

2019

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Justice, Consumer Affairs and Road Safety)

Official Visitor Amendment Bill 2019

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J2019-67

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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Official Visitor Amendment Bill 2019

A Bill for

An Act to amend the *Official Visitor Act 2012*, and for other purposes

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

1 **1 Name of Act**

2 This Act is the *Official Visitor Amendment Act 2019*.

3 **2 Commencement**

4 (1) The following provisions commence on a day fixed by the Minister
5 by written notice:

- 6 • section 7
- 7 • section 9
- 8 • section 10, so far as it inserts section 15 (2) to (7)
- 9 • section 16
- 10 • section 19
- 11 • sections 25 to 30
- 12 • sections 32 to 35
- 13 • section 37
- 14 • schedule 1, amendment 1.8
- 15 • schedule 1, amendment 1.23.

16 *Note 1* The naming and commencement provisions automatically commence on
17 the notification day (see [Legislation Act](#), s 75 (1)).

18 *Note 2* A single day or time may be fixed, or different days or times may be
19 fixed, for the commencement of different provisions (see [Legislation Act](#),
20 s 77 (1)).

21 *Note 3* If a provision has not commenced within 6 months beginning on the
22 notification day, it automatically commences on the first day after that
23 period (see [Legislation Act](#), s 79).

24 (2) The remaining provisions commence on the day after this Act's
25 notification day.

1 **3 Legislation amended**

2 This Act amends the *Official Visitor Act 2012*.

3 *Note* This Act also amends other legislation (see sch 1).

4 **4 Section 6**

5 *substitute*

6 **6 Who is an official visitor?**

7 For this Act:

8 *official visitor*, for a visitable place, means a person authorised to visit
9 the place under section 9A.

10 **5 Sections 8 and 9**

11 *substitute*

12 **8 Who is an entitled person?**

13 For this Act:

14 *entitled person*, at a visitable place, means—

- 15 (a) for a visitable place under the *Children and Young People*
16 *Act 2008*—see that *Act*, section 37, definition of *entitled*
17 *person*; and
- 18 (b) for a visitable place under the *Corrections Management*
19 *Act 2007*—see that *Act*, section 57, definition of *entitled*
20 *person*; and
- 21 (c) for a visitable place under the *Disability Services Act 1991*—see
22 that *Act*, section 8A, definition of *entitled person*; and
- 23 (d) for a visitable place under the *Housing Assistance Act 2007*—
24 see that *Act*, section 25V, definition of *entitled person*; and

- 1 (e) for a visitable place under the *Mental Health Act 2015*—see that
2 [Act](#), section 208, definition of *entitled person*.

3 **9 What is a visitable place?**

4 For this Act:

5 *visitable place* means a place mentioned in each of the following:

- 6 (a) the *Children and Young People Act 2008*, section 37, definition of
7 *visitable place*;
- 8 (b) the *Corrections Management Act 2007*, section 57, definition of
9 *visitable place*;
- 10 (c) the *Disability Services Act 1991*, section 8B;
- 11 (d) the *Housing Assistance Act 2007*, section 25V, definition of
12 *visitable place*;
- 13 (e) the *Mental Health Act 2015*, section 208, definition of *visitable*
14 *place*.

15 **9A Authorisation to visit places**

- 16 (1) An official visitor appointed under section 10 (1) for a visitable place
17 is authorised to visit the place.
- 18 (2) An official visitor appointed under section 10 (1) for a visitable place
19 is authorised to visit another visitable place if asked, in writing, to
20 visit the place, or deal with an entitled person at the place, by—
- 21 (a) an official visitor appointed under section 10 (1) for the place;
22 or
- 23 (b) the official visitors board.

6 Section 10*substitute***10 Appointment**

- (1) The Minister must appoint the following:
- (a) for a visitable place under the *Children and Young People Act 2008*—at least 2 official visitors, including 1 official visitor who is an Aboriginal or Torres Strait Islander person;
 - (b) for a visitable place under the *Corrections Management Act 2007*—at least 2 official visitors, including 1 official visitor who is an Aboriginal or Torres Strait Islander person;
 - (c) for a visitable place under the *Disability Services Act 1991*—at least 1 official visitor;
 - (d) for a visitable place under the *Housing Assistance Act 2007*—at least 1 official visitor;
 - (e) for a visitable place under the *Mental Health Act 2015*—at least 1 official visitor.
- (2) The Minister may appoint a person as an official visitor for a visitable place only if—
- (a) the Minister has consulted the operational Minister for the place; and
 - (b) satisfied on reasonable grounds that the person has suitable qualifications or experience to exercise the functions of an official visitor for the place.
- (3) However, the Minister must not appoint a person as an official visitor for a visitable place if the person—
- (a) is a public employee; or
 - (b) has a relevant interest in relation to the place.

