

2005

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

STATUTE LAW AMENDMENT BILL 2005 (No 2)

EXPLANATORY STATEMENT

**Circulated by the authority of
Jon Stanhope MLA
Attorney General**

Background

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 Acts and regulations for statute law revision purposes only.

This bill forms part of the technical amendments program for ACT legislation. Under guidelines for the technical amendments program approved by the government, the essential criteria for the inclusion of amendments in the bill are that the amendments are minor or technical and non-controversial.

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 generally 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.

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.

The bill contains four schedules and has been structured to assist the transparency of the amendments made by it.

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.

Clause 1 — Name of Act

This clause provides for the bill's name.

Clause 2 — Commencement

This clause provides for the bill's commencement 21 days after the day it is notified under the *Legislation Act 2001*. This will enable the Parliamentary Counsel's Office to have up-to-date republications of the affected legislation ready for the legislation register on the day the amendments commence. However, some of the amendments require a different commencement time and these 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

This clause states the bill's purpose.

Clause 4 — Notes

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

Clause 5 — Legislation amended—schs 1-3

This clause gives effect to the amendments made by schedules 1 to 3.

Clause 6 — Legislation repealed—sch 4

This clause gives effect to the repeals made by schedule 4.

The clause also declares the Acts mentioned in the schedule to be laws to which the Legislation Act, section 88 (Repeal does not end transitional or validating effect etc) applies. This removes any doubt about any ongoing effect of the repealed legislation.

Schedule 1 — Minor amendments

Schedule 1 provides for minor, non-controversial amendments initiated by agencies. Each amendment is explained in an explanatory note in the schedule.

Part 1.1 — *Animal Diseases Act 2005*

An amendment of section 90 (f) ensures that the regulation-making power covers all artificial breeding procedures for stock and all equipment used in those procedures. The other amendments relate to the term **tag** to clarify its meaning and link it more clearly to the Act.

Part 1.2 — *Land (Planning and Environment) Act 1991*

The amendment removes an anomaly relating to when an approval to conduct a development (as defined in section 222) becomes effective if an objection was made to the application for the approval. As the Act stands, the approval can take effect before the end of the period for making an application to the administrative appeals tribunal (the **AAT**) for review of the decision to give the approval. This is because the period after which the approval becomes effective, and the application period for AAT review, can begin on different days. This will be the case if the objector or third-party is not notified of the decision on the day it is made.

The anomaly is removed by bringing the operation of section 249 (2) (b), which provides for when the approval becomes effective, into line with the time limit in section 276 (3) for an objector or third-party to apply to the AAT for review of the decision to give the approval. The amendment gives effect to the suggestion of the AAT in *Tonks and ACT Planning and Land Authority*, [2005] ACTAAT 8, paragraph 12, that the Act should be amended to ensure consistency between the two provisions.

Part 1.3 — *Road Transport (Safety and Traffic Management) Act 1999*

This amendment omits a reference to an out-of-date publication about the safe loading of vehicles and provides for the applicable standards to be prescribed by regulation.

Part 1.4 — *Road Transport (Safety and Traffic Management) Regulation 2000*

This amendment is consequential on the amendment of the Act and prescribes the current standards for the safe loading of vehicles.

Part 1.5 — Waste Minimisation Act 2001

The amendments change references to ‘EPA’ (the Environment Protection Authority) to ‘chief executive’ to enable administrative responsibility for the Act to be set in the usual way by administrative arrangements under the Self-Government Act and the *Public Sector Management Act 1994*. Under the Legislation Act, section 163, a reference in a provision of an Act or statutory instrument to *the chief executive* is a reference to the chief executive of the administrative unit responsible for the provision (unless different administrative units are responsible for the provision in relation to different matters). The amendments also include several minor technical amendments of the Act.

Schedule 2 — Structural amendments of Legislation Act

Schedule 2 provides for non-controversial structural amendments of the *Legislation Act 2001* initiated by the Parliamentary Counsel’s Office. Each amendment is explained in an explanatory note in the schedule.

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.

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, is being promoted by the inclusion of notes in Acts and regulations drawing attention to them.

The amendments in the schedule also reflect the process of continuous review and improvement of the operation of the Legislation Act and the enhancement of access to ACT legislation.

The amendments include the remaking of section 151 (Reckoning of time) to provide comprehensively for working out the time for doing something required or allowed to be done under an Act or statutory instrument. The sections substituted by this amendment do not

significantly change the law presently applying under section 151, but rather deal with a range of cases not dealt with by the existing section.

Schedule 3 — Technical amendments

Schedule 3 contains minor or technical amendments of legislation initiated by the Parliamentary Counsel's Office. Each amendment is explained in an explanatory note in the schedule.

The amendments include the correction of minor errors, updating language, improving syntax and other minor changes to update or improve the form of legislation. For example, the schedule includes amendments of six Acts (the *Administrative Decisions (Judicial Review) Act 1977*, *Business Names Act 1963*, *Holidays Act 1958*, *Juries Act 1967*, *Mercantile Law Act 1962* and *Nudity Act 1976*) that have been reviewed as part of an ongoing program of updating and improving the language and form of legislation. The amendments of these Acts include the insertion of dictionaries and the inclusion of notes for the benefit of users of legislation. The notes are part of the overall strategy to raise awareness of the impact of the Legislation Act on other legislation.

The schedule also includes amendments consequent on changes to the uniform National Electricity Law and amendments of the *Domestic Animals Act 2000*. The National Electricity Law amendments update five Acts and one regulation to reflect changes in terminology under the uniform National Electricity Law. The amendments of the *Domestic Animals Act 2000* bring the provisions of the Act dealing with dogs more closely into line with the provisions dealing with cats.

Schedule 4 — Repeals

Schedule 4 contains repeals of redundant or obsolete Acts.

The schedule repeals four banking-related Acts that are no longer needed.

The *Bank Mergers Act 1997* is repealed because the past transfer of the business of authorised deposit-taking institutions is now covered by the *Financial Sector (Transfers of Business) Act 1999* (Cwlth). The Bank Mergers Act was never used to facilitate the merger of banks.

The remaining Acts provided a legislative basis for the transfer of assets and liabilities and the novation of contractual arrangements for particular mergers of banking institutions. The Acts are as follows:

- the *Australia and New Zealand Banking Group Limited (NMRB) Act 1991*
- the *Canberra Advance Bank Limited (Merger) Act 1992*
- the *State Bank of South Australia (Transfer of Undertaking) Act 1994*.

These Acts are no longer necessary because the process behind the mergers is complete. However, because of the long-lasting nature of some of the assets and liabilities transferred, section 6 (2) (Legislation repealed—sch 4) makes it clear that the effect of the Acts is saved under the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc).