does not
9 apply to an appointment of an administrator under subsection (1).

10 **Explanatory note**

11 This amendment clarifies the operation of the section for the user of the legislation.

12 **[3.157] Section 24 heading**

13 *substitute*

14 **24 Harness club—reports and accounts**

15 **Explanatory note**

16 This amendment gives the section a unique heading within the Act.

17 **[3.158] Section 26 heading**

18 *substitute*

19 **26 Harness club—appointment of administrator**

20 **Explanatory note**

21 This amendment gives the section a unique heading within the Act.

1 **[3.159] Section 26 (1), new note**

2 *insert*

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

4 **Explanatory note**

5 This amendment inserts a standard note about the making of appointments.

6 **[3.160] New section 26 (3)**

7 *insert*

8 (3) To remove any doubt, the Legislation Act, division 19.3.3 does not
9 apply to an appointment of an administrator under subsection (1).

10 **Explanatory note**

11 This amendment clarifies the operation of the section for the user of the legislation.

12 **[3.161] Section 30 heading**

13 *substitute*

14 **30 Greyhound club—reports and accounts**

15 **Explanatory note**

16 This amendment gives the section a unique heading within the Act.

17 **[3.162] Section 32 heading**

18 *substitute*

19 **32 Greyhound club—appointment of administrator**

20 **Explanatory note**

21 This amendment gives the section a unique heading within the Act.

1 **[3.163] Section 32 (1), new note**

2 *insert*

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

4 **Explanatory note**

5 This amendment inserts a standard note about the making of appointments.

6 **[3.164] New section 32 (3)**

7 *insert*

- 8 (3) To remove any doubt, the Legislation Act, division 19.3.3 does not
9 apply to an appointment of an administrator under subsection (1).

10 **Explanatory note**

11 This amendment clarifies the operation of the section for the user of the legislation.

12 **[3.165] Section 46**

13 *substitute*

14 **46 Registrar of tribunal**

- 15 (1) The chief executive must appoint a public servant as the registrar of
16 the tribunal.

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

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

- 21 (2) Until the chief executive makes an appointment under
22 subsection (1), the registrar is the public servant for the time being
23 exercising the duties of the public service office the duties of which
24 include exercising the functions of the registrar.

- 25 (3) Subsection (2) is a law to which the Legislation Act, section 88
26 (Repeal does not end effect of transitional laws etc) applies.

- 1 (4) Subsections (2) and (3) and this subsection expire 1 year after the
2 day this section commences.

3 **Explanatory note**

4 This amendment removes the requirement that the chief executive must create and maintain an
5 office of registrar in the public service. The Legislation Act, section 207 provides that an
6 appointment may be made by naming the person appointed or by nominating the occupant of a
7 position (however described), at a particular time or from time to time.

8 The amendment includes transitional arrangements that operate until new appointments are
9 made. Proposed section 46 (3) ensures that these transitional arrangements will, if necessary,
10 continue to operate after the expiry of proposed section 46 (2) to (4). The amendment also
11 inserts standard notes about appointments.

12 **[3.166] New section 46A**

13 *in division 5.1, insert*

14 **46A Protection from liability for tribunal members**

15 (1) A tribunal member is not civilly liable for anything done or omitted
16 to be done honestly and without recklessness—

17 (a) in the exercise of a function under this Act; or

18 (b) in the reasonable belief that the act or omission was in the
19 exercise of a function under this Act.

20 (2) Any liability that would, apart from this section, attach to a tribunal
21 member attaches instead to the Territory.

22 **Explanatory note**

23 This amendment remakes existing section 62 (Immunity from liability) to bring it into line with
24 current drafting practice and relocates it from part 6 (Miscellaneous) of the Act to the part
25 dealing with the racing appeals tribunal. Existing section 62 is omitted by another amendment.

1 **[3.167] Section 61**

2 *omit*

3 persons and bodies

4 *substitute*

5 entities

6 **Explanatory note**

7 This amendment updates language.

8 **[3.168] Section 62**

9 *substitute*

10 **62 Delegation by Minister**

11 The Legislation Act, section 254A (Delegation by Minister) does
12 not apply to a function under the following sections:

- 13 • section 20 (Racing club—appointment of administrator)
14 • section 26 (Harness club—appointment of administrator)
15 • section 32 (Greyhound club—appointment of administrator).