1 (4) An operational Act may prescribe additional requirements for
2 deciding whether or not to appoint a person as an official visitor for a
3 visitable place.

4 (5) In this section:

5 ***Aboriginal or Torres Strait Islander person*** means a person who—

6 (a) is a descendant of an Aboriginal person or Torres Strait Islander
7 person; and

8 (b) identifies as an Aboriginal person or Torres Strait Islander
9 person; and

10 (c) is accepted as an Aboriginal person or Torres Strait Islander
11 person by an Aboriginal community or Torres Strait Islander
12 community.

13 ***relevant interest***, in relation to a visitable place, means—

14 (a) a direct interest in a contract with the place or an entity providing
15 services to the visitable place; or

16 (b) a financial interest in the place.

17 **7 Ending appointment**
18 **Section 12 (1) (b) (i)**

19 *substitute*

20 (i) does not comply with any requirement in a guideline made
21 under section 23F; and

22 **8 Section 12 (1) (b) (ii)**

23 *omit*

24 site

25 *substitute*

26 visitable place

1 **9 Handover of records by official visitors**
2 **Section 13 (2)**

3 *substitute*

- 4 (2) The person must, not later than 7 days after the day the appointment
5 ends, give any official visitor record held by the person in relation to
6 a visitable place to—
7 (a) the official visitors executive officer; or
8 (b) another official visitor for the place.

9 **10 Sections 14 and 15**

10 *substitute*

11 **14 Official visitor functions**

- 12 (1) An official visitor for a visitable place has the following functions:
13 (a) to visit the place and meet entitled people at the place;
14 (b) to monitor conditions, services and practices in the place;
15 (c) to investigate and seek to resolve complaints from, or on behalf
16 of, entitled people at the place;
17 (d) to identify and report on systemic issues adversely affecting
18 entitled people at the place;
19 (e) if appropriate, to refer complaints or issues from, or on behalf
20 of, entitled people at the place to relevant investigative entities;
21 (f) to report to the Minister and operational Minister for the place
22 as required under this Act;
23 (g) to exercise any other function given to an official visitor under
24 this Act, an operational Act or another territory law.

- 1 (2) An official visitor must, in exercising the official visitor's
2 functions—
- 3 (a) respect and promote the human rights of entitled people; and
- 4 (b) promote the provision of services to, and care and treatment of,
5 entitled people that is high quality and centres on the needs of
6 entitled people; and
- 7 (c) have regard to the wishes of entitled people in relation to visits
8 to visitable places and how complaints from or on behalf of
9 entitled people are dealt with; and
- 10 (d) encourage the early resolution of complaints from, or on behalf
11 of, entitled people whenever reasonable and practicable to do so;
12 and
- 13 (e) have regard to the objects and principles in operational Acts.

14 **14A Independence of official visitors**

15 Except as provided in this Act or another territory law, an official
16 visitor is not subject to the direction of anyone else in relation to the
17 exercise of a function under this Act.

18 **15 Official visitor may enter visitable place etc**

- 19 (1) An official visitor for a visitable place may, at any reasonable time,
20 enter the visitable place following a complaint or at the official
21 visitor's own initiative.

22 **Example—time that would not be reasonable**

23 a time that would hinder a search, or coincide with an escape attempt, at a visitable
24 place

- 1 (2) The official visitor may, when at the visitable place, inspect any
2 health record or any other record relating to an entitled person at the
3 visitable place if—
- 4 (a) the official visitor has the entitled person’s—
- 5 (i) written consent; or
- 6 (ii) oral consent, if a written record of the consent is made by
7 a person who heard the consent being given; or
- 8 (b) the official visitor—
- 9 (i) has taken reasonable steps to find out if the entitled person
10 consents; and
- 11 (ii) reasonably believes the entitled person may not be able to
12 make a decision about consent or communicate that
13 decision; and
- 14 (iii) reasonably believes that access to the record is necessary
15 and appropriate to allow the official visitor to exercise the
16 official visitor’s functions under this Act; and
- 17 (iv) the entitled person has not told, or otherwise indicated to,
18 the official visitor that the person does not consent.

