

**AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY**

**STATUTE LAW REVISION (MISCELLANEOUS PROVISIONS) BILL 1992**

**EXPLANATORY MEMORANDUM**

**Circulated by authority of Terry Connolly, Attorney General**

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#### Outline

The *Statute Law Revision (Miscellaneous Provisions) Bill 1992* is to tidy up various Acts. The Bill will not change the substance of the law but will simply make technical corrections and simplify the expression of Acts. The Bill is a housekeeping exercise.

The various provisions of the Bill will:

- remove sexist language;
- simplify expression;
- remove redundant Acts, references or terms;
- correct grammatical or printing errors;
- simplify provisions in accordance with provisions of the *Interpretation Act 1967*; and
- correct errors arising out of the process of Self-Government.

The Bill will not attempt to update and correct the entire body of ACT legislation. Separate legislation will continue the task of removing sexist language and making other corrections. A series of Statute Law Revision Bills of which this is the first will correct errors not otherwise attended to in separate legislation.

#### Financial implications

There are no financial implications.

#### Removal of sexist language

Approximately half the provisions of the Bill are to remove sexist language.

#### Examples of amended sections:

- paragraphs 18 (1)(a), 18 (1)(b), 18 (1)(a), 18 (2)(b), 18 (3)(a), 18 (3)(b), 26 (2)(a), 26 (2)(b), 30 (1)(a)(b)(c)(d), 30 (2)(a) 34 (1)(a)(b)(c)(d), 34 (2)(a), 34 (2)(b), 35 (2)(b) and 46 (a) of the *Agents Act 1968* will refer to either 'the person' or 'he or she' instead of 'he';
- subsection 8 (6) of the *National Exhibition Centre Trust Act 1976* will refer to 'relevant instrument of' instead of 'instrument of his'; and
- section 42 (2) of the *Surveyors Act 1967* will refer to 'the witness' instead of 'him'.

### Simplification of expression

Many amendments replace words with numbers so making references more clear and shorter. The Bill expresses references to dates, other Acts, provisions within Acts and dollars in a shortened form.

#### *Examples of amended sections:*

- section 2 of the Betting (Totalizer Administration) Act 1964 will refer to '1 September 1964' instead of 'the first day of September, One thousand nine hundred and sixty four';
- section 22 of the Surveyors Act 1967 will refer to '\$200' rather than 'Two hundred dollars';
- paragraph 21 (5) (a) of the Milk Authority Act 1971 will refer to '18 (4A)' instead of '(4A) of section 18 of this Act'; and
- subsection 20 (2) of the Milk Authority Act 1971 will refer to 'subsection (2)' instead of 'the last preceding subsection'.

The Bill removes words which only complicate the text without adding meaning.

#### *Examples of amended sections:*

- section 10 of the Removal of Prisoners (Australian Capital Territory) Act 1968 will refer to 'Court' instead of 'federal or State court or Court of a Territory';
- subsection 9 (2) of the Canberra Theatre Trust Act 1965 will omit the words 'subject to this section' which are implicit in the text;
- the definition of 'Commonwealth country' in subsection 14 (1) will read as: 'a country that forms part of the Commonwealth of Nations' instead of 'the countries specified in the schedule to this Act'; and
- section 31 (1) of the Architects Act 1959 will use the words 'in writing' instead of 'by writing under his hand' so simplifying and removing sexist language at the same time.

### Removal of redundant Acts, references or terms

Schedule 2 of the Bill repeals Acts which have performed their function and are therefore spent. Schedule 1 of the Bill repeals sections or references which are themselves redundant or refer to repealed Acts or provisions.

#### *Examples of the many sections or references which the Bill will repeal:*

- reference to the repealed Leases (Special Purposes) Act 1925 from the schedule of the Rates and Land Tax Act 1986;
- section 7 (1) of the Removal of Prisoners (Australian Capital Territory) Act 1968;
- Part III, Division 1 of the Self-Government (Consequential Amendments) Act 1989;
- reference to the repealed Child Welfare Agreement Act 1941 from paragraph 11 (d) of the Removal of Prisoners (Australian Capital Territory) Act 1968; and
- section 2 of the Acts Revision Act 1977.

## Correction of grammatical or printing errors

Corrections of grammatical, printing, spelling and other errors appear throughout the Bill.