16 **Explanatory note**

17 This amendment remakes existing section 67 (which is omitted by another amendment) in
18 accordance with current drafting practice and relocates the provision in a more appropriate
19 place in the Act. The amendment omits the actual delegation power in the existing section
20 because it is now covered by the Legislation Act, section 254A. The references to section 5 (3)
21 (Licensed racecourses) and section 35 (Variation of conditions or approved rules) in existing
22 section 67 are not included in the functions that cannot be delegated because the relevant
23 functions were transferred from the Minister to the gambling and racing commission by the
24 *Gambling and Racing Control (Consequential Provisions) Act 1999*.

1 **[3.169] Section 63**

2 *substitute*

3 **63 Decisions reviewable by AAT**

- 4 (1) Application may be made to the administrative appeals tribunal for
5 review of a decision of the commission mentioned in table 63.
- 6 (2) The commission must give a written notice of a decision mentioned
7 in table 63 to each person affected by the decision.
- 8 (3) The notice must be in accordance with the requirements of the code
9 of practice in force under the *Administrative Appeals Tribunal*
10 *Act 1989*, section 25B (1).

11 **Table 63 Table of reviewable decisions**

column 1 item	column 2 provision	column 3 decision
1	section 6 (1)	refusing to approve a race meeting for the purpose of betting
2	section 7 (2)	a requirement about the time and form of the publication of schedules
3	section 9	refusing to approve the conduct of a phantom race meeting
4	section 12	refusing to approve rules other than the approved rules

12 **Explanatory note**

13 This amendment brings the provision into line with current drafting practice and changes the
14 reference to the Minister to the commission because the relevant functions were transferred
15 from the Minister to the gambling and racing commission by the *Gambling and Racing Control*
16 *(Consequential Provisions) Act 1999*. It also includes the standard provision (see s (3)) about
17 how notice of a reviewable decision must be given.

1 **[3.170] Section 67**

2 *omit*

3 **Explanatory note**

4 This amendment is consequential on the insertion of a new section 62 by another amendment.

5 **[3.171] Schedule 1, section 1.2**

6 *omit*

7 **Explanatory note**

8 This amendment omits a provision about acting appointments. The Legislation Act, section 209
9 deals with acting appointments. Section 1.1 (1) already includes a standard note referring to the
10 Legislation Act, section 209.

11 **[3.172] Schedule 1, section 1.4 (1) (b)**

12 *substitute*

13 (b) becomes bankrupt or executes a personal insolvency
14 agreement; or

15 **Explanatory note**

16 The *Bankruptcy Legislation Amendment Act 2004* (Cwlth) amended the *Bankruptcy Act 1966*
17 (Cwlth) to replace the concepts of deed of assignment, deed of arrangement and composition
18 with the new single concept of personal insolvency agreement. This amendment brings the
19 paragraph into line with the new concept.

20 **[3.173] Dictionary, note 2, new dot points**

21 *insert*

- 22 • entity
23 • sitting day

24 **Explanatory note**

25 This amendment inserts new terms to assist users. Dictionary note 2 is an aid to users which
26 lists examples of terms used in the Act that are defined in the Legislation Act, dictionary, part 1.

1 **[3.174] Further amendments, references to *laid before***

2 *omit*

3 *laid before*

4 *substitute*

5 *presented to*

6 *in*

- 7 • section 20 (2) (b)
8 • section 26 (2) (b)
9 • section 32 (2) (b)

10 **Explanatory note**

11 This amendment updates language.

12 **[3.175] Further amendments, references to *persons***

13 *omit*

14 *persons*

15 *substitute*

16 *people*

17 *in*

- 18 • section 16 (1) (e)
19 • section 22 (1) (e)
20 • section 28 (1) (e)
21 • schedule 2, section 2.1

22 **Explanatory note**

23 This amendment updates language.

1 **Part 3.20** **Royal Commissions Act 1991**

2 **[3.176] Section 1**

3 *substitute*

4 **1 Name of Act**

5 This Act is the *Royal Commissions Act 1991*.

6 **Explanatory note**

7 This amendment brings the naming section into line with current drafting practice.

8 **[3.177] Section 3**

9 *substitute*

10 **2 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 terms used in this
13 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, s 155 and
17 s 156 (1)).