19 **Examples—other record relating to an entitled person**

20 for an entitled person in a mental health facility—dietary plans, behavioural plans,
21 records about seclusion or chemical restraint, day plans, lists of rostered carers

- 22 (3) If subsection (2) (b) applies and an official visitor inspects a record,
23 the official visitor must, as soon as practicable, take reasonable steps
24 to make the entitled person aware that the records were inspected.
- 25 (4) The operating entity for a visitable place must keep a record of each
26 time an official visitor accesses a record in accordance with
27 subsection (2) (b).
- 28 (5) The official visitor may also, when at the visitable place, inspect any
29 other record required to be kept under the operational Act.

1 (6) Subsection (2) (b) does not apply to any sensitive information (as
2 defined under the *Children and Young People Act 2008*, section 845)
3 included in a record.

4 *Note* The *Children and Young People Act 2008*, s 39 also deals with access to
5 sensitive information by an official visitor.

6 (7) Without limiting this section, the operational Act may prescribe
7 minimum requirements for—

8 (a) a visit by the official visitor to the visitable place; and

9 (b) inspecting records under this section.

10 **11 Official visitor must report non-compliant visitable places**
11 **Section 16 (1)**

12 *substitute*

13 (1) This section applies if an official visitor for a visitable place believes
14 on reasonable grounds that any of the following is not in accordance
15 with the operational Act for the place:

16 (a) the care and other services provided to an entitled person at the
17 place;

18 (b) the living conditions and activities of an entitled person at the
19 place;

20 (c) if an entitled person is detained under the operational Act at the
21 place—the detention of the person at the place (including any
22 aspect of the treatment, living conditions, work or activities of
23 the detainee).

24 **12 New section 16 (2) (b) (iv)**

25 *insert*

26 (iv) the senior practitioner.

1 **13 Section 16 (3)**

2 *omit*
3 the operational Act
4 *substitute*
5 the visitable place

6 **14 Reporting of complaints**
7 **Section 17 (1)**

8 *omit*
9 an operational Act
10 *substitute*
11 a visitable place

12 **15 Section 17 (1) (a)**

13 *after*
14 official visitor
15 *insert*
16 in relation to the visitable place

17 **16 Section 17**

18 *substitute*

19 **17 Reporting of complaints**

- 20 (1) An official visitor for a visitable place must prepare for each
21 quarter—
22 (a) a written report (a *full report*) stating—
23 (i) the number and kinds of complaints received by the
24 official visitor in relation to the place; and

- 1 (ii) the action taken on the complaints received; and
2 (iii) the number of visits by the official visitor to the place; and
3 (iv) the number and kinds of matters referred by the official
4 visitor to an investigative entity; and
5 (v) any systemic issues identified by the official visitor; and
6 (vi) the number of times the official visitor inspected records
7 in accordance with section 15 (2) (b); and
8 (b) a written report (a *summary report*) summarising the matters
9 mentioned in paragraph (a).
10 (2) The full report may include—
11 (a) comments by the official visitor about anything in relation to a
12 complaint mentioned in the report; and
13 (b) recommendations about any systemic issues identified by the
14 official visitor.
15 (3) The official visitor must give a copy of—
16 (a) the full report, as soon as practicable after the end of each
17 quarter, to—
18 (i) the operational Minister for the visitable place; and
19 (ii) if the official visitor makes a recommendation in relation
20 to the administrative unit responsible for administering the
21 operational Act for the place—the relevant
22 director-general for the place; and
23 (b) the summary report, as soon as practicable after the end of each
24 quarter, to the following:
25 (i) the Minister;
26 (ii) the official visitors board;
27 (iii) the official visitors executive officer.

- 1 (4) The official visitor may also give a copy of the report to any of the
2 following:
- 3 (a) the relevant director-general for the visitable place;
- 4 (b) the public advocate;
- 5 (c) if the report includes matters in relation to an administrative unit
6 or operational Act for which another Minister is responsible—
7 the other Minister.
- 8 (5) Information that identifies an entitled person at the visitable place—
- 9 (a) must not be included in a report to the Minister; and
- 10 (b) for any other report—may only be included in the report if the
11 official visitor considers it necessary to deal with a complaint
12 mentioned or issue raised in the report.
- 13 (6) In this section:
- 14 *investigative entity* means an entity with power to require the
15 production of documents or the answering of questions including, for
16 example, the chief police officer, the human rights commission, the
17 ombudsman and the integrity commissioner.