### *Examples of amended sections:*

- subsection 4 (1) of the *Air Pollution Act 1984* will refer to 'phosphorus' instead of 'phosphorous';
- the definition of "cause of action" in subsection 8 (1) of the *Limitation Act 1985* will use the words 'that gives' instead of 'which give' (before the amendment the definition reads as: "cause of action" means the fact or combination of facts which give rise to a right to bring a civil proceeding");
- subsection 147 (2) of the *Magistrates Court Act 1930* will use the words 'in the Territory' instead of 'to the Territory';
- section 1 of the *Venereal Diseases Act 1956* will refer to 'Sexually transmitted diseases' instead of 'Venereal diseases'; this amendment was omitted from similar amendments made in 1990 (before the amendment, section 1 reads as: "This Act may be cited as the Venereal Diseases Act 1956"); and
- section 2 of the *Games Wagers and Betting-houses Act 1901 of the State of New South Wales in its application to the Territory* will refer to the 'Magistrates Court' instead of 'Court of Petty Session'.

Several provisions of the Bill are to correct the numbering or cross referencing of sections.

### *Examples of amended sections:*

- subsection 10 (1) of the *Legal Aid Act 1977*; and
- subsection 18 (2) of the *Gaming and Betting Act 1906 of the State of New South Wales in its application in the Territory*.

## Simplification of language in accordance with provisions of the *Interpretation Act 1967*

The Bill substitutes new provisions for acting appointments made by the relevant Minister. The new provisions are more clear and consistent than the original and they also make it clear that acting appointments do not last longer than 12 months as provided by section 28A of the *Interpretation Act 1967*. The new provisions do not change the substance of the law with respect to acting appointments. The new provisions and other minor amendments also spell out the implication that the acting appointments shall be made in writing.

### *The new provisions concerning acting appointments are:*

- *Agents Act 1959* s 15;
- *Architects Act 1959* s 11;
- *Canberra Theatre Trust Act 1965* subsections 9(3), 9(4) and 9(5);
- *Consumer Affairs Act 1973* s 13;

- Milk Authority Act 1971 s 13;
- National Exhibition Centre Trust Act 1976 s 16; and
- Surveyors Act 1967 s 11.

Before the amendment, section 15 of the Agents Act 1959 reads as:

**Acting appointments**

15. (1) In the event of the illness or absence from the Territory of a member, or of the temporary inability of a member to perform the duties of his office, or in the event of the office of a member becoming vacant before the expiration of his term of office, the Minister may, subject to this section, appoint a person to act during that illness, absence or temporary inability, or until the appointment of a new member, as the case may be, and a person so acting has all the powers and shall perform all the duties of a member.

(2) A person shall not be appointed to act in the place of the public service member unless he or she is a public servant.

(3) A person appointed under this section (other than a person referred to in subsection (2)) shall be paid such fees and allowances (if any) as are prescribed.

After the amendment, section 15 of the Agents Act 1959 will read as:

- \*15. (1) The Minister may, in writing, appoint a person to act as a member-
- (a) during a vacancy in the office of a member, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when a member is absent from duty or from the Territory or is, for any other reason, unable to perform the functions of the office;
- but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.\*

The Interpretation Act 1967 provides for the citation of Acts by reference to the year in which the original Act was passed and for such references to be interpreted as references to the Act as amended and currently in force. Therefore it is no longer necessary to have double barrelled references to Acts such as 'States Grants (Advanced Education) Act 1969-1972'. Amended section 16 (5)(c) of the Building Act 1972 will refer to the same Act as 'States Grants (Advanced Education) Act 1969'. Similar amendments are made to other sections of the Building Act 1972 and section 34 of the Surveyors Act 1967.

The Bill will remove the words 'appointed under the law of the Territory' from the definition of Magistrate in the Removal of Prisoners (Australian Capital Territory) Act 1968. The omitted words are self evident and add nothing to the definition of a Magistrate in section 14 of the Interpretation Act 1967.

## Corrections related to the process of Self-Government

The Bill will continue the process of technical corrections related to Self-Government.

### *Examples of amended sections:*

- subsection 3(1) of the *Removal of Prisoners (Australian Capital Territory) Act 1968* refers to the 'Territory' rather than 'the ACT and Jervis Bay Territory'. Jervis Bay is not a part of the ACT; and
- section 12 of the *Removal of Prisoners (Australian Capital Territory) Act 1968* refers to the 'Executive' rather than the 'Governor-General'; it is the Executive of the ACT which administers and makes regulations with respect to the *Removal of Prisoners (Australian Capital Territory) Act 1968* as with other ACT Acts; the incorrect reference to the Governor-General was omitted from similar amendments made at the time of Self-Government.