18 **Explanatory note**

19 This amendment inserts a standard dictionary provision consequent on the insertion of a new
20 dictionary by another amendment.

21 **[3.178] Sections 4 and 4A**

22 *renumber as sections 3 and 4*

23 **Explanatory note**

24 This amendment renumbers sections.

1 **[3.179] Section 5**

2 *substitute*

3 **5 Appointment of royal commission**

4 (1) The Executive may appoint 1 or more people as a royal commission
5 to inquire into a matter stated in the instrument of appointment.

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

7 (2) An appointment is a notifiable instrument.

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

9 **Explanatory note**

10 This amendment updates the appointment section by removing the words ‘in writing’ because
11 the Legislation Act, section 206 provides that an appointment must be made, or evidenced, by
12 writing signed by the appointer.

13 The amendment also inserts a note about appointments.

14 **[3.180] Section 6 (1) (b)**

15 *substitute*

16 (b) is a lawyer and has been a lawyer for at least 5 years.

17 **Explanatory note**

18 This amendment updates language.

19 **[3.181] Section 6 (5)**

20 *omit*

21 **Explanatory note**

22 This amendment omits a redundant provision about the appointment of a member not being
23 invalid because of a defect or irregularity in connection with the member’s appointment. The
24 provision is unnecessary because of the Legislation Act, section 212 which is to the same effect.

1 **[3.182] Section 9, new note**

2 *insert*

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

5 **Explanatory note**

6 This amendment inserts a standard note about an appointment ending if a person resigns
7 consequent on the next amendment.

8 **[3.183] Section 10**

9 *omit*

10 **Explanatory note**

11 Section 10 is no longer necessary because of the Legislation Act, section 210 which deals with
12 resignation. A standard note about resignation is inserted in section 9 by another amendment.

13 **[3.184] Section 14**

14 *substitute*

15 **14 Conduct of inquiry**

16 Except as otherwise provided by this Act, an inquiry may be
17 conducted in the way the commission decides.

18 **Explanatory note**

19 This amendment updates language.

20 **[3.185] Section 16A (3)**

21 *omit*

22 calendar month

23 *substitute*

24 month

25 **Explanatory note**

26 This amendment omits unnecessary words. The Legislation Act, dictionary, part 1, defines
27 **month** as meaning calendar month.

1 **[3.186] Section 19 (1)**

2 *omit*

3 performance or exercise of any function or power

4 *substitute*

5 exercise of any function

6 **Explanatory note**

7 This amendment brings the section more closely into line with current drafting practice. The
8 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function
9 and *function* to include power.

10 **[3.187] Section 20 (2)**

11 *omit*

12 performance or exercise of a function or power

13 *substitute*

14 exercise of a function

15 **Explanatory note**

16 This amendment brings the section more closely into line with current drafting practice. The
17 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function
18 and *function* to include power.

19 **[3.188] Section 20 (2) (c)**

20 *omit*

21 furnished

22 *substitute*

23 provided

24 **Explanatory note**

25 This amendment updates language.

1 **[3.189] Section 21**

2 *omit*

3 furnish

4 *substitute*

5 give

6 **Explanatory note**

7 This amendment updates language.

8 **[3.190] Section 22 (1) (b)**

9 *omit*

10 performance

11 *substitute*

12 exercise

13 **Explanatory note**

14 This amendment brings the section more closely into line with current drafting practice. The
15 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function.

16 **[3.191] Division 4.3 heading, new note**

17 *insert*

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

21 **Explanatory note**

22 This amendment is consequent on the omission of section 27 by another amendment.

23 **[3.192] Section 27**

24 *omit*

25 **Explanatory note**

26 This amendment omits section 27 which states that a commission has power to do all things
27 necessary or incidental to the performance of its functions. This is unnecessary because the

1 Legislation Act, section 196 states that a provision of a law that gives an entity a function also
2 gives the entity powers necessary and convenient to exercise the function.

