

2002

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

**STATUTE LAW AMENDMENT BILL 2002 (No 2)
EXPLANATORY STATEMENT**

**Circulated by the authority of
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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 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.
- 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 5 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

This clause provides for the bill's name.

Clause 2 Commencement

This clause provides for the bill's commencement. Most of the amendments and repeals commence 28 days after the day the bill is notified under the *Legislation Act 2001*. This will enable the Parliamentary Counsel's Office to have up-to-date republications of the affected laws 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 Acts and regulations amended—schs 1 to 3

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

Clause 6 Acts repealed—schs 4 and 5

Clause 6 gives effect to the repeals made by schedules 4 and 5.

Notes on schedules

Schedule 1—Minor amendments

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

Part 1.1 — Commissioner for the Environment Act 1993

The amendment of this Act included in schedule 1 validates the appointment and actions of the Commissioner for the Environment, Dr Baker. Dr Baker was reappointed late last year for a

term beginning at the end of his previous term and ending at the end of June 2003. The instrument of appointment was not correctly notified under the *Legislation Act 2001* or presented to the Legislative Assembly as required under that Act. When this was discovered, Dr Baker was reappointed on 29 April 2002 until the end of June 2003. This amendment deals with the period between 15 December 2001 until his reappointment on 29 April 2002.

Part 1.2 — *Intoxicated Persons (Care and Protection) Act 1994*

The amendment of this Act included in schedule 1 increases the period that a person admitted to a place licensed under the *Intoxicated Persons (Care and Protection) Act 1994* can be allowed to stay there. The period is being increased from 12 to 15 hours. This will allow a person admitted to a place at say 8pm to remain until 10am the next morning rather than 8am at present. In some circumstances (eg on a cold winter morning) it may be more reasonable for a person to be able to stay until 10am and will allow sufficient time for the person to have breakfast and a shower.

Part 1.3 — *Nature Conservation Act 1990*

The amendment of this Act included in schedule 1 brings special purpose reserves that are unleased land within the definition of ‘reserved areas’ for the *Nature Conservation Act 1980*, section 53 (Access to reserved areas). The amendment will facilitate the process of closing special purpose reserves to meet emergencies, eg bushfires.

Part 1.4 — *Smoke-free Areas (Enclosed Public Places) Act 1994*

Two amendments of this Act are included in schedule 1. First, an amendment inserts a definition of ***Australian Standard 1668.2*** to make it clear that the references in the Act to the standard are to the standard as it was in force when the relevant provisions of the Act commenced. The standard deals with the air quality that must be maintained in smoke-free areas.

Second, an amendment inserts an additional section to allow for applications to vary exemptions under the Act. The amendment will enable restaurants and licensed premises that wish to change their operating arrangements (other than by rebuilding or relocating their premises) to have their existing exemption varied rather than needing to apply for a new exemption. The amendment will reduce costs for business.

Part 1.5 — Workers Compensation Act 1951

The amendments of this Act included in schedule 1 are consequential on amendments made to the *Workers Compensation Act 1951* by the *Workers Compensation Amendment Act 2001*. The *Workers Compensation Amendment Act 2001* was a large bill that was extensively amended in the Legislative Assembly. Because of the complexity of the project, and the substantial amendments made to the bill, the Act as passed now contains some inconsistencies and matters requiring clarification. Concerns about minor operational issues have also arisen during the first few months of operation of the amended Act, which began operating on 1 July 2002. Some of these issues have been addressed in the amendments. The amendments are all consistent with the policy intention of the amendments made by the *Workers Compensation Amendment Act 2001*.

Each amendment is further explained in the explanatory notes in the Bill.

Schedule 2—Structural amendments

Schedule 2 provides for non-controversial structural amendments of the *Legislation Act 2001* initiated by the Parliamentary Counsel's Office. All the amendments in schedule 2 are of the *Legislation Act 2001*.

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 2001*, is being promoted by the inclusion of notes in Acts drawing attention to them.

These amendments involve a fine tuning of some aspects of the Legislation Act and reflect the experience of the first 12 months of its operation. Each amendment is explained in the explanatory notes in the schedule.

Schedule 3—Technical amendments

Schedule 3 contains minor or technical amendments of legislation initiated by the Parliamentary Counsel's Office.

Because of the number of minor amendments made by schedule 3, explanatory notes are included after each amendment.

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 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.

Schedules 4 and 5—Repeal of redundant or obsolete Acts

Schedule 4 provides for the repeal of the following redundant or obsolete UK Acts and related Acts:

- *Administration of Justice Acts 1696 and 1705*
- *Australian Courts Act 1828*
- *British Law Ascertainment Act 1859*
- *Colonial Courts of Admiralty Act 1890*
- *Colonial Laws Validity Act 1865*
- *Courts (Colonial) Jurisdiction Act 1874*
- *Demise of the Crown Acts 1547, 1702, 1707 and 1901*
- *Former UK Acts (Interpretation) Act 1988*
- *Merchant Shipping Act 1894*
- *Offences at Sea Act 1536*
- *Piracy Acts 1698, 1717, 1721 and 1744*

- *Piracy Punishment Act 1902.*

Schedule 5 provides for the repeal of the following redundant Acts:

- *Insane Persons and Inebriates (Committal and Detention) Act 1936*
- *Mental Health Act 1962.*

The reasons the Acts are redundant or obsolete is explained in the explanatory notes to the schedules.