18 **17 Assistance to official visitors**
19 **Section 18 (1)**

20 *omit*

21 **18 Section 18 (2), except examples and note**

22 *substitute*

- 23 (2) An operating entity for a visitable place must give an official visitor
24 for the place any reasonable assistance the official visitor asks for to
25 exercise the official visitor's functions at the place.

1 **19 Section 18 (3)**

2 *substitute*

- 3 (3) An operating entity may only give an official visitor access to an
4 entitled person's health record if the official visitor has complied with
5 section 15 (2) (a) or (b).

6 **20 Operating entity must let entitled people know about
7 official visitors
8 New section 20 (2)**

9 *insert*

- 10 (2) Without limiting subsection (1), an operating entity for a visitable
11 place must, not later than when an entitled person first enters the
12 place, give the person information about their right to make
13 complaints under this Act in a way that is accessible to the person.

14 **Examples—giving information**

- 15 1 if an entitled person is likely to go to a common area in a visitable place—
16 a notice in a prominent position on the wall in the area
17 2 if it is not practicable or appropriate to put up a notice in a visitable place—
18 give an entitled person a pamphlet
19 3 if an entitled person is not able to see or understand information in writing—
20 tell the person orally
21 4 if an entitled person is not able to understand the information—give written
22 information to the person's legal guardian

23 **21 Requests to meet official visitor
24 Section 21 (1)**

25 *substitute*

- 26 (1) This section applies if an entitled person at a visitable place tells the
27 operating entity for the place that the person wants to meet an official
28 visitor.

1 **22 Section 21 (2)**

2 *omit*
3 an operational Act
4 *substitute*
5 the visitable place

6 **23 Complaints to official visitors**
7 **Section 22 (1)**

8 *omit everything before paragraph (a), substitute*
9 (1) An entitled person at a visitable place, or anyone else, may complain
10 to an official visitor for the place about any aspect of the person's
11 accommodation including—

12 **24 Section 22 (1) (b), (c) and (d)**

13 *omit*
14 a visitable place
15 *substitute*
16 the place

17 **25 Visit and complaint guidelines**
18 **Section 23**

19 *omit*

20 **26 Membership of official visitors board**
21 **New section 23B (1) (d)**

22 *insert*
23 (d) any other members appointed by the Minister under
24 subsection (2).

1 **27 Section 23B (2)**

2 *substitute*

3 (2) The Minister—

4 (a) must appoint the chair of the board; and

5 (b) may appoint other members of the board as the Minister
6 considers appropriate.

7 *Note 1* For the making of appointments (including acting appointments), see the
8 [Legislation Act](#), pt 19.3.

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

13 *Note 3* Certain Ministerial appointments require consultation with an Assembly
14 committee and are disallowable (see [Legislation Act](#), div 19.3.3).

15 **28 Section 23C**

16 *substitute*

17 **23C Official visitors board functions**

18 (1) The official visitors board has the following functions:

19 (a) to oversee the exercise of functions by official visitors under this
20 Act, an operational Act or another territory law;

21 (b) to arrange for the recruitment, induction, training and support of
22 official visitors;

23 (c) to provide support for and manage the exercise of functions by
24 official visitors under this Act, an operational Act or another
25 territory law;

26 (d) to consider and try to resolve any complaints about official
27 visitors;

- 1 (e) to exercise any other function given to the board under this Act,
2 an operational Act or another territory law.
- 3 (2) The chair of the board may arrange with the head of service to use the
4 services of a public servant (the *official visitors executive officer*)
5 to—
- 6 (a) provide support to the board in the exercise of the board's
7 functions; and
- 8 (b) exercise any other function given to the official visitors
9 executive officer under this Act, an operational Act or another
10 territory law.

11 *Note* The head of service may delegate powers in relation to the management
12 of public servants to a public servant or another person (see *Public Sector*
13 *Management Act 1994*, s 18).

- 14 (3) The chair of official visitors board may delegate the board's functions
15 under this Act, an operational Act or another territory law to the
16 official visitors executive officer or another public servant.