3 **[3.193] Section 30**

4 *substitute*

5 **30 Conduct of hearing**

6 Except as otherwise provided by this Act, the procedure at a hearing
7 may be decided by the commission.

8 **Explanatory note**

9 This amendment updates language.

10 **[3.194] Section 47**

11 *omit*

12 in good faith in performance or exercise or purported performance
13 or exercise of any function, power or authority conferred on

14 *substitute*

15 honestly in the exercise or purported exercise of any function given
16 to

17 **Explanatory note**

18 This amendment brings the language of the section more closely into line with current drafting
19 practice. The Legislation Act, dictionary, part 1 defines *exercise* a function to include perform
20 the function and *function* to include authority and power.

1 **[3.195] Section 49 (1)**

2 *omit*

3 a proceeding of public concern for the *Civil Law (Wrongs)*
4 *Act 2002*, section 128

5 *substitute*

6 proceedings of public concern for the *Civil Law (Wrongs) Act 2002*,
7 section 139 (Defences of fair report of proceedings of public
8 concern)

9 **Explanatory note**

10 This amendment updates a cross-reference and terminology consequent on the enactment of the
11 *Civil Law (Wrongs) Amendment Act 2006*.

12 **[3.196] Section 49 (3)**

13 *omit*

14 *Civil Law (Wrongs) Act 2002*, section 129

15 *substitute*

16 *Civil Law (Wrongs) Act 2002*, section 138 (Defence for publication
17 of public documents)

18 **Explanatory note**

19 This amendment updates a cross-reference consequent on the enactment of the *Civil Law*
20 *(Wrongs) Amendment Act 2006*.

21 **[3.197] Section 51 (1)**

22 *omit*

23 , in writing,

24 **Explanatory note**

25 This amendment omits words that are now redundant because of the effect of the Legislation
26 Act, section 42 (2) which requires notifiable instruments to be in writing.

1 **[3.198] Section 51 (2), new note**

2 *insert*

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

4 **Explanatory note**

5 This amendment inserts a standard note to bring the provision into line with current drafting
6 practice.

7 **[3.199] New dictionary**

8 *insert*

9 **Dictionary**

10 (see s 2)

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

13 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 14 • Executive
- 15 • exercise
- 16 • function
- 17 • month
- 18 • under.

19 ***authorised person*** means a person declared in writing by the
20 chairperson to be an authorised person for this Act.

21 ***chairperson*** means—

22 (a) the chairperson of a commission appointed under section 6 (2)
23 or (4); or

24 (b) for a commission constituted by 1 person—that person.

25 ***commission*** means—

26 (a) a royal commission appointed under section 5; and

1 (b) for an inquiry—the royal commission appointed to conduct
2 that inquiry.

3 ***commissioner*** means—

- 4 (a) for a commission constituted by 1 person—that person; or
5 (b) for a commission constituted by 2 or more people—each of
6 those people.

7 ***judge*** means—

- 8 (a) a justice of the High Court; or
9 (b) a judge of the Federal Court or Family Court; or
10 (c) a judge of the Supreme Court; or
11 (d) a judge of the Supreme Court of a State or the Northern
12 Territory.

13 ***premises*** includes—

- 14 (a) a building or other structure; and
15 (b) an aircraft, vehicle or vessel; and
16 (c) a place, whether enclosed or built on, or not.

17 **Explanatory note**

18 This amendment inserts a new dictionary consequent on the omission of the interpretation
19 provision (existing section 3) by another amendment. The language and structure of the
20 definitions is updated to bring them into line with current drafting practice.

1 **[3.200] Further amendments, references to *legal practitioner***

2 *omit*

3 legal practitioner

4 *substitute*

5 lawyer

6 *in*

- 7 • sections 18 to 20
8 • sections 31 to 33

9 **Explanatory note**

10 This amendment updates language.

11 **[3.201] Further amendments, references to *persons***

12 *omit*

13 persons

14 *substitute*

15 people

16 *in*

- 17 • section 6 (2) to (4)
18 • section 17
19 • section 28 (3) and (4)
20 • section 32, heading

21 **Explanatory note**

22 This amendment updates language.

1 Part 3.21 Taxation Administration Act 1999

2 [3.202] Section 4

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

4 4 Meaning of *tax law*

5 For this Act, each of the following is a *tax law*:

6 Explanatory note

7 This amendment changes the defined term from ‘tax laws’ to ‘tax law’ so that it is consistent
8 with both current drafting practice and the definition of the term in the Act’s dictionary.

