

2002

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

**STATUTE LAW AMENDMENT BILL 2002
EXPLANATORY MEMORANDUM**

**Circulated by the authority of
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Attorney-General**

STATUTE LAW AMENDMENT BILL 2002

Background to the Bill

- 1 The objective of this Bill is to further enhance the ACT's statute book to ensure that it is of the highest standard. The Bill does so by amending and repealing Acts and regulations for statute law revision purposes only.
- 2 This Bill forms part of the technical amendments program for ACT legislation. Under revised guidelines for the technical amendments program recently approved by my Government, the essential criteria for the inclusion of amendments in the Bill are that the amendments are minor or technical and non-controversial. A copy of the guidelines is attached.
- 3 The development of a technical amendments program for ACT legislation was in response to the need for greater flexibility in the drafting of amendments for statute law revision purposes and to minimise costs associated with keeping ACT legislation up-to-date. Statute law amendment bills are an important part of maintaining and enhancing the standard of ACT law. They provide an opportunity to make amendments and repeals that, taken alone, would be insufficiently important to justify separate legislation and are inappropriate to make as editorial amendments under the *Legislation Act 2001*, chapter 11 (which provides for the republication of Acts and statutory instruments). However, the cumulative effect of the amendments and repeals made through a technical amendments program and statute law amendment bills can have a substantial impact on the ACT statute book and the overall quality of ACT law.
- 4 The ACT statute book is all ACT legislation taken as a body of law. A statute book that is well maintained significantly enhances access to legislation by making it easier to find in an up-to-date form and easier to read and understand. Statute law amendments under the technical amendments program can greatly assist the process of modernisation of the statute book. Laws need to be kept up-to-date to reflect ongoing technological and societal change.

5 The Bill contains 4 schedules and has been structured to assist the transparency of the amendments and repeals made by it.

6 When enacted, this Bill will help to improve the quality of the ACT's statute book by making it simpler, more consistent and more coherent, and will help to keep it up-to-date.

Notes on clauses

Clause 1 Name of Act

7 This clause provides for the Bill's name.

Clause 2 Commencement

8 This clause provides for the Bill's commencement. Most of the amendments and all repeals commence on the day after the Act is notified under the *Legislation Act 2001*. However, some of the amendments relate to the commencement of other legislation and therefore need to commence at different times. These different commencements are indicated by the inclusion of special commencement provisions at the end of the relevant amendments. Clause 2 contains an example of a special commencement provision.

Clause 3 Purpose

9 This clause states the Bill's purpose.

Clause 4 Notes

10 This clause confirms that an explanatory note in the Bill does not form part of the Act when it is enacted.

Clause 5 Acts and regulations amended —schs 1 to 3

11 Clause 5 gives effect to the amendments made by schedules 1 to 3.

Clause 6 Acts repealed —sch 4

12 Clause 6 gives effect to the repeals made by schedule 4.

Schedule 1 Minor amendments

13 Schedule 1 provides for minor, non-controversial amendments initiated by agencies.

Part 1.1 — Evidence (Miscellaneous Provisions) Act 1991

- 14 The *Evidence (Miscellaneous Provisions) Act 1991*, part 2 provides for the giving of evidence by certain witnesses by way of closed-circuit television to avoid the need for the witnesses to be present in court. The amendment applies the part to a person on whose behalf an application is made under the *Protection Orders Act 2001* if the application alleges the commission of a sexual offence. The amendment corrects a cross-reference that was inadvertently missed when the *Protection Orders Act 2001* was enacted. It should, however, be pointed out that the effect of the amendment is to broaden the range of witnesses to which part 2 applies. The *Protection Orders Act 2001* replaced relevant provisions of the *Domestic Violence Act 1986* (now the *Domestic Violence Agencies Act 1986*) and the *Magistrates Court Act 1930*, part 10. The *Evidence (Miscellaneous Provisions) Act 1991*, part 2 was previously available to applicants under the *Domestic Violence Act 1986*, but not to applicants under the *Magistrates Court Act 1930*, part 10. Under the amendment the provisions of the *Evidence (Miscellaneous Provisions) Act* will be available to all applicants under the *Protection Orders Act* if there is an allegation of a sexual offence.

Part 1.2 — *Health and Community Care Services Act 1996*

- 15 This amendment would insert new subsections 32 (3) and (4) in the *Health and Community Care Services Act 1996* to provide for a determination of fees and charges to adopt the charges set out in agreements, as in force from time to time, with health benefits organisations. This approach removes the need for a determination to set out a voluminous number of charges that have been agreed with health benefits organisations and for the determination to be revised each time a charge is altered.
- 16 Each amendment is further explained in the explanatory notes in the Bill.

Schedule 2 Structural amendments

- 17 Schedule 2 provides for non-controversial structural amendments of the *Legislation Act 2001* initiated by the Parliamentary Counsel's Office.
- 18 Structural issues are particularly concerned with making the statute book more coherent and concise, and therefore more accessible. Strategies to achieve these objectives include such things as avoiding unnecessary duplication and the maximum degree of

standardisation of legislative provisions consistent with policy requirements and operational needs.

19. Shortening legislation results in less clutter and increased simplicity. Reliance on the standard provisions achieves simplification by eliminating the need to repeat standard technical definitions and other provisions in every Act. Awareness of standard provisions, particularly in the *Legislation Act 2001*, is being promoted by the inclusion of notes in Acts drawing attention to them.
20. These amendments involve a fine tuning of some aspects of the new Act and reflect the experience of the first 6 months of its operation. Each amendment is explained in the explanatory notes in the schedule.

Schedule 3 Technical amendments

21. Schedule 3 contains minor or technical amendments of legislation initiated by the Parliamentary Counsel's Office.
22. Because of the number of minor amendments made by schedule 3, explanatory notes are included after each amendment.
23. These technical amendments include the correction of minor errors, updating language, improving syntax and other minor changes to update or improve the form of legislation. Recurring themes in this particular schedule are the inclusion of standard appointment and delegation provisions, which take advantage of standard provisions now in the *Legislation Act 2001*. The schedule also provides extensively for the inclusion of notes for the benefit of users of current legislation. This, together with notes in dictionaries, is part of the overall strategy to raise awareness of the impact of the Legislation Act on other legislation, an issue that has been raised by the Standing Committee on Legal Affairs in its scrutiny of legislation function.

Schedule 4 Repeal of redundant or obsolete Acts and regulations

24. Schedule 4 provides for the repeal of redundant or obsolete Acts and regulations. The schedule has 3 parts.
 - Part 4.1 deals with the repeal of an Act that is no longer needed.
 - Part 4.2 deals with the repeal of amending Acts without substantive provisions.

- Part 4.3 repeals amending Acts with substantive provisions.
- 25 Each part of Schedule 4 has an explanatory note at the beginning of the part explaining the repeals made by the part.