

**2006**

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

**STATUTE LAW AMENDMENT BILL 2006 (No 2)  
EXPLANATORY STATEMENT**

**Circulated by the authority  
of  
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Attorney General**

## **Background**

The object 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 amendments of the *Public Sector Management Act 1994*. Each amendment is explained in an explanatory note to the amendment.

The definition of 'industrial award' for the *Public Sector Management Act 1994* is amended to include a workplace agreement under the *Workplace Relations Act 1996 (Cwlth)*

Existing provisions within the Act limit the circumstances in which certain people who are members of a superannuation scheme under the *Superannuation Act 1976 (Cwlth)* or *Superannuation Act 1990 (Cwlth)* may be retired on the grounds of invalidity. The amendments bring the structure of these provisions into line with current drafting practice and include provision for people who are members of the

Public Sector Superannuation Accumulation Plan (or PSSAP) established under the *Superannuation Act 2005* (Cwlth).

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

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 include an amendment of section 227 which deals with the application of division 19.3.3. The division is about consultation with Legislative Assembly committees on appointments made by Ministers to statutory positions.

Section 227 (2) provides 3 exceptions to the application of the division. First, the appointment of a public servant to a statutory position. Second, short-term acting appointments. Third, an appointment the only function of which is to advise the Minister. The amendment is concerned with the 2nd exception.

Existing section 227 (2) (b) excludes the appointment of a person to act in a statutory position for not longer than 6 months, unless the appointment is of the person to act in the position for a 2nd or subsequent consecutive period. The amendment extends the exception to short-term, one-off substantive appointments. The effect of the amendment is to remove the anomalous different treatment of substantive appointments. This is in keeping with the approach taken elsewhere in part 19.3 of treating substantive and acting appointments in the same way as far as possible.

### **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. A particular focus of this bill is the creation of dictionaries in a range of Acts including the *Clinical Waste Act 1990*, the *Environment Protection Act 1997*, the *Freedom of Information Act 1989*, the *Land Titles Act 1925* and the *Machinery Act 1949*. This review is part of an ongoing program of updating and improving the language and form of legislation.