9 [3.203] Dictionary, definition of *lodge*

10 *omit*

11 Explanatory note

12 This amendment omits an inappropriate signpost definition. The omitted definition is ‘*lodge*—
13 see section 127’. Section 127 provides how a document may be served on, given to or lodged
14 with the commissioner for a tax law. It is not appropriately structured for a definition. Also,
15 the existing definition deals with only 1 of the concepts in section 127.

16 [3.204] Further amendments, references to *in writing*

17 *omit*

18 , in writing,

19 *in*

- 20 • section 42 (1)
- 21 • section 139 (1)
- 22 • section 139A (1)
- 23 • section 139C (1)

24 Explanatory note

25 This amendment omits words that are now redundant because of the effect of the Legislation
26 Act, section 42 (2) which requires disallowable and notifiable instruments to be in writing.

1 **Part 3.23** **Tree Protection Act 2005**

2 **[3.207] Schedule 1, amendment 1.17**

3 *substitute*

4 **[1.17] Section 254 (3) (d)**

5 *substitute*

6 (d) if the order relates to the pruning of a tree that is a protected
7 tree under the *Tree Protection Act 2005*—the conservator; and

8 *Note* For restrictions on pruning etc a protected tree, see the *Tree Protection*
9 *Act 2005*.

10 (commencement: 29 March 2006)

11 **Explanatory note**

12 Amendment 1.17 amends the *Land (Planning and Environment) Act 1991*, section 254 which
13 relates to applications for orders for enforcement purposes. Until it was amended by the *Tree*
14 *Protection Act 2005*, the Land (Planning and Environment) Act dealt with the pruning of a
15 significant tree under the *Tree Protection (Interim Scheme) Act 2001* (the *interim scheme*) and
16 an order could be made under it to control the activity.

17 The *Tree Protection Act 2005*, schedule 1 consequentially amended the Land (Planning and
18 Environment) Act to remove the interim scheme from the orders regime and replaced it with the
19 scheme under the Tree Protection Act. However, the relevant amendment omitted section
20 254 (3) (e) (about parking heavy vehicle matters) rather than paragraph (d) (about protected
21 trees). Accordingly, by editorial amendment under the Legislation Act, section 114, the
22 reference to section 254 (3) (e) was changed to a reference to section 254 (3) (d). This ensured
23 that the correct paragraph was omitted.

24 This amendment confirms the editorial amendment.

1 **[3.208] Schedule 1, amendment 1.18**

2 *substitute*

3 **[1.18] Section 255 (2) (d)**

4 *substitute*

5 (d) if the order relates to the pruning of a tree that is a protected
6 tree under the *Tree Protection Act 2005*—the conservator; and

7 *Note* For restrictions on pruning etc a protected tree, see the *Tree Protection*
8 *Act 2005*.

9 (commencement: 29 March 2006)

10 **Explanatory note**

11 Amendment 1.18 amends the *Land (Planning and Environment) Act 1991*, section 255 which
12 relates to proposed orders on the planning and land authority's own initiative.

13 The reason for this amendment is the same as that in the previous amendment, that is, to
14 confirm the editorial amendments mentioned in explanatory note to amendment 3.203.

15 **[3.209] Schedule 1, amendment 1.20**

16 *substitute*

17 **[1.20] Section 257A (e)**

18 *substitute*

19 (e) if the order relates to the pruning of a tree that is a protected
20 tree under the *Tree Protection Act 2005*—the conservator; and

21 *Note* For restrictions on pruning etc a protected tree, see the *Tree Protection*
22 *Act 2005*.

23 (commencement: 29 March 2006)

24 **Explanatory note**

25 Amendment 1.20 amends the *Land (Planning and Environment) Act 1991*, section 257A which
26 relates to proposed orders on the planning and land authority's own initiative.