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

19 **29 Official visitors board procedure**
20 **Section 23D (2)**

21 *substitute*

- 22 (2) However—
- 23 (a) the official visitors board must meet at least quarterly; and
- 24 (b) the chair of the board may, by reasonable written notice given
25 to the other board members, call a meeting.

1 **30 New section 23DA**

2 *in part 5A, insert*

3 **23DA Board annual report**

4 (1) The official visitors board must give the Minister, within 3 months
5 after the end of a financial year, a written report for the financial year
6 about—

7 (a) the number of—

8 (i) visits by official visitors to visitable places; and

9 (ii) complaints received by official visitors in relation to
10 visitable places; and

11 (iii) referrals of complaints to investigative entities; and

12 (b) the action taken on the complaints received; and

13 (c) any systemic issues in relation to the operation of the Act
14 identified by the board; and

15 (d) the number and kinds of matters referred by an official visitor to
16 an investigative entity; and

17 (e) the number of times an official visitor inspected records in
18 accordance with section 15 (2) (b).

19 (2) The Minister must present the report to the Legislative Assembly
20 within 6 sitting days after being given a copy of the report by the
21 board.

22 (3) The Minister must give additional public notice of the report.

23 *Note* **Public notice** means notice on an ACT government website or in a daily
24 newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1). The
25 requirement in s (3) is in addition to the requirement for the Minister to
26 present the report to the Legislative Assembly under s (2).

- 1 (4) In this section:
2 *investigative entity* means an entity with power to require the
3 production of documents or the answering of questions including, for
4 example, the chief police officer, the human rights commission, the
5 ombudsman and the integrity commissioner.

6 **31 New section 23DB**

7 *in part 6, insert*

8 **23DB Register of visitable places**

- 9 (1) The relevant director-general for a visitable place must keep a register
10 of each visitable place mentioned under the relevant operational Act.
- 11 (2) The register—
- 12 (a) must include—
- 13 (i) the address of each visitable place; and
- 14 (ii) if relevant for a visitable place—the contact details of a
15 person who can provide access to the place; and
- 16 (iii) any information prescribed by an operational Act; and
- 17 (b) may include—
- 18 (i) the name of each entitled person at each visitable place;
19 and
- 20 (ii) the name and contact details of each operating entity for
21 each visitable place; and
- 22 (iii) if an operating entity for a visitable place is not an
23 individual—the name, phone number and email address of
24 the following:
- 25 (A) an employee or volunteer based at the place;
- 26 (B) 2 employees of the entity.

- 1 (3) The relevant director-general for a visitable place must, on request,
2 give information on the register to any of the following:
- 3 (a) an official visitor for the place;
- 4 (b) the official visitors board;
- 5 (c) the public advocate;
- 6 (d) a commissioner under the *Human Rights Commission Act 2005*;
- 7 (e) the senior practitioner.
- 8 (4) The relevant director-general for a visitable place may, on request,
9 give the information mentioned in subsection (2) (a) to any of the
10 following people, if satisfied giving the information is reasonable in
11 the circumstances:
- 12 (a) a person exercising a function under this Act or the operational
13 Act;
- 14 (b) a member of the emergency services under the *Emergencies*
15 *Act 2004*;
- 16 (c) an entitled person at the place;
- 17 (d) a carer or legal representative of an entitled person at the place;
- 18 (e) anyone else approved by the relevant director-general.
- 19 (5) In this section:
- 20 **carer**—see the *Guardianship and Management of Property Act 1991*,
21 section 6.
- 22 **legal representative**, of an entitled person who does not have legal
23 capacity, means the person’s parent or guardian.

1 **32 Register of visitable places**
2 **New section 23DB (3) (ba)**

3 *insert*

4 (ba) the official visitors executive officer;

5 **33 Voting at meetings**
6 **Section 23E (2)**

7 *omit*

8 public trustee and guardian

9 *substitute*

10 chair of the board

11 **34 New section 23F**

12 *insert*

13 **23F Minister may make guidelines**

14 (1) The Minister may—

15 (a) after consulting the operational Minister for a visitable place,
16 make guidelines about—

17 (i) visits by an official visitor for the place; and

18 (ii) the inspection by an official visitor for the place of records
19 relating to entitled people at the place, including
20 requirements and guidance for compliance with
21 section 15 (2) (a) and (b) and (3); and

22 (iii) the handling of complaints, and referral of complaints to
23 investigative entities, by an official visitor for the place;
24 and

1 (iv) any other matter relating to the place or official visitor for
2 the place; and

3 (b) make guidelines about any other matter.

