

**2006**

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

**STATUTE LAW AMENDMENT BILL 2006**

**EXPLANATORY STATEMENT**

**Circulated by the authority of  
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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 three 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.

**Schedule 1 — Minor amendments**

Schedule 1 provides for minor, non-controversial amendments initiated by government departments and agencies. Schedule 1 contains an amendment of the *Emergencies Act 2004*. The amendment is explained in an explanatory note to the amendment.

The Act is amended to remove an anomaly relating to burning off. The intended effect of section 123 (2) was that the owner of land had to comply with the two requirements about clearance of flammable material and notice to adjoining occupiers before being permitted to burn off outside the bushfire season. However, under the section as made, the owner need only comply with either of the requirements. The amendment links the requirements by changing an 'or' to an 'and' at the end of section 123 (2) (a).

## **Schedule 2 — Structural amendments of Legislation Act and Legislation Regulation**

Schedule 2, part 2.1 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 avoiding unnecessary duplication and achieving 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 in schedule 2, part 2.1 (amendments of the Legislation Act) include the following:

- replacement of the term *registrable instrument* with the better known term *legislative instrument*
- the inclusion of a new section (section 75AA) to ensure that provisions identifying amended legislation commence when the amendments (or the earlier or earliest) of the amendments commence
- amendments to clarify and simplify section 88 (which is about the continuing operation of transitional and validating laws after their repeal or expiry), in particular, to ensure that the repeal or expiry of a transitional or validating law does not, of itself, displace section 88 or give rise to an implication that section 88 is intended to be displaced

- an amendment of section 89 to ensure the automatic repeal of amending laws that cannot fully commence (eg the law amended has been repealed)
- amendments of section 151 and section 151A about working out periods of time.

Schedule 2, part 2.2 includes amendments of the *Legislation Regulation 2003* that are consequential on the amendments of the Legislation Act in schedule 2, part 2.1.

### **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 several Acts (the *Inquiries Act 1991*, the *Judicial Commissions Act 1994*, the *Limitation Act 1985*, the *Royal Commissions Act 1991* and the *Witness Protection Act 1996*) 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 schedule also includes amendments consequential on amendments of the *Legislation Act 2001* in the bill that involve the replacement of the term *registrable instrument* with the better known term *legislative instrument*.