27 The reason for this amendment is the same as that in the previous amendment, that is, to
28 confirm the editorial amendments mentioned in explanatory note to amendment 3.203.

1 **Part 3.24** **Unit Titles Act 1970**

2 **[3.210] Section 20 (4)**

3 *omit*

4 heritage places register under the Land Act

5 *substitute*

6 heritage register

7 **Explanatory note**

8 This amendment updates a reference to the heritage places register. The register is now called
9 the heritage register (see *Heritage Act 2004*, s 20).

10 **[3.211] Sections 20 (5) (a), 179 (1) and 180 (1)**

11 *omit*

12 , in writing,

13 **Explanatory note**

14 This amendment omits words that are now redundant because of the effect of the Legislation
15 Act, section 42 (2) which requires disallowable and notifiable instruments to be in writing.

16 **[3.212] Schedule 1, item 1, column 3**

17 *omit*

18 heritage places register

19 *substitute*

20 heritage register

21 **Explanatory note**

22 This amendment updates a reference to the heritage places register. The register is now called
23 the heritage register (see *Heritage Act 2004*, s 20).

1 **[3.213] Dictionary, note 2, new dot point**

2 *insert*

- 3 • heritage register

4 **Explanatory note**

5 This amendment inserts a new term to assist users. Dictionary note 2 is an aid to users that lists
6 examples of terms used in the Act that are defined in the Legislation Act, dictionary, part 1.

7 **Part 3.25 Water and Sewerage Act 2000**

8 **[3.214] Section 8 (1) (b)**

9 *omit*

10 **Explanatory note**

11 This amendment omits a provision which is duplicated by section 8 (2) (b).

12 **[3.215] Section 23 (2)**

13 *omit*

14 perform

15 *substitute*

16 exercise

17 **Explanatory note**

18 This amendment brings the section more closely into line with current drafting practice. The
19 Legislation Act, dictionary, part 1 defines *exercise* a function to include perform the function.

20 **[3.216] Sections 45 (1) and 48 (1)**

21 *omit*

22 , in writing,

23 **Explanatory note**

24 This amendment omits words that are now redundant because of the effect of the Legislation
25 Act, section 42 (2) which requires disallowable and notifiable instruments to be in writing.

1 **[3.217] Dictionary, note 2, new dot point**

2 *insert*

- 3 • exercise

4 **Explanatory note**

5 This amendment insert a new term to assist users. Dictionary note 2 is an aid to users that lists
6 examples of terms used in the Act that are defined in the Legislation Act, dictionary, part 1.

7 **Part 3.26 Witness Protection Act 1996**

8 **[3.218] Section 3**

9 *substitute*

10 **2 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 terms used in this
13 Act, and includes references (*signpost definitions*) to other terms
14 defined elsewhere.

15 For example, the signpost definition ‘*register*—see the *Births, Deaths*
16 *and Marriages Registration Act 1997*, dictionary.’ means that the term
17 ‘register’ is defined in that dictionary and the definition applies to this
18 Act.

19 *Note 2* A definition in the dictionary (including a signpost definition) applies to
20 the entire Act unless the definition, or another provision of the Act,
21 provides otherwise or the contrary intention otherwise appears (see
22 Legislation Act, 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 the Legislation Act, 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 in existing
7 section 3 that are still needed are included in the new dictionary which is inserted by another
8 amendment.

9 **[3.219] Section 3C**

10 *substitute*

11 **3C Declaration of authority—dict, def *witness***

12 (1) The Minister may declare an authority to be an authority for the
13 dictionary, definition of *witness*, paragraph (a) (ii).

14 (2) A declaration is a notifiable instrument.

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

16 **Explanatory note**

17 This amendment is consequent on the insertion of a new dictionary by another amendment. It
18 also omits ‘in writing’ from subsection (1) because these words are now redundant because of
19 the effect of the Legislation Act, section 42 (2) which requires notifiable instruments to be in
20 writing.