4 (2) A guideline is a disallowable instrument.

5 *Note* A disallowable instrument must be notified, and presented to the
6 Legislative Assembly, under the [Legislation Act](#).

7 **35 Protection of officials from liability**
8 **Section 24 (3), definition of *official*, new paragraph (ba)**

9 *insert*

10 (ba) the official visitors executive officer; or

11 **36 Dictionary, definitions of *entitled person* and *official***
12 ***visitor***

13 *substitute*

14 *entitled person*, at a visitable place—see section 8.

15 *official visitor*, for a visitable place—see section 6.

16 **37 Dictionary, new definition of *official visitors executive***
17 ***officer***

18 *insert*

19 *official visitors executive officer*—see section 23C (2).

20 **38 Dictionary, definitions of *operational Minister* and**
21 ***relevant director-general***

22 *substitute*

23 *operational Minister*, for a visitable place, means the Minister
24 responsible for the operational Act under which the visitable place is
25 mentioned.

1 *relevant director-general*, for a visitable place, means the
2 director-general of the administrative unit responsible for the
3 operational Act under which the place is mentioned.

4 **39 Dictionary, new definition of *senior practitioner***

5 *insert*

6 *senior practitioner* means the Senior Practitioner under the *Senior*
7 *Practitioner Act 2018*.

8 **40 Dictionary, definition of *visitable place***

9 *substitute*

10 *visitable place*—see section 9.

1 **Schedule 1 Other amendments**

2 (see s 3)

3 **Part 1.1 Children and Young People**
4 **Act 2008**

5 **[1.1] Section 38**

6 *after*

7 official visitor

8 *insert*

9 for a visitable place

10 **[1.2] Section 39 (1) (a)**

11 *substitute*

12 (a) a complaint is made to an official visitor for a visitable place in
13 relation to the place under the *Official Visitor Act 2012*,
14 section 22; and

15 **[1.3] Dictionary, definition of *official visitor***

16 *substitute*

17 *official visitor*, for a visitable place—see the *Official Visitor*
18 *Act 2012*, section 6.

1 **Part 1.2** **Corrections Management**
2 **Act 2007**

3 **[1.4] Dictionary, definition of *official visitor***

4 *substitute*

5 *official visitor* means an official visitor for a visitable place under the
6 [Official Visitor Act 2012](#), section 6.

7 **Part 1.3** **Disability Services Act 1991**

8 **[1.5] Section 8A, definition of *official visitor***

9 *substitute*

10 *official visitor*, for a visitable place—see the [Official Visitor](#)
11 [Act 2012](#), section 6.

12 **[1.6] Section 8C (1)**

13 *substitute*

- 14 (1) An entitled person at a visitable place may at any time ask the official
15 visitor for the place, in writing, not to be visited at the place.

16 **[1.7] Section 8D (1), except example**

17 *substitute*

- 18 (1) An entitled person at a visitable place may make a complaint to an
19 official visitor for the place under the [Official Visitor Act 2012](#),
20 section 22 about a specialist disability service that is provided—
21 (a) at a place other than the visitable place; or
22 (b) if the person has asked the official visitor not to visit the person
23 at the visitable place under section 8C—at the visitable place.

1 **[1.8] New section 8D (4) and (5)**

2 *insert*

- 3 (4) For subsection (3) (a), an entitled person *consents* to a visit to a place
4 by an official visitor if—
- 5 (a) the official visitor has the entitled person's—
- 6 (i) written consent; or
- 7 (ii) oral consent, if a written record of the consent is made by
8 a person who heard the consent being given; or
- 9 (b) the official visitor—
- 10 (i) has taken reasonable steps to find out if the entitled person
11 consents; and
- 12 (ii) reasonably believes the entitled person may not be able to
13 make a decision about consent or communicate that
14 decision; and
- 15 (iii) reasonably believes that a visit to the place is necessary
16 and appropriate to allow the official visitor to exercise the
17 official visitor's functions under this Act and the *Official*
18 *Visitor Act 2012*; and
- 19 (iv) the entitled person has not told, or otherwise indicated to,
20 the official visitor that the person does not consent.
- 21 (5) If subsection (4) (b) applies and an official visitor visits a place, the
22 official visitor must, as soon as practicable, take reasonable steps to
23 make the entitled person aware that the place was visited.

1 **[1.9] Section 8E**

2 *substitute*

3 **8E Information to be included on visitable places register**

4 The following information must be included on the register under the
5 *Official Visitor Act 2012*, section 23DB for a visitable place:

- 6 (a) the name and contact details of each specialist disability service
7 provider associated with the place; and
- 8 (b) if a specialist disability service provider associated with a place
9 is not an individual—the name, phone number and email address
10 of the following:
- 11 (i) an employee or volunteer based at the place;
- 12 (ii) 2 employees of the provider.

13 **[1.10] Section 8F (1)**

14 *omit*

15 section 8E (2)

16 *substitute*

17 section 8E

1 **Part 1.4** **Housing Assistance Act 2007**

2 **[1.11] Section 25V, definitions of *official visitor* and *visitable***
3 ***place***

4 *substitute*

5 *official visitor*, for a visitable place—see the *Official Visitor*
6 *Act 2012*, section 6.

7 *visitable place* means either of the following kinds of accommodation
8 for people who are homeless or at risk of homelessness, provided by
9 an entity funded by the Territory:

- 10 (a) multiple occupancy supported accommodation;
11 (b) single occupancy independent accommodation.

12 **[1.12] Section 25W (2)**

13 *substitute*

14 (2) However, the official visitor may visit a visitable place without giving
15 notice to the operating entity if—

- 16 (a) for multiple occupancy supported accommodation—
17 (i) the official visitor reasonably believes, or has been given
18 a complaint, that an entitled person at the visitable place is
19 at risk of abuse or harm; and
20 (ii) the entitled person consents to the visit; or
21 (b) for single occupancy independent accommodation—the official
22 visitor reasonably believes, or has been given a complaint, that
23 there is a serious risk to the health or welfare of an entitled
24 person at the visitable place.

1 **Part 1.5** **Mental Health Act 2015**

2 **[1.13] Section 208, definition of *official visitor***

3 *substitute*

4 *official visitor*, for a visitable place—see the *Official Visitor*
5 *Act 2012*, section 6.

6 **[1.14] Section 209**

7 *after*

8 official visitor

9 *insert*

10 for a visitable place

11 **[1.15] Section 210**

12 *omit*

13 **[1.16] Section 211**

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

15 Without limiting the *Official Visitor Act 2012*, section 14 (Functions),
16 an official visitor for a visitable place must enquire into—

17 **[1.17] Section 211 (a), (b) and (c)**

18 *omit*

19 a visitable place

20 *substitute*

21 the visitable place

1 **[1.18] Section 211 (d)**

2 *omit*

3 an

4 *substitute*

5 the

6 **[1.19] Section 212**

7 *omit*

8 **[1.20] Section 213 (2)**

9 *omit*

10 this Act

11 *substitute*

12 the visitable place

13 **[1.21] Section 214 (1)**

14 *after*

15 an official visitor

16 *insert*

17 for a visitable place

18 **[1.22] Section 214 (1) (b)**

19 *omit*

20 a visitable place

21 *substitute*

22 the visitable place

1 **[1.23] New section 214 (4) and (5)**

2 *insert*

3 (4) For subsection (3) (a), an entitled person *consents* to a visit to a place
4 by an official visitor if—

5 (a) the official visitor has the entitled person’s—

6 (i) written consent; or

7 (ii) oral consent, if a written record of the consent is made by
8 a person who heard the consent being given; or

9 (b) the official visitor—

10 (i) has taken reasonable steps to find out if the entitled person
11 consents; and

12 (ii) reasonably believes the entitled person may not be able to
13 make a decision about consent or communicate that
14 decision; and

15 (iii) reasonably believes that a visit to the place is necessary
16 and appropriate to allow the official visitor to exercise the
17 official visitor’s functions under this Act and the *Official*
18 *Visitor Act 2012*; and

19 (iv) the entitled person has not told, or otherwise indicated to,
20 the official visitor that the person does not consent.

21 (5) If subsection (4) (b) applies and an official visitor visits a place, the
22 official visitor must, as soon as practicable, take reasonable steps to
23 make the entitled person aware that the place was visited.

24 **[1.24] Dictionary, definition of *principal official visitor***

25 *omit*

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 15 August 2019.

2 Notification

Notified under the [Legislation Act](#) on 2019.

3 Republications of amended laws

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

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