

**2011**

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

**STATUTE LAW AMENDMENT BILL 2011  
EXPLANATORY STATEMENT**

**Circulated by the authority of  
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## **Background**

The object of this bill is to continue to enhance the ACT's statute book to ensure that it is of the highest standard. The bill does this 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 enable legislative amendments and repeals to be made that, taken alone, would generally be insufficiently important to justify separate legislation. The amendments are also 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 significant 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 greatly enhances access to legislation by making it easier to find in an up-to-date form and easier to read and understand. Statute law amendment bills are an extremely useful vehicle for assisting the ongoing process of modernising the statute book. Laws need to be regularly kept up to date to reflect continuous technological and societal change.

The bill contains 4 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 assist in keeping 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, one amendment requires a different commencement time and this is indicated by the inclusion of special commencement provisions at the end of the relevant amendment. 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, 2 and 3.

### **Clause 6 — Legislation repealed—sch 4**

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

### **Schedule 1 — Minor amendments**

Schedule 1 provides for minor, non-controversial amendments initiated by government departments and agencies. It contains amendments of the *Road Transport (Alcohol*

*and Drugs) Act 1977*. Each amendment is explained in an explanatory note to the amendment.

### Road Transport (Alcohol and Drugs) Act 1977

The bill amends the Act, section 41AA to expand the matters that may be included in an evidentiary certificate given under that section. The amendments are consequential on changes made to the Act by the *Road Transport (Alcohol and Drugs) Legislation Amendment Act 2010* in relation to the testing of a person's oral fluid or blood for prescribed drugs.

The first amendment substitutes section 41AA (2) (f). Proposed section 41AA (2) (f) provides that a statement by a police officer that a person was unable, or failed, to provide a sufficient sample of oral fluid for analysis is evidence of that matter. The amendment will ensure that the situation contemplated by section 15 (1) (c) may be dealt with in the evidentiary certificate instead of requiring the police officer to give direct oral evidence of the matter to the court.

The second amendment inserts a new section 41AA (5), which sets out the information that must be included in an evidentiary certificate given by a doctor or nurse in relation to a blood sample taken from a person for drug testing whether the person has failed, or has been unable, to give a sample of oral fluid when requested to do so by a police officer. This provision mirrors existing evidentiary certificate provisions in relation to alcohol-related blood tests.

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

Schedule 2 is reserved for minor, non-controversial amendments of the *Legislation Act 2001* initiated by the Parliamentary Counsel's Office.

The schedule includes a number of amendments to provisions of the Act dealing with the notification, in the legislation register or gazette, of the making of proposed laws, statutory instruments and amendments made by resolution of the Assembly. The amendments will enable the parliamentary counsel to notify material in another place the parliamentary counsel considers appropriate if the register is temporarily

unavailable for technical or other reasons. Examples given of other places that may be considered appropriate for notification include the gazette and another government website.

The dictionary, part 1 is amended to—

- insert new definitions for **bank holiday** and **public holiday** to help users of legislation to find out which days are bank holidays or public holidays in the ACT; and
- amend the definition of **business day** as a consequence of the inclusion of a definition of **public holiday** in the dictionary, part 1; and
- omit the definition of **dental technician**, which is no longer a commonly-used term in laws or statutory instruments as a consequence of amendments of the *Health Professionals Regulation 2004* in 2010 which repealed provisions relating to the regulation and registration of dental technicians.

### **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, omitting redundant provisions and other minor changes to update or improve the form of legislation.

### **Schedule 4 — Repeals**

Schedule 4 repeals 3 statutory instruments under the *Health Professionals Regulation 2004* relating to the standards for dental technicians and appointments to the ACT Dental Technicians and Dental Prosthetists Board. The instruments are obsolete as a consequence of amendments of the *Health Professionals Regulation 2004* in 2010 which repealed provisions relating to the regulation and registration of dental technicians.