21 **[3.220] Section 27**

22 *omit*

23 action, suit or

24 **Explanatory note**

25 This amendment omits unnecessary words.

1 **[3.221] Section 27**

2 *omit*

3 in good faith

4 *substitute*

5 honestly

6 **Explanatory note**

7 This amendment updates language.

8 **[3.222] New dictionary**

9 *insert*

10 **Dictionary**

11 (see s 2)

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

14 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 15 • chief police officer
- 16 • Commonwealth
- 17 • Minister (see s 162)
- 18 • ombudsman
- 19 • proceeding
- 20 • registrar-general.

21 ***approved authority*** means—

- 22 (a) the commissioner of police; or
- 23 (b) a commissioner (however designated) of the police force or
24 service of a State or another Territory; or
- 25 (c) the chief executive officer of the Australian Crime
26 Commission; or

- 1 (d) an authority or body of the Commonwealth, a State or another
2 Territory that—
- 3 (i) is authorised to conduct inquiries or investigations in
4 relation to conduct that is, or is alleged to be, criminal
5 conduct, misconduct or corruption; and
- 6 (ii) is declared under section 3A (Declaration of approved
7 authority) to be an approved authority for this Act.
- 8 ***Commonwealth Act*** means the *Witness Protection Act 1994*
9 (Cwlth).
- 10 ***complementary witness protection law*** means a law of the
11 Commonwealth, a State or another Territory that—
- 12 (a) makes provision for the protection of witnesses; and
- 13 (b) is declared under section 3B (Declaration of complementary
14 witness protection law) to be a complementary witness
15 protection law.
- 16 ***designated position*** means a position of a police officer that has
17 been declared in writing by the chief police officer to be a
18 designated position for this Act.
- 19 ***participant*** means a witness who is included in a witness protection
20 program.
- 21 ***register***—see the *Births, Deaths and Marriages Registration*
22 *Act 1997*, dictionary.
- 23 ***witness*** means—
- 24 (a) a person who has given, or agreed to give, evidence on behalf
25 of the prosecution in—
- 26 (i) a proceeding for an offence; or
- 27 (ii) hearings or proceedings before an authority to which this
28 paragraph applies because of a declaration under
29 section 3C; or

- 1 (b) a person who has given, or agreed to give, evidence otherwise
2 than as mentioned in paragraph (a) in relation to the
3 commission or possible commission of an offence against a
4 law of the Territory, the Commonwealth, a State or another
5 Territory; or
- 6 (c) a person who has made a statement to the chief police officer,
7 another police officer or an approved authority in relation to an
8 offence against a law of the Territory, the Commonwealth, a
9 State or another Territory; or
- 10 (d) a person who, for any other reason, may require protection or
11 other assistance under this Act; or
- 12 (e) a person who, because of his or her relationship to, or
13 association with, a person mentioned in paragraph (a) to (d)
14 may require protection or other assistance under the witness
15 protection program.

16 **witness protection order** means an order of the Supreme Court
17 under part 3 (Protecting witnesses from identification).

18 **witness protection program** means the national witness protection
19 program established under the Commonwealth Act.

20 **Explanatory note**

21 This amendment inserts a dictionary consequential on the omission of the definitions section
22 (existing section 3) by another amendment. The language of the definitions is updated to bring
23 them into line with current drafting practice. The definition of *court* is omitted consequent on
24 another amendment.

25 **[3.223] Further amendments, references to *in writing***

26 *omit*

27 , in writing,

28 *in*

- 29 • section 3A (1)
30 • section 3B (1)

- 1 • section 26 (1)
2 • section 29 (1)

3 **Explanatory note**

4 This amendment omits words that are now redundant because of the effect of the Legislation
5 Act, section 42 (2) which requires disallowable and notifiable instruments to be in writing.

6 **[3.224] Further amendments, references to *the court***

7 *omit*

8 the court

9 *substitute*

10 the Supreme Court

11 *in*

- 12 • section 7
13 • section 8
14 • section 11 (2)
15 • section 13 (1) (c)
16 • section 15 (2)
17 • section 22 (2) (c)
18 • section 23 (2)

19 **Explanatory note**

20 This amendment is consequential on the omission of the definition of *court* by another
21 amendment.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2006.

2 Notification

Notified under the Legislation Act on 2006.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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